

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

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

**Complaint on First-Class Mail  
Service Standards**

**Docket No. C2001-3**

**DOUGLAS F. CARLSON  
REVISED MOTION FOR AN EXTENSION OF TIME  
TO RESPOND TO POSTAL SERVICE OBJECTION  
TO DFC/USPS-9—ERRATUM**

**November 20, 2001**

On October 30, 2001, I filed interrogatory DFC/USPS-9.<sup>1</sup> This interrogatory requests point-to-point EXFC and ODIS delivery performance information. On November 6, 2001, the Postal Service filed an objection to public disclosure of these data, instead requesting application of protective conditions.<sup>2</sup> The Postal Service requested the protective conditions within the objection. The Postal Service did not file a motion for protective conditions. Rule 26(d) would require me to file a motion to compel a response to the interrogatory by November 20, 2001. Therefore, on November 19, 2001, I filed a motion requesting an extension of time to file my motion until December 3, 2001.<sup>3</sup> I explained that I needed the extra time because several Postal Service discovery requests are still outstanding, and I may need to use these discovery responses in arguing my motion. Motion for Extension at 1–2.

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<sup>1</sup> Douglas F. Carlson Interrogatory to the United States Postal Service (DFC/USPS-9), filed October 30, 2001.

<sup>2</sup> Objection of the United States Postal Service to Interrogatory of Douglas Carlson (DFC/USPS-9) (“Objection”), filed November 6, 2001.

<sup>3</sup> Douglas F. Carlson Motion for an Extension of Time to Respond to Postal Service Objection to DFC/USPS-9 (“Motion for Extension”), filed November 19, 2001.

My subsequent further review reveals a problem with the procedural posture of this dispute. The Postal Service has used its objection as the forum for stating its preference for protective conditions. The objection invites me to contact the Postal Service to discuss the protective conditions. Objection at 2–3. The problem is, at this time I am not willing to accept protective conditions. Under normal procedures, a party seeking to apply protective conditions to a discovery response files a *motion* to apply protective conditions. The files of Docket No. R2000-1 are replete with examples of motions to apply protective conditions. A motion is appropriate and necessary because the party desiring protective conditions bears the burden of demonstrating that protective conditions are necessary. See, e.g., POR C2001-1/5 at 6–7; see also POR R2001-1/7 at 4, where the presiding officer directed the Postal Service to file a motion for protective conditions if it wished to apply protective conditions to material that the ruling directed the Postal Service to provide. Protective conditions rarely benefit the discovering party, and they may, in fact, be detrimental to the discovering party. Therefore, it is fair and reasonable for the party seeking protective conditions to file a motion for protective conditions that clearly explains the reasons why the party supports protective conditions. The discovering party then will have an opportunity to respond to the arguments in favor of protective conditions. For these reasons, I move for a ruling from the presiding officer directing the Postal Service to file a motion to enact protective conditions to cover the material provided in response to DFC/USPS-9 if the Postal Service still wishes to apply protective conditions. I will then have an opportunity to consider the Postal Service’s arguments and answer the motion.

This solution will have two practical effects. First, it will avoid the problem that I faced in the dispute over protective conditions governing the point-to-point First-Class Mail volume data that I requested in DFC/USPS-1, where I was forced to oppose protective conditions even though the Postal Service had failed at that point to explain why public disclosure would harm the Postal Service

because the Postal Service used an objection, rather than a motion, to state a desire for protective conditions. See Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-1 at 5–6, 8 (filed November 7, 2001). Second, if the Postal Service files a motion, the Postal Service should have filed its late discovery responses by my due date for answering the motion, thus eliminating my concern about my need to respond to the Postal Service’s request for protective conditions while responses to several discovery requests are still pending. See Motion for Extension at 1–2.

If the presiding officer does not grant my request to require the Postal Service to submit a motion for protective conditions, I then will stand by my request for an extension of time until December 3, 2001, to respond to the Postal Service’s objection to DFC/USPS-9 for the reasons stated in my Motion for Extension.

Respectfully submitted,

Dated: November 20, 2001

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DOUGLAS F. CARLSON

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**CERTIFICATE OF SERVICE**

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

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DOUGLAS F. CARLSON

November 20, 2001  
Berkeley, California