

**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001**

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY**

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

**DOUGLAS F. CARLSON
OPPOSITION TO MOTION OF THE UNITED STATES POSTAL SERVICE
FOR LATE ACCEPTANCE OF ITS OPPOSITION TO MOTION TO COMPEL
A RESPONSE TO INTERROGATORY DFC/USPS-93**

June 3, 2000

On May 16, 2000, I filed a motion to compel the Postal Service to respond to DFC/USPS-93, a simple and straightforward interrogatory asking whether certain anomalies in service-standard information provided on the Service Standards CD-ROM represented database errors.¹ Pursuant to Rule 21(b), the Postal Service's deadline for responding to this motion was May 23, 2000. The Postal Service did not file an opposition until June 2, 2000, ten days late.² The Postal Service also filed a motion for late acceptance of its opposition.³

I oppose the Postal Service's motion for late acceptance of its opposition because the Postal Service has failed to show good cause for its tardiness. Postal counsel supposes that my motion to compel the Postal Service to provide information necessary to prepare my initial brief "might have been discarded inadvertently before it was read."⁴ This explanation, clouded with passive voice designed to avoid assigning responsibility to any identifiable individual, does not reflect due diligence or good cause. Indeed, in this case the Postal Service once

¹ Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to DFC/USPS-93 (filed May 16, 2000) ("Carlson Motion to Compel").

² Opposition of the United States Postal Service to Motion to Compel Response to Interrogatory DFC/USPS-93 (filed June 2, 2000).

³ Motion of the United States Postal Service for Late Acceptance of Its Opposition to the Motion to Compel a Response to Interrogatory DFC/USPS-93 (filed June 2, 2000) ("Postal Service Motion").

⁴ Postal Service Motion at 1.

indignantly demanded that a motion I filed be denied solely because it was filed after the deadline, even though I mailed it on time and the delay occurred in the mail⁵ — a circumstance that, under Commission precedent, justified late acceptance.⁶ In fact, the Postal Service alleged that my failure to remedy the delay in the mail somehow constituted a lack of due diligence.⁷ By this standard, the Postal Service's present failure to respond to my motion to compel, which arrived at the Postal Service on the day of filing, May 16, 2000,⁸ and was posted on the Commission's Web site, surely would not constitute due diligence.

In reality, in this case, I have not submitted a single document late, while the Postal Service has filed over 100 motions for late acceptance.⁹ Already, I have suffered an 18-day delay in obtaining a response to this interrogatory. The Postal Service incorrectly presumes that this delay has caused me no prejudice.¹⁰ As an individual participant, I require many weeks, consisting of nights and weekends only, to comb through the testimony and evidence and to travel to Washington to review transcripts and library references. My work on my initial brief is underway now, and the Postal Service is holding up my work on service-standard issues with this discovery dispute.

The presiding officer should not permit the Postal Service to place me in the untenable position of developing an argument on brief about service standards and/or database errors, only to allow the Postal Service to brush away my arguments by stating that the examples I am citing are or are not database errors. The discovery process is the appropriate mechanism for resolving these issues in advance.

⁵ Opposition of the United States Postal Service to Carlson Motion to Compel Responses to DFC/USPS-38, 42, and 45, and DFC/USPS-T39-36(b)-(d) (filed April 3, 2000).

⁶ POR MC97-2/2.

⁷ Opposition of the United States Postal Service to Carlson Motion to Compel Responses to DFC/USPS-38, 42, and 45, and DFC/USPS-T39-36(b)-(d) (filed April 3, 2000) at 1-2.

⁸ Postal Service Motion at 1.

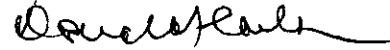
⁹ POR R2000-1/52 (filed April 27, 2000) alone resolved 100 such motions.

¹⁰ Postal Service Motion at 1.

The Postal Service missed the deadline for answering my motion to compel. The response to this interrogatory is already 18 days late. The Postal Service's motion for late acceptance should be denied, and my motion to compel should be granted.

Respectfully submitted,

Dated: June 3, 2000



DOUGLAS F. CARLSON

CERTIFICATE OF SERVICE

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



DOUGLAS F. CARLSON

June 3, 2000
Emeryville, California