

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

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Complaint on First-Class Mail
Service Standards

Docket No. C2001-3

REPLY OF THE UNITED STATES POSTAL SERVICE
TO DOUGLAS F. CARLSON RESPONSE TO ORDER NO. 1320
(September 26, 2001)

The United States Postal Service hereby submits this reply to the September 24, 2001, response of the Complainant to PRC Order No. 1320.

The central focus of Complainant's response is his request that the Presiding Officer issue a ruling giving intervenors five weeks from the date of such ruling to complete the filing of initial discovery requests to the Postal Service.

Complainant points to the procedural schedule issued in Docket No. C2001-1 and suggests that the discovery period determined appropriate by the Commission in that case would be equally appropriate in the current docket. The Postal Service disagrees.

The current docket is distinguished from the previous one in several material respects. Before filing the Complaint in the instant docket, Complainant already had been provided by the Postal Service, under the Freedom of Information Act (FOIA) with a significant volume of agency records relevant to the issues in this proceeding. The Complaint, itself, cites generously from this body of information. Second, in contrast to Docket No. C2001-1, Complainant has the benefit of the information contained in the two Declarations submitted by Mr. Charles Gannon on behalf of the Postal Service in the current case. With the fruits of the aforementioned FOIA request and the factual

information provided through Mr. Gannon, Complainant begins the administrative phase of Docket No. C2001-3 in a much more fully informed position than was the case at the same stage of Docket No. C2001-1. There is no better evidence of this fact than the detailed discovery that already has been directed to the Postal Service by the other parties in this proceeding since shortly after PRC Order No. 1320.

The core issues in this proceeding are:

- (1) whether the service standard changes implemented in 2000-01 were of such a nature as to require that the Postal Service initiate a second proceeding under 39 U.S.C. § 3661; and
- (2) whether the service resulting from those changes is contrary to the policies of the Postal Reorganization Act.

The actual service standard changes are known. The circumstances under which they were made are known. The policies alleged to have been violated have been identified. The material facts are, for all intents and purposes, a matter of record. Discovery seeking clarification of those facts or other relevant and necessary facts is appropriate. However, the purpose of this proceeding is to resolve the relatively narrow legal questions raised by the complaint. Discovery should be focused precisely toward that objective.¹ Given the significant amount of information provided by the Postal Service in advance of PRC Order No. 1320, Complainant's request for five weeks of discovery

¹ In view of the filing of Docket No. R2001-1 yesterday and the strain that an omnibus case puts on the Postal Service's resources, Docket No. C2001-3 parties are advised that they may find the Postal Service less forgiving in its approach to discovery requests seeking information that is neither relevant nor necessary for the resolution of the narrow legal issues raised by the instant complaint.

after the issuance of a future Presiding Officer's ruling is excessive. Other parties without the benefit of Complainant's advantages initiated discovery over ten days ago.

The Postal Service considers that five weeks from the September 12, 2001, issuance of Order No. 1320 is sufficient time for any diligent party to complete relevant and necessary discovery in order to resolve the narrow issues raised by the complaint.

Complainant also conditions his scheduling request on the premise that he needs a ruling from the Commission authorizing him to direct discovery specifically to Mr. Gannon. The Postal Service sees this as a non-issue. Whether discovery requests are directed to the Postal Service institutionally or to a named employee, the Postal Service reserves the right to exercise its discretion in determining whether its responses to those questions will be provided institutionally or through a particular employee. It is not unreasonable to assume that Mr. Gannon's involvement in the service standard change decision-making that is under review in this proceeding will result in his involvement in the preparation and/or review of responses to discovery requests that are filed, irrespective of whether particular interrogatories are directed at him or whether he sponsors the answers. The prudent course for all parties would be *to get on the ball and direct interrogatories to the institution and let the institution worry about sponsorship of answers.*

Finally, with respect to evidentiary presentation, Complainant requests that the procedural calendar in Docket No. C2001-1 be followed and that, in the instant docket, he be allowed eight weeks after the discovery deadline for the filing of any testimony. Given the already advanced state of information development that has occurred and the narrow issues to be resolved, the Postal Service is not aware of any reason why

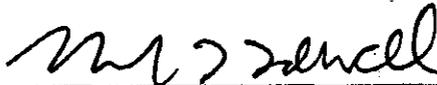
such testimony could not be completed in two to four weeks after the conclusion of discovery. Accordingly, the Postal Service opposes the request for eight weeks.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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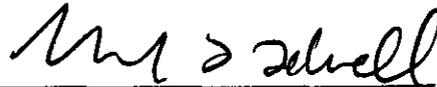
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CERTIFICATE OF SERVICE

I hereby certify that, in accordance with section 12 of the Rules of Practice, I have this day served the foregoing document upon:

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