

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

Complaint on First-Class Mail
Service Standards

Docket No. C2001-3

REPLY OF THE UNITED STATES POSTAL SERVICE
TO OPPOSITION OF DOUGLAS CARLSON TO PROPOSED STIPULATIONS
(February 27, 2003)

The United States Postal Service hereby files this reply to the February 20, 2003, Douglas Carlson Answer in Opposition to Motion Requesting Adoption of Proposed Stipulations.

The Complaint in this proceeding raises two broad issues:

whether the Postal Service's implementation of First-Class Mail service standard changes in 2000-01 was consistent with 39 U.S.C. § 3661; and

whether the First-Class Mail service resulting from those changes can be said to conform to the policies of the Postal Reorganization Act, within the meaning of 39 U.S.C. § 3662.

On its face, the interrogatory at issue here, DFC/USPS-7, seeks information unrelated to the determination the Commission is being asked to make regarding section 3661. Accordingly, the discussion below will focus on the purported relationship between the interrogatory and section 3662.

The ostensible objective of the Complaint in this proceeding is to persuade the Commission to exercise its authority under section 3662 to issue a non-binding, advisory public report to the Postal Service, expressing the conclusion that the level or quality of First-Class Mail service resulting from the service standard changes implemented in 2000-01 fails to conform to some policy or policies of the Act. In various pleadings during this proceeding, Complainant has argued that one of his objectives is to demonstrate that the

resulting service is not “adequate,” apparently within the meaning of section 403(a). To persuade the Commission to reach such a conclusion, Complainant claims a need for access to copies of all communications received by the Postal Service from customers in 2000-01 that can be said to relate to the service standard changes at issue.

The Postal Service’s immediate response to this interrogatory was to initiate informal communication with the Complainant to clarify its scope and purpose, and to minimize formal motions practice. In its communications with Complainant, the Postal Service made clear that it would seek immediate relief from the Commission if the interrogatory was intended to trigger a search and examination of all correspondence received at all postal facilities from postal patrons for the purpose of determining the existence and content of any which could be said to relate to the 2000-01 service standard changes, as such a request would be overly burdensome in the extreme. Accordingly, at the time, the Postal Service indicated that it was evaluating interrogatory on the basis that it was limited to records maintained in the files of its Office of Consumer Affairs.

Consultations with the Headquarters Office of Consumer Affairs revealed the existence of a Consumer Affairs Tracking System (CATS), which was designed to produce indices of incoming correspondence.¹ The indices are used to measure the quantity of correspondence relating to a handful of very broad topics for each mail class.² Complainant was immediately informed of the annual numbers reflected in the indices for FY 2000 and 2001. At the same time, Complainant was informed that correspondence

¹ Handled either by Headquarters or the 85 District Consumer Affairs offices.

² The topics are listed in the Postal Service’s February 13th motion at 2, n.2. The indices reveal that the Office of Consumer Affairs logged in 26 pieces of correspondence relating to “Time/Service Objectives” in FY 2000 and 81 such pieces in FY 2001. At the time that these indices were first discussed with Complainant, postal counsel was under the impression that they represented Headquarters files only. Counsel has only recently been informed that they represent correspondence received at and/or handled by Headquarters and the 85 District Consumer Affairs offices.

handled by Consumer Affairs was routinely stored alphabetically, by name of correspondent, and could not be retrieved by reference to mail class or subject matter. The Postal Service further indicated that approximately 11,000 total pieces of such correspondence were indexed in CATS during FY2000-01³ and that, in order to determine whether any of the 107 pieces categorized in the indices as “First-Class Mail -- Late/Service Objectives” could be said to relate to the service standard changes, the Postal Service would have to locate, retrieve, and re-read all 11,000 pieces of correspondence.⁴

The Postal Service expressed the view to Complainant then that such a burden was unreasonable, in view of the obvious conclusion that the exact number or nature of any such correspondence was not necessary for a resolution of the issues sought to be resolved by the instant complaint under section 3662. The Postal Service informally suggested that the parties agree to stipulations.⁵ Complainant declined, indicating that the parties were going to have to agree to disagree. The Postal Service suggested that Complainant give the matter more thought and made clear that, if he was going to be insistent about a manual search and review of the records indexed by CATS, the Postal Service would seek relief from the Commission. The parties left the matter to be taken up at a later date and, at the time, turned their attention to a variety of other pressing matters of the day, most notably other aspects of Docket No. C2001-3, and the not insubstantial matters in Docket Nos. C2001-1, and R2001-1 that were then pending. Even during the course of the parties’s subsequent involvement in the protracted resolution of the dispute

³ Totals of 4985 for FY 2000 and 6815 for FY 2001.

