

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

Complaint on Removal
of Collection Boxes

Docket No. C2003-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO CARLSON MOTION FOR LEAVE TO REPLY TO ANSWER
(January 3, 2003)

On December 27, 2002, the complainant, Mr. Carlson, filed a motion for leave to reply to the Postal Service's Answer. As Mr. Carlson's motion acknowledges, the Commission's rules regarding complaint cases include no provision for complainants to respond to the Postal Service's Answer. To nonetheless create an opportunity for such a response, Mr. Carlson has filed his motion for leave to reply. The Postal Service hereby provides its response to that motion.

Before providing its comments on the specific relief sought in the motion (i.e., leave to reply), the Postal Service is compelled to respond to certain misstatements and distortions within the motion. For example, Mr. Carlson claims a need for the opportunity to comment "on the validity of the Postal Service's assurance that no collection boxes that received 25 pieces of mail or more were removed, Answer at 10." Motion for Leave at 2-3. An examination of page 10 of the Answer, however, reveals that the Postal Service did not offer any such "assurance." In response of paragraph 28 of the complaint, the Answer on page 10 states the following:

The Postal Service is unaware of instances in which field offices have removed collection boxes when those boxes met the 25-piece minimum guideline, unless the removal was based directly on local concerns of public safety regarding the specific box or boxes in question. In those

limited instances, public safety concerns define the most pressing “needs of the community affected by the decision” as referenced in section 313.7 (quoted in full above), and supersede the other guidelines of POM Chapter 3. In other instances, application of the guidelines remains unchanged.

The actual contents of the Answer differ from Mr. Carlson’s characterization in two important ways. First, the Answer acknowledges the possibility of exceptions because of the reality that some collection boxes have been removed for reasons of public safety and security related to the location of specific boxes, and unrelated to the volume of mail which was being deposited in those boxes. Second, the Answer makes no claim that, beyond those exceptions, all boxes removed received fewer than 25 pieces. What is stated instead is that the Postal Service is unaware of any instances in which field offices did not act in accordance with the 25-piece guideline.¹

Not only does the motion thus mischaracterize the Answer, but it is clearly an attempt to shift the focus of inquiry in a direction that cannot lead towards a useful resolution of the complaint. Mr. Carlson wants to argue that, despite (what he erroneously claims was) Postal Service “assurance” to the contrary, some boxes were removed even with volumes exceeding the 25-piece guideline. Obviously, such an argument cannot be conducted in the context of national policy issues, but would instead have to be addressed on a box-by-box basis. In essence, Mr. Carlson wants

¹ Common sense would suggest it is unlikely that each and every one of the tens of thousands of collection boxes removed over the last several years was removed strictly in conformance with a national guideline that constitutes but one of many factors relevant to box locations and removals. By falsely claiming that the Postal Service has offered “assurance” that no boxes receiving 25 pieces or more were removed, Mr. Carlson is transparently attempting to erect a strawman, the purported existence of which he then apparently feels should entitle him to the opportunity to disprove.

the complaint proceeding to become a mechanism by which he can explore and monitor local compliance with management's internal guidelines. The statutory complaint procedures, however, exist not to review allegations of local failure to comply with management's internal guidelines, but to review allegations of failure to provide service in accordance with the policies of the Act on a nationwide basis. Attempts to show that some local officials removed boxes with average volumes of 25 pieces or more would, even if successful, fail to provide any reasonable foundation for a claim that service is inadequate nationwide.

Which brings us to another of Mr. Carlson's factual distortions. The Motion for Leave throughout refers to the Postal Service's supposed "control" over the information necessary to sustain a complaint, and laments the consequent inability of prospective complainants to obtain such data. At page 3 of the Motion, Mr. Carlson specifically links these allegations to the Customer Satisfaction Measurement (CSM) data that are the subject of a separate motion for protective conditions. Mr. Carlson's position in this regard, however, is specious. CSM data are simply the results of professional and comprehensive survey research conducted on the Postal Service's behalf with respect to postal customers' attitudes and opinions. In terms of informational prerequisites, prospective complainants, such as Mr. Carlson, have no less opportunity than the Postal Service to make arrangements for the conduct of such research. Customer survey research requires no access to the Postal Service's internal financial or operating data. The Postal Service in no way "controls" Mr. Carlson's opportunity to

