

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 PRESIDING OFFICER'S RULING NO. C2003-1/4  
(April 5, 2004)

Presiding Officer's Ruling No. C2003-1/4 was issued on March 17, 2004. Broadly, the Ruling relates to the Postal Service's December 20<sup>th</sup> motion for the establishment of protective conditions with respect to certain information that, but for the Postal Service's established policy of using proprietary Customer Satisfaction Measurement (CSM) results exclusively for internal management purposes, would have been incorporated into the Postal Service's Answer in this proceeding, also filed on December 20, 2002. Specifically, the Ruling follows up on Commission Order No. 1390 (February 4, 2004), which affirms an earlier ruling by the Presiding Officer denying the Postal Service's request for the establishment of protective conditions. Ruling No. C2003-1/4 allows the Postal Service to indicate whether it has reconsidered its position on public disclosure of the CSM material at issue, in light of Commission's Order declining to rely on such material in the absence of public disclosure. It also points to other consumer-oriented information cited by the Postal Service in an unrelated context, and poses the issue of whether alternative, nonproprietary consumer information might be available in this instance as well.

The Postal Service appreciates the utility of an opportunity to clarify its current

intent regarding the CSM scores at issue. Before stating that intent, however, in light of the fact that Ruling No. C2003-1/4 restates at some length the discussions in Order No. 1390 leading to the Commission affirmance of the earlier Ruling, the Postal Service believes it appropriate to share its own perspective on Order No. 1390.

For instance, Ruling No. C2003-1/4 refers on page 2 to the Commission's "thorough consideration of the Postal Service's arguments" before affirming the earlier Ruling denying the requested protective conditions. The Postal Service does not necessarily agree with this characterization of Order No. 1390. For example, on page 4, Order 1390 states that the Commission "considered, and rejected, the allegation that the Presiding Officer overlooked the incorporation by reference of two affidavits in Docket No. R2001-1 discussing competitive concerns." Yet in the cited portions of its Initial Comments, the Postal Service had not alleged that the Presiding Officer had overlooked the incorporation by reference of the two declarations. Instead, what had been overlooked were the arguments presented in specific portions of the pleading to which the declarations had been attached, which was also incorporated by reference. See footnote 2, page 7 of the Initial Comments. It was primarily the pleading itself, not the attached declarations, which explained why the Postal Service can indeed suffer competitive harm from public disclosure of proprietary materials relating even to services which are covered by the Private Express Statutes. Thus, the conclusion in Order No. 1390 that the declarations were "lacking ... specificity" (page 4) is unwarranted, when sufficient specificity was instead included in the body of the

pleading, as explained in footnote 2 on page 7 of the Initial Comments.<sup>1</sup> Since neither the Presiding Officer's Rulings nor Order No. 1390 address those arguments, either as presented in the Docket No. R2001-1 pleading, or as further articulated on pages 14-16 of the Initial Comments in this docket, the Postal Service would not characterize the discussion in Order No. 1390 as thorough.

This omission is particularly critical in light of the Order's repeated reliance on the unfounded assertion that materials passing through collection boxes "concern the provision of monopoly services, where competitive harm is generally not an issue." Order 1390 at 3, 4-5. As the Postal Service noted in its original pleadings in Docket No. R2001-1, and reiterated in its Initial Comments in this proceeding, assertions of this type ignore the current "big picture" realities that are driving postal finances. Just as the Ford Motor Company may have a monopoly on Ford automobiles, but has no monopoly on cars, the Postal Service may have statutory protection against private delivery of hardcopy letters, but has no monopoly on bill presentment or payment. Just as Ford must compete in the larger market for cars and trucks, the Postal Service must compete against commercial entities, across a broad range of industries, who wish to benefit from expanded electronic diversion of letter mail, and who are achieving substantial success in that endeavor. This "big picture" was painted with great clarity throughout the Report of the President's Commission on the United States Postal Service, "Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service"

---

<sup>1</sup> Of course, as discussed in the Postal Service's Initial Comments at 6-8, in Docket No. R2001-1, the Presiding Officer rejected claims by the OCA of a lack of specificity that are indistinguishable from the assertions on that topic now embraced in this docket by both the Commission and the Presiding Officer.

(July 31, 2003), but particularly at pages 6-8, in a section entitled "Challenge # 1: Electronic Diversion of Mail Changes Everything." The Rate Commission's dogged insistence in Order 1390 that anything pertaining to letter mail service falls automatically and neatly into the "monopoly" category, to which issues of potential competitive harm are therefore generally irrelevant, runs fundamentally counter to what the President's Commission has reported.

Although the Postal Service remains convinced that the correct resolution of its request for protective conditions in this case would have been similar treatment as that afforded by the Presiding Officer to CSM material in Docket No. R2001-1, Order No. 1390 offers no grounds for any realistic expectation that a request for reconsideration would lead to any change in outcome. Therefore, rather than prolonging the matter further, the Postal Service's current intent is simply to move forward without the CSM information in question. Since the lack of this information does nothing to obscure the many other patent deficiencies in the complaint, a determination by the Commission to dismiss the complaint without hearings remains no less appropriate without it.

The Postal Service has carefully examined the materials appended to Ruling No. C2003-1/4, but can discern no basis therein to alter its intended course of action. The consumer-oriented information presented to the NTIA appears to consist of nothing more than publicly available information gathered from a variety of public sources. While it does include one item from the CSM materials, that item is the overall satisfaction score which the Postal Service has always identified as the sole exception to its otherwise uniform practice of treating CSM scores as confidential internal

information.<sup>2</sup> At present, we are unaware of any publicly available alternative sources of information regarding the types of items measured by the two CSM scores which were the subject of the instant motion for protective conditions.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux  
Chief Counsel  
Ratemaking

---

Eric P. Koetting  
Attorney

### **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 participants of record in this proceeding.

---

Eric P. Koetting

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-2992/ FAX: -5402  
April 5, 2004

---

<sup>2</sup> Order No. 1390 (at page 2) erroneously states that “no sound reason supports arbitrarily drawing a line between the single question on overall performance and all other questions.” In fact, rather than being an arbitrary distinction made by the Postal Service, it is, as indicated in ¶ 6 of the declaration of the Managing Partner of the Gallup Organization filed in Docket No. R2001-1, industry practice to release “carefully controlled summaries” of survey information, such as the overall satisfaction rating.