

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

OPPOSITION OF UNITED STATES POSTAL SERVICE TO
DOUGLAS F. CARLSON MOTION FOR LATE ACCEPTANCE OF
INTERROGATORY DFC/USPS-118
(August 7, 2000)

The United States Postal Service hereby opposes the motion of Douglas F. Carlson for late acceptance of interrogatory DFC/USPS-118, filed on July 31, 2000. This interrogatory asks eight questions about a July 28, 2000, New York Times article concerning certified mail service. As Mr. Carlson concedes, this interrogatory was filed more than four months after the close of discovery on the Postal Service's direct case. Mr. Carlson admits, moreover, that these interrogatories relate to interrogatories he filed on witness Mayo as discovery on the Postal Service's direct case. Motion at 1.¹ Finally, Mr. Carlson states that he plans to use the response for arguments on brief. Thus, he does not need the information to prepare rebuttal testimony, and the July 31 deadline for discovery to obtain information for the purpose of the development of rebuttal testimony therefore does not apply. Rule 25(a).

The only remaining argument for this discovery would be that the publishing of a newspaper article addressing certified mail service constitutes an extraordinary circumstance that justifies late discovery. However, allowing discovery this late in the

^{1/} The Postal Service does not agree that this new interrogatory should be answered simply to update its prior interrogatory responses. See Motion at 2. In particular, the New York Times story does not reflect any new study of certified mail service. The lack of such a study, moreover, will make it difficult to provide substantive responses to much of Mr. Carlson's new interrogatory.

case, based on news reports potentially relevant to Postal Service ratemaking, would be too open-ended an extension of the discovery deadline, and would be inconsistent with the "broader obligation to ensure orderly administration of the case and fairness for all participants." Presiding Officer's Ruling No. R2000-1/96 at 5.²

Even taking the article at face value, the delivery problems appear to be temporary staffing or transitional computer problems. The attention of a New York Times article is moreover likely to create efforts to prevent recurrences of the problems.³ Thus, there is no reason to believe that the value of certified mail or return receipt service during the test year would be affected. In any case, Postal Service witness Mayo has made it clear that "[i]n developing the certified mail fee . . . , primary consideration was given to covering the incremental cost for the service (Criterion 3)." USPS-T-39 at 43. Witness Mayo has also acknowledged that "some problems with the quality of [return receipt] service imply a lower cost coverage (Criterion 2)." *Id.* at 135. In fact, she proposes a low 116 percent cost coverage for return receipts. *Id.* at 131. Thus, there is no need to develop the record on value of service issues, since establishing a low value of service would not rebut the Postal Service's proposals for certified mail or return receipts. Certainly, extraordinary discovery to develop such a

^{2/} The Postal Service is especially concerned that responding to such discovery will open the door to follow-up discovery that would be due for response (or objection) at the exceedingly busy times of rebuttal hearings and briefing of the case.

^{3/} The article notes that Congressman McHugh is expected to ask the Postal Service's Inspector General to audit the certified mail system. Attachment 1 to DFC/USPS-118, page 3 of 4.

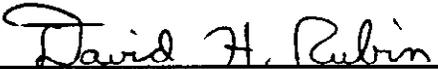
record should not be sanctioned. Mr. Carlson's motion should be denied.⁴

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
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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.



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⁴ The Postal Service is still considering whether it should answer part or all of interrogatory DFC/USPS-118, notwithstanding its tardiness. Those decisions should be made by the August 10 deadline for objections, and may make this opposition moot.