

RECEIVED

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001
MAY 23 4 31 PM '00
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

OPPOSITION OF THE UNITED STATES POSTAL SERVICE
TO DOUGLAS F. CARLSON MOTION TO COMPEL RESPONSIVE ANSWERS TO
INTERROGATORIES DFC/USPS-T39-36(B) AND 71
(May 23, 2000)

In accordance with Rule 26 of the Commission's Rules of Practice and Procedure, the United States Postal Service hereby files its opposition to the motion of Douglas F. Carlson to compel a response to DFC/USPS-T39-36(b) and 71, filed on May 16, 2000 (hereinafter Motion). The Postal Service has provided full responses to both of these interrogatories, but Mr. Carlson wants more. For the reasons stated below, the motion should be denied.

With respect to interrogatory DFC/USPS-T39-36(b), Mr. Carlson does not dispute that the Postal Service responded fully to the request in Presiding Officer's Ruling No. R2000-1/33 that the Postal Service check with three facilities identified by Mr. Carlson to determine whether they have "pre-existing written policy, statement or other guidance addressing reasons why no Saturday access is provided." Presiding Officer's Ruling No. R2000-1/33 at 6. Instead, Mr. Carlson in effect moves for reconsideration of that ruling by arguing that the Postal Service must in addition explain why these three facilities do not delivery box mail on Saturdays.¹ Mr. Carlson's original *motion to compel* also asked for the reasons why the particular facilities did not offer

¹ Motion at 2. Such a motion for reconsideration would be over a month overdue, and would be opposed by the Postal Service.

Saturday service, but the Presiding Officer's ruling limited the request to further inquiry into whether there was a written policy.²

Typically, what's relevant in rate proceedings are national practices and policies. Presiding Officer's Ruling No. R2000-1/33 determined that it would be worthwhile for the Postal Service to check with three facilities that do not provide Saturday access, on the chance that they might have a written guideline, with broad applicability, on Saturday box service. But the Presiding Officer's request was properly limited to a simple request for written policy. The Presiding Officer rejected Mr. Carlson's argument that the Postal Service should investigate and present the reasoning for local decisions at three particular facilities.

The Presiding Officer has recently determined that "matters of purely personal interest or concerning purely local conditions are often not relevant in an omnibus proceeding, and are therefore objectionable on that basis." Presiding Officer's Ruling No. R2000-1/56 at 5. That finding applies to the current motion, in which Mr. Carlson asks about three disparate facilities that he admits are simply "examples."³ And the answers clearly require analysis of "purely local conditions," such as the relationship between the Byron Rumford Station and the connected elevator lobby, the lobby's relationship to a federal building, and both postal and General Services Administration requirements for access between the lobby and the postal facility. Such analysis will not provide meaningful insight into national practices or circumstances.⁴

² Witness Mayo had already stated in response to interrogatory DFC/USPS-T39-36(a) that she was not aware of any such national policy. Tr. 14/5517. The Postal Service provided some additional information on Saturday box service in response to interrogatories DBP/USPS-84 and 115.

³ Interrogatory DFC/USPS-T39-36(b).

⁴ Mr. Carlson has made no showing that these three facilities are representative of all facilities that do not provide Saturday delivery to post office boxes, and there is no

In any case, Mr. Carlson has failed to indicate at all why the reason that facilities (let alone these three facilities) do not deliver box mail on Saturdays is relevant to this proceeding. He intends to argue that the number of days that post office box service customers receive mail should be a factor in post office box service fees.⁵ Motion at 1. Administering fees based on each facility's determination of whether to provide Saturday delivery would be complicated enough. It would be even more impractical to suggest that the reason why a facility provides Saturday delivery should also be a factor in the fee design.

As the discussion of Byron Rumford Station in Mr. Carlson's motion indicate, the local conditions at particular facilities are not simple. It is not easy to obtain qualitative information from field facilities about rate case issues. In this case, the Presiding Officer's Ruling presented a reasonable, simple request that field personnel simply identify whether they have a written document. A request as to why Saturday delivery is not available would be much more complicated, and would be unduly burdensome. That request would lead to discussions as to how to describe the exercise of local discretion, and how to present the many factors that might have been balanced.⁶ Such a request also could lead to the need for additional witnesses, since any response may

reason to believe that they are representative.

⁵ It appears that Mr. Carlson has not filed testimony in this proceeding, which reduces any need for this information to underlie an alternative proposal. To the extent that Mr. Carlson intends to present his proposals for the first time on brief, the Postal Service believes that it would be denied due process if forced to respond to these proposals in the limited time provided for preparing reply briefs, and without the benefit of discovery or an opportunity for rebuttal testimony.

