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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

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

Complaint on Sunday
and Holiday Collections

Docket No. C2001-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO COMMISSION ORDER NO. 1331
(December 4, 2001)

The Commission issued Order No. 1331 on November 27, 2001. The Order pertains to the pending dispute over DFC/USPS-19, which in May requested access to an electronic version of the entire Collection Box Management System (CBMS) inventory database, containing location, collection schedules, and similar information for the hundreds of thousands of collection boxes across the country. Extensive discussion of the background of this discovery dispute was presented in the Postal Service's August 28 Motion for Certification of an Appeal of Presiding Officer's Ruling No. 10. The Postal Service's explained its determination of how to resolve the impasse in its October 9 Response to Presiding Officer's Ruling No. C2001-1/13.

Order No. 1331 expressed the Commission's disagreement with several of the Postal Service's views, including its sound conclusion -- never clearly or adequately refuted -- that most (if not all) of the material sought is irrelevant. Order No. 1331 also, in effect, rejected the conclusion that protective conditions applied to the entire CBMS database would strike a reasonable and necessary balance between the purported need by participants in complaint proceedings to have access to sensitive information, and the Postal Service's prerogative to protect its business interests and the welfare of its employees and customers. In this regard, the Commission has apparently

concluded that, even though under protective conditions the participants in a service complaint proceeding could have access to the information to pursue the complaint, the Commission stands as arbiter of whether such information should be made public generally, despite the Postal Service's concerns regarding mail security and employee safety. This contravenes the Postal Service's view that the final determination regarding public access under these circumstances should be made by a Federal court, especially where Congress in the Postal Reorganization Act has afforded the Postal Service protection from disclosure under the Freedom of Information Act (FOIA). In this case, the requester has so far unsuccessfully sought access to the CBMS national database under the FOIA in a pending suit in Federal District Court. He claims that protective conditions applied by the Commission that would limit use of the data to the very proceeding for which it has been requested are unacceptable, since he intends to use the information for other purposes. The discovery request can thus reasonably be seen as an attempt to circumvent restrictions on access to Postal Service records under Federal law by using Commission proceedings to force public disclosure of information that the Postal Service deems sensitive. The Commission in Order No. 1331 has cited no precedent for this practice.

The Postal Service believes that this development is inconsistent with the Commission's limited statutory role under 39 U.S.C. § 3662. Furthermore, the tragic events since the Postal Service's filing on October 9th, including revelations of deliberate anthrax contamination, the subsequent death of two postal employees and the serious illness of several others, emphatically underscore the Postal Service's concerns regarding the security of the mail and the safety of its employees and its

customers. The courts might or might not ultimately adopt that the Postal Service's determination that this information should not be publicly disclosed. A service complaint proceeding at the Commission, however, is not the appropriate forum to settle that question. If the Commission determines that Mr. Carlson's complaint is justified, he is entitled, at most, to a public report expressing the Commission's opinion on the matter, which may be acted on in the Postal Service's discretion. There is nothing in the statute, however, that guarantees the complainant unfettered public access to sensitive information otherwise not available, even if the complaint is successful.

The Postal Service must respectfully decline to provide the further materials specified in Order No. 1331. The Postal Service believes that the information it submitted on October 9th in response to DFC/USPS-19 provided the basis for resolution of this impasse and for moving forward. Mr. Carlson's postulated need for CBMS information was the unavailability of a means to quantify what he believes to be the "harm" caused by advanced collections on holiday eves. Without disclosing the entire database, the Postal Service, in the material submitted on October 9th provided the

analysis he described, and ample quantification on which to attempt to build his arguments.

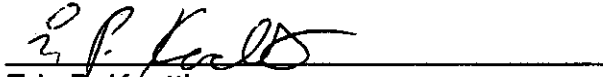
Respectfully submitted,

UNITED STATES POSTAL SERVICE

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December 4, 2001

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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