⁴ Assuming all were retained and can be retrieved from physical archives maintained by Headquarters and the 85 District offices. Historically, correspondence indexed as “Late/Service Objectives” almost always has related to instances in which someone’s mail was not delivered in time to meet the applicable service standard.

⁵ Essentially along the lines of those presented on February 13, 2003.

surrounding Presiding Officer's Ruling Nos. C2001-3/23 and C2001-3/24, and the development and filing of USPS Library References C2001-3/9 through 14, neither party raised the unresolved issue of DFC/USPS-7.

In response to Presiding Officer's Ruling No. C2001-3/34, the Postal Service informally communicated with Complainant to, among other things, revive the outstanding issue of DFC/USPS-7. The Postal Service reiterated its views concerning the nature of the burden the interrogatory would impose in relation to the materiality of any information it could yield. The Postal Service renewed its request for consideration of stipulations, and inquired to determine whether Complainant had reconsidered his views on these matters. Complainant reported that he had not and that he would not. In response, the Postal Service filed its February 13, 2003, motion requesting that the Commission direct the adoption of stipulations to resolve the matter. In reply to the Complainant's February 20th Opposition, the Postal Service offers the following observations.

At pages 3-4 of his Opposition, Complainant argues that his

concern for access to the views of other customers is particularly important because the Postal Service attempts to dismiss . . . [his] concerns in complaint cases by arguing that . . . [his] concerns lack value because they represent the views of a single customer.

The Postal Service and the Commission must evaluate each of Complainant's claims in service complaints on its merits, or lack thereof. If Complainant makes a claim that the Postal Service considers to be deficient in some respect, it is reasonable and appropriate for the Postal Service to attempt to persuade the Commission to concur.

In the instant proceeding, there is no post-Docket No. N89-1 body of scientifically designed market research conducted to produce a reliable measure of public need or public reaction to the completion of the disputed service standard changes. Nor is there a compilation of public responses to, say, a Federal Register notice, where the public comments could at least be presumed to be informed by reference to a published

description of the 2000-01 changes. Instead, what exists is the possibility that one or more persons may have written to complain in 2000-01 and that there still remains in the possession of the Postal Service a record of such complaints.

If, as reflected at page 4 of his Opposition, Complainant is concerned that the Commission might reach a conclusion about the instant complaint similar to that reached in Docket No. C2001-1, the requested documents could not cure his problem. Assuming that complaints about the service standard changes in the files of the Consumer Affairs ever existed, have been retained, and can be retrieved, a small number of anecdotal complaints, by their very nature, would intrinsically fail to rise to the standard of providing the Commission with any basis to “scientifically gauge, statistically or otherwise, the true needs of customers” See PRC Report C2001-1, at 44 (November 5, 2002). This being the case, the Postal Service should be spared the burden described in its February 13th motion.

Complainant further argues that:

[t]he Postal Service has completely ignored that the interrogatory does not focus on correspondence received at Postal Service headquarters. Responsive documents may exist in field offices as well. Surely an e-mail inquiry to field offices at some level -- and perhaps limited to western states -- requesting a short search of their files would not be unduly burdensome.

Opposition at 5. The Postal Service’s response is two-fold.

First, this is the first indication -- since commencement of discussions about the Office of Consumer Affairs records was initiated -- that the Postal Service’s intention of limiting the scope of the interrogatory to the records indexed in CATS is unsatisfactory to Complainant. Otherwise, the Postal Service would have avoided the futility of informal negotiations and sought protection from the Commission immediately to avoid a 40,000-facility record search. The quest for all records nationwide did not come up when discussions resumed recently in response to Presiding Officer’s Ruling No. C2001-3/34.

Otherwise, the Postal Service would have addressed such a development in its February 13th motion proposing the stipulations.

The Postal Service cannot with the highest degree of accuracy calculate what burden would be involved in pulling up any correspondence and complaint files from FY 2000-01 from the thousands of locations where it may still be archived, for the purposes identified in this interrogatory. Complainant is absolutely correct at page 5 of his Opposition when he asserts that “[t]he exact burden is difficult to discuss” And he is correct that the Postal Service has never formally articulated what that burden might be, but for reasons he appears unwilling to concede.

However, assume that 40,000 post offices have retained consumer correspondence from as far back as 2000-01, and that it would take only a single workhour of search time per facility to peruse all files that might logically contain correspondence from customers pertaining to mail service, and to isolate any correspondence relating to the disputed service standard changes. Although the Postal Service does not know how many, if any, such records may exist at its approximately 40,000 offices nationwide, it is clear that such a cursory search at each facility would generate a staggering number of workhours.

