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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. C2001-3/4

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Complaint on First-Class Mail Standards

Docket No. C2001-3

PRESIDING OFFICER'S RULING ON CARLSON MOTION
TO COMPEL RESPONSE TO DFC/USPS-GAN-31

(Issued November 14, 2001)

At issue is Carlson's Interrogatory No. 31, which asks whether commercial airlines are currently transporting First-Class flats and small parcels and rolls (SPRS) and, if the answer is no, for a description of post-September 11, 2001 transportation arrangements for these mail shapes.¹ DFC/USPS-GAN-31(a) and (b). The Service objects to answering on grounds that the question lacks relevance to any issue in this proceeding. In its view, the complaint is restricted to "consideration of whether changes in service standards implemented in 2000 and 2001 as part of the finalization of Phase 2 of the realignment plan reviewed in Docket No. N89-1 comply with 39 U.S.C. §§ 3661 and 3662." Postal Service Objection at 1. It claims this docket "has nothing to do with current or future impact of FAA concerns about threats to airline safety which result from the potential use of the mails by terrorists or what the Postal Service is or may be doing in response to such threats." *Id.*

¹ Related documents include: Objection of the United States Postal Service to Interrogatory of Douglas Carlson, November 1, 2001 (Postal Service Objection); Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-GAN-31, November 2, 2001 (Carlson Motion to Compel); and Opposition of the United States Postal Service to Douglas F. Carlson Motion to Compel Response to DFC/USPS-GAN-31, November 9, 2001 (Postal Service Opposition).

In moving to compel a response, Mr. Carlson emphasizes issues not mentioned by the Service, such as whether the new three-day standard may not provide some customers with adequate First-Class Mail service and whether the Service is providing prompt and reliable delivery. Carlson Motion to Compel at 2. He further states that it is his understanding that security concerns have caused the Service to alter some aspects of the air transportation of First-Class Mail, "possibly excluding certain types of mail from commercial passenger airlines." *Id.* at 2. He contends that before he could make a recommendation on the restoration of some two-day First-Class Mail service standards, he must understand whether the resumption of the use of various types of air transportation would be possible and economical. *Id.*

The Service opposes the motion to compel, suggesting that it is actually asking whether "there are currently any emergency transportation restrictions imposed by the Federal Aviation Administration which would limit the size and weight of flats, small parcels and rolls that the Postal Service is permitted to tender to commercial passenger airlines that transport this mail." Postal Service Opposition at 1. It reiterates its position regarding the nature of the issues in this complaint, and claims that the existence of any temporary terrorism-related measures are irrelevant to determinations thereon. *Id.* With respect to Mr. Carlson's assertion that an answer would assist him in developing recommendations for the Commission's consideration, the Service notes that airline restrictions are outside the control of the Service and the Commission. *Id.* at 2. Moreover, it says the service standard changes did not differentiate among First-Class Mail pieces by weight and shape. *Id.*

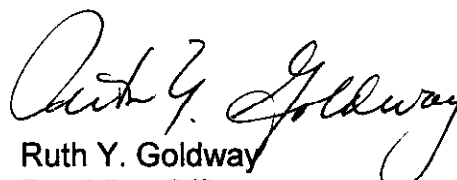
Ruling. In general, the issues in this case and related management decisions substantially predate the events of September 11, 2001, and this — or other — discovery directed at post-attack developments would be expected to elicit information with little, if any, relevance to the key determinations the Commission must make in this case. Thus, while there is not necessarily a "bright line" in the calendar prohibiting certain discovery requests, postal transportation adjustments since the terrorist attacks

are sufficiently distant in time and nature from the decisions at issue here that I will not require the Service to provide a response.

I also have considered Mr. Carlson's stated interest in using the requested information to develop appropriate recommendations for the Commission's consideration. This is a well-intentioned purpose. However, the Commission's function in this proceeding is to determine whether current service standards were presented for review by the Commission in a timely fashion and are otherwise in conformance with statutory policies, not to evaluate the impact of temporary transportation adjustments necessitated by the recent national emergency.² I conclude that the Service should not be compelled to provide a response. Accordingly, the motion is not granted.

RULING

The Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-GAN-31, November 2, 2001, is not granted.


Ruth Y. Goldway
Presiding Officer

² If these circumstances were to lead the Postal Service to conclude that it should again adjust its service standards, then I would expect this information to be provided to the Commission as part of a new § 3661 request.