

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

Complaint on Bulk Access (Batch Processing) of Delivery Confirmation Information for Certified Mail

Docket No. C2003-2

RESPONSE OF THE UNITED STATES POSTAL SERVICE  
TO WALZ POSTAL SOLUTIONS, INC.  
MOTION FOR LEAVE TO REPLY  
TO POSTAL SERVICE ANSWER TO COMPLAINT  
(July 7, 2003)

On June 19, 2003, Walz Postal Solutions (Walz) moved for leave to reply to the Postal Service's Answer to Walz's Complaint in this docket (Reply). The Reply included nearly 13 single-spaced pages of argument in response to the Postal Service Answer, as well as 15 pages of attachments. On June 25, 2003, the Commission granted Walz's motion, and gave the Postal Service "an opportunity to respond to any new allegations contained in the Reply, or to clarify any arguments previously made. This should provide the Commission with a more complete understanding of both parties' positions, such that the Commission can decide how to proceed in this docket." Order No. 1376, at 2 (June 25, 2003). The Commission set today as the deadline for the Postal Service's response.

General Response

The Postal Service believes that its Answer, filed May 29, 2003, already demonstrates why this Complaint should be dismissed without discovery or hearings.

Nonetheless, the Postal Service accepts the Commission's invitation to supplement its position, given the new allegations raised by Walz.

Walz's Reply attempts to impugn Certified Mail developments of the past few years. But responding to the Walz Complaint itself requires a more prospective focus. The Complaint consists of three claims about the Postal Service's current offering of bulk electronic file transfer as one method of electronic confirmation of delivery for Certified Mail. The Complaint argues that bulk electronic file transfer is being offered (1) without a prior Commission recommended decision, (2) without charging an appropriate fee, and (3) without a prior advisory opinion from the Commission. Walz asks the Commission to "[s]ubmit to the Governors of the United States Postal Service a recommended decision rejecting as unsupported the Postal Service's provision for [bulk electronic file transfer]." Complaint at 5-6. These claims, and the associated relief, essentially depend on whether the existing DMCS language for Certified Mail (DMCS § 941.11) permits or excludes bulk electronic file transfer as one method of "electronic confirmation." The Postal Service showed in its Answer that the DMCS language permits bulk electronic file transfer. Moreover, the Postal Service cannot see how the language proposed in and later adopted in Docket No. R2001-1 would be any different had the Postal Service concluded prior to filing its Request that implementation of bulk electronic file transfer would be operationally feasible. Thus, the offering of bulk electronic file transfer is consistent with the review of Certified Mail during Docket No. R2001-1.<sup>1</sup>

Walz does not demonstrate any problem with the current DMCS language for Certified Mail, nor show a need to change that language to take account of the bulk

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<sup>1</sup> Typically, rate case cost and volume analyses are based on the predicted operational environment during the test year. The operational environment may change by the time a rate case is implemented, but that generally does not undercut the validity of the Commission's recommendations. Further review, including consideration of changed circumstances, will occur in subsequent proceedings.

option. Walz moreover has not argued that bulk electronic file transfer is something other than electronic confirmation. Instead, Walz tries to challenge the long-established principle that the Postal Service determines the operational methods by which it provides the services defined in the DMCS. Walz Reply at 7, 13. Nonetheless, if the Commission concludes, as a legal matter, that the bulk option is within the scope of the current DMCS language, then further proceedings in this docket are not needed.

The proposed Postal Service DMCS change was presented in general terms, using the same language as that used for Delivery Confirmation:

Certified Mail service provides . . . upon request, electronic confirmation that an article was delivered or that a delivery attempt was made, . . . .

DMCS § 941.11. Moreover, witness Mayo several times described the Certified Mail proposal in general terms, without limiting the methods of electronic confirmation.

My testimony discusses enhancements of certified mail and return receipts. These enhancements involve, but are not limited to, increased use of technology to provide electronic access to delivery information.

USPS-T-36 at 1.

The proposed certified mail classification change is to make delivery information available for certified mail users without the need to purchase return receipt service.

*Id.* at 2.

I am also proposing three classification changes to certified mail to clarify DMCS language to allow delivery information to be made available without the purchase of return receipt service.

*Id.* at 23.

The first proposed classification change is to add a provision in the DMCS to allow certified mail to provide delivery information.

*Id.* at 29.

These repeated general statements about the Certified Mail enhancement provided ample notice that the scope of the proposal might include any methods of “electronic confirmation.” The goal was to make Certified Mail delivery information available without the need to purchase return receipt service. Despite the specification of telephone and Internet access as the two methods that had been studied for the rate case, and were planned for implementation at the time of the rate case, there was no intent to limit that enhancement to any particular operational methods.<sup>2</sup> By the same token, the Postal Service was unable to state that bulk electronic file transfer in particular would be part of the rate case implementation, because testing of that potential option had not yet begun.

