

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

**Complaint on First-Class Mail
Service Standards**

Docket No. C2001-3

**DOUGLAS F. CARLSON
COMMENTS ON SCHEDULING AND PROCEDURAL ISSUES**

April 30, 2004

Pursuant to POR C2001-3/41,¹ I hereby provide comments on procedural and scheduling issues.

On April 29, 2004, the Postal Service filed a late response to interrogatory DFC/USPS-T1-31. This interrogatory followed up on the Postal Service's response to DFC/USPS-T1-10. I considered the response to DFC/USPS-T1-31 to be inadequate. After consulting with Postal Service counsel, I received additional explanatory information. Postal Service counsel and I are discussing a method by which additional information can be added to the record, perhaps through an amended response to DFC/USPS-T1-31. Due to the anticipated absence of a key staff member on April 30, 2004, the Postal Service does not expect to conclude these discussions until May 3, 2004.

I consider this additional information to be important, and I intend to include it in the record. Therefore, as of today, I cannot respond definitively concerning my need to conduct oral cross-examination of witness Gannon. I wish to avoid the need for oral cross-examination, and I am reasonably confident that I can devise a way, either by collaborating with Postal Service counsel or by

¹ POR C2001-3/41, filed April 20, 2004.

filing a follow-up interrogatory, to include this information in the record without resorting to oral cross-examination. Under these circumstances, I expect to be able to update the presiding officer on the status of the resolution of this lingering discovery issue, and the need for oral cross-examination, by May 4, 2004.

I intend to file brief rebuttal testimony. After all discovery issues have been resolved, I request at least two weeks to file the rebuttal testimony. The presiding officer should provide a short period — two weeks, perhaps — for written cross-examination. I anticipate minimal, if any, written cross-examination.

The final scheduling issue concerns briefs. The Postal Service proposes a briefing schedule in June. The Postal Service further notes that prior commitments by Postal Service counsel would render a briefing schedule in July problematic. Even if procedural events surrounding discovery and rebuttal testimony could conclude soon enough to permit a briefing schedule in June, a briefing schedule in June would pose severe difficulties for me. The U.S. District Court in San Jose has set a date of June 25, 2004, for a hearing on cross-motions for summary judgment in two Freedom of Information Act lawsuits that I have filed against the Postal Service. Under court rules, the parties will file briefs 14, 21, and 35 days before the hearing date. I expect to be fully occupied with brief writing and preparation for the court hearing for most of June.

Given my commitments and postal counsel's commitments, and with regret for the additional delay, I recommend a deadline of August 4, 2004, for initial briefs and August 18, 2004, for reply briefs. I am authorized to report that the Postal Service, while preferring a briefing schedule in June, has no objection to the dates in August that I have proposed.

Respectfully submitted,

Dated: April 30, 2004

DOUGLAS F. CARLSON