

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

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

**Complaint on Sunday  
and Holiday Collections**

**Docket No. C2001-1**

**DOUGLAS F. CARLSON  
RESPONSE TO POR C2001-1/16  
AND MOTION TO SUSPEND PROCEEDINGS**

**December 31, 2001**

Order No. 1331 resolved a long discovery dispute concerning interrogatory DFC/USPS-19 by directing the Postal Service to provide data from the Collection Box Management System (CBMS) database.<sup>1</sup> On December 4, 2001, the Postal Service took the extraordinary step of defying the Commission's discovery order.<sup>2</sup>

I remain convinced that the CBMS data will add substantial value to my case and to the testimony that I intend to submit concerning early collections on eves of holidays. A fortunate side effect of the delay that this discovery dispute has caused is that a decision in my Freedom of Information Act (FOIA) lawsuit concerning disclosure of CBMS data under FOIA may be close. The Postal Service and I already have submitted initial and opposition briefs, and we will submit reply briefs by January 8, 2002. The hearing date is February 5, 2002. However, the fact that the court ordered a briefing schedule farther in advance of the February 5, 2002, hearing date than the court's local rules require suggests that the court may be planning to resolve this case before the hearing date. If the court determines that a declaratory judgment is an appropriate remedy and,

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<sup>1</sup> Order No. 1331, filed November 27, 2001.

in fact, grants me a declaratory judgment, an optimistic view is that the Postal Service may reconsider its recalcitrance in this complaint proceeding and provide the CBMS data, particularly since I would then be able to obtain the CBMS data independently under FOIA.

Given the importance of the CBMS data to my case and the possibility that the federal court may issue a decision soon, I move to suspend these proceedings until March 1, 2002. On or before this date, I will report to the Commission on the status of the proceedings in federal court and propose a date for filing my testimony. In considering a request to delay a complaint proceeding, the presiding officer should give substantial weight to the preferences of the party who filed the complaint, particularly when the party's request arises as a result of the Postal Service's defiance of a Commission discovery order.

Respectfully submitted,

Dated: December 31, 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

December 31, 2001  
Santa Cruz, California

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<sup>2</sup> Response of the United States Postal Service to Commission Order No. 1331, filed December 4, 2001.