#### Correction of Erroneous Claims by Walz

Walz asserts that the bulk electronic file transfer method requires a third-party service provider. Walz Reply at 2, 7, 11. But this is not so. While an ability to send and receive electronic files is required, bulk senders of Certified Mail are not required to work through a third-party vendor to receive delivery information through bulk electronic file transfer. As the DMM states, “[c]ustomers can verify the [Certified Mail] delivery status in three ways: . . . (3) by bulk electronic file transfer for mailers who provide an electronic manifest to the Postal Service.” DMM § 912.1.1 (as of May 29, 2003). Nothing precludes the Postal Service from transferring electronic files directly to the mailer. Bulk electronic file transfer thus is available to Certified Mail customers on the same terms as it is available for Delivery Confirmation customers, without the need to work through a third-party vendor.<sup>3</sup>

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<sup>2</sup> Contrary to Walz’s claims on pages 5 and 6, witness Mayo did not specify only one method of receiving electronic confirmation. Her testimony repeatedly presented both Internet access and telephone access as the two methods planned by the Postal Service at the time of her testimony. USPS-T-36 at 25, 26, 27, 30.

<sup>3</sup> Walz quotes the Postal Service Answer to Complaint paragraph 27 to claim that third-party vendors must be involved. Walz Reply at 9. But in paragraph 27, Walz asked only about the two pilot test third-party vendors, so the Postal Service’s answer to that

Walz argues that the Postal Service failed to meet the intent of Commission Rule 64, because it did not disclose, when it filed its Request in Docket No. R2001-1, that the proposed Certified Mail DMCS language would be interpreted to include “bulk electronic file transfer of Certified Mail delivery information.” Walz also claims that the Postal Service had an intent to implement bulk electronic file transfer at the time it filed its Request. Walz Reply at 2. For this conclusion Walz relies on Mr. Dorsey’s speech at the Postal Forum in March, 2003.

Mr. Dorsey’s March, 2001 speech did not establish a Postal Service plan to offer the bulk electronic file transfer option as one method of access upon implementation of the Certified Mail enhancement. Instead, Mr. Dorsey presented electronic file transfer as an “opportunity,” not as a plan ready for full implementation. Walz Reply at 4. Mr. Dorsey was simply expressing an intent to conduct a pilot test, limited to three participants, of whether it would be operationally feasible to add this option for making Certified Mail delivery information available. Any determination to make this a fully-implemented option for obtaining delivery information depended on the results of the pilot test.

When the Docket No. R2001-1 Request was filed, moreover, the Postal Service had not even started the pilot test of the bulk electronic file transfer option. Questions about whether this option could operationally be provided, especially to more than three customers, were unanswered. As Walz is well aware, the Postal Service was unable to expand the scope of the pilot test to include more than three customers. Complaint at 2.<sup>4</sup>

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paragraph was also limited to the procedures for those vendors. Today, the options are the same as for Delivery Confirmation customers. A third-party vendor is not required.<sup>4</sup> Walz does acknowledge that it now is one of the participants obtaining Certified Mail delivery information by electronic file transfer. Walz Reply at 12.

Moreover, Mr. Dorsey's speech clearly shows that the Postal Service was not concealing its plans to test bulk electronic file transfer. Mr. Dorsey specifically stated that the next rate case would include the enhancement of Certified Mail to include delivery information:

So basically, if I were to capsule all this stuff that I described to you and say what's next, we're working hard to do costing data, pricing, costing, how's it going to work, get the systems mapped out to get a rate case ride, in the next rate case, to add all these new electronic enhancement and features in that I described to you. A lot for first class mail [sic] will be in there [the next rate case]. It will be the first time that certified mail will have all the same electronic access delivery data information and so we've got to go through a Rate Commission process.

Attachment A to Walz Reply, at 8 (paragraph after End of Side 1). Thus, Mr. Dorsey's speech suggested that the delivery information enhancement proposed in the rate case ultimately could be provided by various methods, including the bulk electronic file transfer described during his speech. Mr. Dorsey made it clear at the Postal Forum that these initiatives were in the works, and that the rate case would address them. Since the bulk electronic file transfer option remained untested when the Docket No. R2001-1 was prepared and filed, that option was not addressed specifically in testimony. But if, based on Mr. Dorsey's speech, Walz had concerns, it could have raised them during rate case discovery.

The rate case market research and cost analysis were limited to Internet and telephone access, because those were the two methods that were not considered speculative at the time that the rate case was prepared and filed. Despite Mr. Dorsey's speech, the feasibility of bulk electronic file transfer remained untested and was accordingly not addressed in the Request.

Granting the relief requested by Walz would slow down the automation of Certified Mail, and thus make Certified Mail more costly. Stopping the bulk option would only force customers to make multiple requests over the Internet or by telephone. As

stated on page 12 of the Postal Service's Answer, the cost for an electronic file transfer (of multiple records) is .08 cents (not 8 cents as Walz indicates on page 10 of Walz's Reply), which is about one percent of the cost for telephone access to Certified Mail delivery information. Thus, contrary to Walz's claim, Reply at 12, the addition of bulk electronic file transfer after the rate case does not raise issues of cross subsidy.

Conclusion

Walz has not established any need for discovery or hearings in this proceeding. To the contrary, Walz requests discovery to "encourage a resolution of the legal issues represented by the Complaint." Given the lack of material factual issues related to the resolution of Walz's Complaint, the Postal Service believes that the legal issues can be resolved without the delay inherent in discovery and hearings. The Commission should simply dismiss the Complaint.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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July 7, 2003

**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.

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July 7, 2003