Secondly, Complainant’s first-ever proposal to limit the search to less than nationwide appears at page 5 of his Opposition. However, his proposal does nothing to reduce to burden estimated by the Postal Service in its February 13, 2003, motion proposing the stipulations at issue now.⁶ Moreover, Complainant transparently attempts to skew the picture, by now proposing to limit the search to correspondence only from “western states.”⁷

⁶ The search described there assumes an effort to locate and process any 2000-01 hard copy CATS archives at Headquarters and District offices.

⁷ Although, it, too, would generate an unduly burdensome record search, the Postal Service’s initial attempt to focus the scope of the interrogatory to records

At page 3 of his opposition, pleading, Complainant argues that

the Postal Service completely fails to comprehend that even one document – let alone several – could identify a problem relating to the adequacy of service that had not come to [his] . . . attention because . . . [he does] not have the same access to knowledge about the needs of customers as the Postal Service does.

It is beyond dispute that an obvious consequence of the implementation of the service standard changes was going to be that, between various origin-destination ZIP Code pairs, some mail would be delivered in fewer days than before, and that some mail would be delivered in more days than before. The Postal Service provided estimates of the aggregate volume expected to be affected by both the service upgrades and downgrades to Complainant even before this case was filed. They appear in the Complaint at ¶¶53 and provide ample basis for making assertions about such impact on a nationwide or substantially nationwide basis.

The Postal Service concedes that the location and provision of a single letter from 2000-01 could reveal the perspective or the experience of a mailer who might have concluded that the service standard changes resulted in inadequate service to some degree. Accordingly, the Postal Service has proposed to stipulate that as many as all of the 107 above-referenced pieces of correspondence handled by Consumer Affairs could be of such a character, notwithstanding the degree to which such a conclusion is completely counter-intuitive.⁸

At page 3, Complainant also argues that “a responsive document could be a letter from a trade organization that highlights a problem -- unknown to . . . [him] that the new

referenced in CATS would at least have had the effect of including correspondence from all corners of the nation, as opposed to a specific area that had a higher or lower proportion of service upgrades or downgrades.

⁸ See footnote 4 above.

service standards are causing for a particular industry.” This, too, the Postal Service readily concedes and is willing to add the following as a third proposed stipulation:

The service standard changes at issue have had different effects on different mailers. Some of these mailers may find that some of the changes result in service that does not meet all of their needs to some degree. Some of these mailers may find that the resulting service is not adequate to some degree. These mailers’ needs may be outside the scope of Complainant’s experience and knowledge, given the socioeconomic and geographical diversity among senders and recipients of First-Class Mail.

At page 5 of his Opposition, Complainant argues that the Postal Service has not described the burden imposed by DFC/USPS-7 with sufficient particularity. As indicated further below, he may be partially correct.

The estimate of burden reflected in the Postal Service’s February 13, 2003, proposal was based on consultations with personnel in the Office of Consumer Affairs. With all due respect to Complainant’s earnest, but uninformed speculation about how quickly they could manipulate their files, the Postal Service considers that the Commission should defer to their judgment regarding how many workhours it might take them to locate any 2000-01 files; and then assuming all can be located, browse or skim through them to determine which pertained to First-Class Mail, to “Time/Service Objectives,” and then to the service standard changes at issue in this proceeding. Assuming the compilation of all such files, the work would have to be supervised and reviewed by a Consumer Affairs manager to determine if all appropriate letters were correctly isolated from the pool, and then whether any could be said to fall within the scope of the interrogatory. That supervisory time has not been factored. The Postal Service also has not calculated the time involved in production of redacted versions of any such correspondence, to protect the names and addresses of correspondents. Nor has the necessary time for review by counsel been taken into consideration.

All to produce what? When boiled down to its essence, Complainant's Opposition is reduced to the pursuit of two objectives: to fulfill his desire validate the undisputed assertion that others, besides him, disapprove of the service standard changes; and to corroborate his undisputed belief that some other customers somewhere might conclude that the resulting service does not meet their needs or is inadequate to some degree, in a manner that is outside the realm of his experience and that has not yet crossed his mind.

Throughout this controversy, the Postal Service has borne in mind that the primary purpose of developing a factual record in Commission proceedings is to provide the Commission with a basis for its legal and policy conclusions under section 3662. Discovery via examination of records, subject to limitations within the Commission's rules, provides the principal, but not the exclusive means of achieving that end. Accordingly, in the spirit of 39 C.F.R. §§ 3001.24(d)(4) and 3001.25(b), the Postal Service has sought, informally at first, and then more formally of late, to engage Complainant in the development of stipulations that could provide a basis for expeditiously establishing material facts that he deems to be relevant to his complaint and that can be relied upon by the Commission.

For these reasons, the Commission should grant the Postal Service's February 13, 2003, motion.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
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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 all parties of record in this proceeding.

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