⁶ For example, for the Byron Rumford station, one would need to consider the requirements to keep an emergency exit open, and the possibility that the General Services Agency would require that door to be kept open as an exit for federal employees using the federal facility on weekends.

just be one employee's opinion, rather than a more definitive Postal Service position. Undersigned counsel has received varying views on the architectural configuration of this facility, and absent a trip to the various field locations, no headquarters employee would be able to vouch for the accuracy of a response.

Because of the form of Mr. Carlson's original question, asking the Postal Service to confirm that access to the box section on Saturdays at the Byron Rumford Station could not have been accommodated architecturally, undersigned counsel expected that there were architectural barriers to Saturday access, and thus accepted initial reports by field personnel that the facility was inside a federal facility that was completely locked on Saturdays. A revised response was provided after Mr. Carlson contacted counsel with conflicting information, and a more accurate response was obtained from field personnel.

It now is clear that Mr. Carlson believes that access to Byron Rumford Station can be architecturally accommodated, and that he was looking for a "not confirmed" response. Why he presented the question the way he did (rather than, for example, "Can Saturday access be accommodated architecturally?") is unclear. Perhaps Mr. Carlson had been told by some postal official that Saturday access was precluded architecturally, and Mr. Carlson was looking for a contradictory opinion in this rate proceeding. If so, that is not the purpose of discovery.

Interrogatory DFC/USPS-T39-71 asks witness Mayo to identify all alternatives to certified mail plus return receipt service that the Commission should consider when evaluating the Postal Service's proposed fees for certified mail and return receipt under Criterion 5. The interrogatory also asks witness Mayo to provide the total cost to the customer for each alternative, and identify any differences between each alternative's service elements, and the elements for certified mail plus return receipt service.

In response, witness Mayo explains that she has not developed the "requested list of alternatives" because her fee proposals for certified mail and return receipt "were primarily cost driven." In her testimony witness Mayo describes the fee design for certified mail as covering the incremental cost and applying a nickel rounding constraint. With respect to the pricing criteria, witness Mayo states that "all applicable pricing criteria were reviewed, yet primary consideration was given to covering the incremental cost for the service." USPS-T-39 at 43. The need for a substantial fee increase just to cover incremental costs made an analysis of alternatives unnecessary.

Nonetheless, witness Mayo's response cited to the discussion of alternatives in her testimony:

Available alternatives to certified mail (Criterion 5) are still more expensive, with the exception of Delivery Confirmation and Signature Confirmation services, which accompany frequently higher priced items. These services, in some respects, provide similar services to certified mail.

Id. Moreover, her response provides citations to discussions of alternatives in Docket Nos. MC96-3 and R97-1. Thus, witness Mayo's answer is fully responsive, she has no further analysis to provide, and she is not obligated to develop a new analysis for Mr. Carlson's purposes.

Mr. Carlson is concerned because the cited material has not been designated into the record in this proceeding. Motion at 3. It is not clear if it needs to be so designated.⁷ In any case, witness Mayo's citation to past analysis is helpful and

⁷Limited use of this information can be made without the need for designation in this proceeding. Information on alternatives, especially non-postal ones, is not controlled by the Postal Service. Mr. Carlson has not demonstrated why he needs more information from the Postal Service in order to present his testimony or arguments on alternatives to certified mail plus return receipt service.

appropriate, given the lack of a need for her to study alternatives in developing her proposals in this proceeding.

Mr. Carlson claims the interrogatory is relevant to pricing issues in this proceeding, because he might be able to argue for a lower cost coverage than the one proposed. Mr. Carlson focuses on the 125 percent cost coverage over volume variable costs for certified mail. But incremental costs for certified mail are \$2.00, so the markup over incremental costs for certified mail is only 5 percent. See USPS-T-39 at 43, n.25; USPS-T-23 at 22. Witness Mayo was constrained to propose a fee of at least \$2.00 regardless of the other pricing criteria. Absent testimony showing lower incremental costs for certified mail, which Mr. Carlson has not provided, the markup over volume variable costs is not directly relevant to the pricing of certified mail.

As Mr. Carlson indicates, witness Mayo has discussed postal alternatives to certified mail plus return receipt service. See, e.g., Tr. 14/5540, 5544. It appears that Mr. Carlson wants witness Mayo to conduct a study of non-postal alternatives, including charges and service elements. But, absent a pre-existing analysis by witness Mayo, there are no grounds for requiring the Postal Service to develop this information, rather than Mr. Carlson.

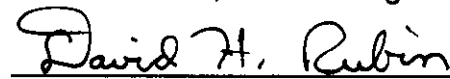
Accordingly, the Motion To Compel should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

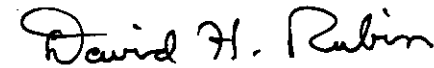
Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking



David H. Rubin

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



David H. Rubin

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2986; Fax -6187
May 23, 2000