conduct customer survey research.²

Mr. Carlson is the complainant alleging that the removal of collection boxes has caused service to become inadequate. He carries the burden of proving that allegation. If he were to conduct the credible and objective customer survey research necessary to sustain his allegation, he would be free to disclose the results of his research. Such research, however, should be conducted *before* he files a complaint, in order to avoid wasting the time of everyone concerned by filing allegations that subsequently cannot be sustained. He should, moreover, refrain from accusing the Postal Service of controlling his ability to obtain information critical to his complaint. Nothing the Postal Service does would impede his ability to conduct appropriate and professional customer survey research of the type the Commission found sufficiently lacking in Docket No. C2001-1 to conclude that Mr. Carlson had failed to sustain his burden of proof regarding the issue of adequacy of service. Commission Report, Docket No. C2001-1 (Nov. 5, 2002) at 44-48.³ The corresponding absence in the instant Complaint of allegations

² Mr. Carlson, of course, would not necessarily have to rely on market research conducted on his own behalf. News organizations, for example, have been known to conduct nationwide consumer research, as do other types of organizations and associations. If Mr. Carlson lacks the financial resources to arrange for his own research, he may have the opportunity to rely on the work of others, as long as it is conducted in accordance with professional standards and is sufficiently representative of the nation as a whole. Just as the Postal Service in no way “controls” the ability of Mr. Carlson to conduct such research, it has no control over the research capabilities of other organizations.

³ Several pages of the motion (pages 3-5) are devoted to Mr. Carlson’s criticisms of the Postal Service’s treatment of his FOIA requests. His criticisms are gratuitous, however, because Mr. Carlson indicates that he has already presented these concerns in a federal court action, and the Commission plays no role in the review of FOIA matters. Moreover, the types of information discussed at pages 3-5 of the motion pertain to issues of local circumstances, not nationwide policy.

based on results from any similar customer survey research fully justifies the Postal Service's criticism of this complaint as "skeletal" and "conclusory."⁴

The Postal Service strongly rejects any suggestion that Mr. Carlson's failure to obtain material information prior to filing his complaint should be attributed to any act or omission on the part of the Postal Service, or that his failure in this regard somehow supports his request to respond to the Postal Service's Answer. The Complaint is the pleading by which parties are expected to explain why their concerns merit the attention of the Commission and, by extension, the Postal Service. If there are deficiencies in the Complaint, and the Postal Service believes that in this instance there are, the complainant should be prepared to shoulder the consequences of those deficiencies.

On the other hand, Mr. Carlson puts the matter quite aptly when he notes that "my request for an opportunity to respond is far from extraordinary." Motion at 2. The Postal Service, consistent with Rule 84(c), has stated its position that the complaint be terminated without hearings. From the perspective of all concerned, the stakes at this point are high. The opportunity for full consideration of all opposing facts and arguments, when the Commission's discretion to embark on potentially lengthy and costly further proceedings hangs in the balance, is not without value. Because the

⁴ Characterizations from the Postal Service's Answer cited by Mr. Carlson at pages 5-6 of his motion, such as "conclusory," were, in fact, only directed at specifically identified paragraphs of the Complaint. See Answer at page 20. Nevertheless, ultimately the entire Complaint *is* "conclusory" -- because Mr. Carlson has failed to specify any means (such as the results of comprehensive nationwide customer survey research) by which the conclusion that service is inadequate could be sustained even if *all* of the allegations in the Complaint were true, which obviously they are not.

substance of Mr. Carlson's request (in contrast with its stated rationale) is not unreasonable, the Postal Service does not oppose his motion for leave to reply. It does so with the realization that the Postal Service is not unlikely in the near future to be filing its own similar motion with respect to whatever Mr. Carlson produces in the event that his motion is granted.⁵

Therefore, under these circumstances, the Postal Service does not oppose Mr. Carlson's motion for leave to reply to the Postal Service's Answer.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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⁵ For example, Mr. Carlson has already put in play, as attachments to his opposition to the motion for protective conditions, copies of press articles regarding collection box removals. To the extent that material from those articles may work its way into his reply, the Postal Service may need a further opportunity to address those matters. Although there is no apparent reason why such material could not have been presented with the Complaint, it was not, and the Postal Service has had no opportunity to respond. It perhaps does bear noting here, however, that contrary to the allegations in his Motion (page 5) that the Postal Service has been "about as unwilling as one can imagine to provide information to the public on the subject matter of this complaint," a substantial amount of information regarding collection box removals obviously was provided to reporters, because it appears in those articles. Potential use of the material from the press articles, moreover, constitutes only one of many possible reasons that the Postal Service may need to seek to respond to Mr. Carlson's reply.

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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