

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

COMPLAINT ON EXPRESS MAIL

Docket No. C2005-1

ANSWER OF UNITED STATES POSTAL SERVICE
(May 5, 2005)

Introduction and Background

On February 18, 2005, the Postal Rate Commission received a Complaint filed by Douglas F. Carlson, styled as "Complaint on Express Mail." The Complaint alleges a variety of problems with Express Mail Service, including contractions in the Express Mail transportation and delivery network, curtailment of Sunday and holiday delivery, the establishment of a new "Second Delivery Day" service, dissemination of misleading or inaccurate information to customers regarding Express Mail service, and unfair and inefficient acceptance practices. The Postal Service hereby provides the following Answer to the specific allegations of the complaint, in accordance with Rule 84.

Answer

The complaint consists of 51 numbered paragraphs, and includes citations to five exhibits. Pursuant to Rule 84(a) of the Commission's Rules of Practice and Procedure, the Postal Service answers each paragraph of the Complaint as follows:

Paragraph 1

This paragraph simply identifies the complainant by name and mailing address; the Postal Service considers this sentence to be procedural and as not requiring a response.

Paragraph 2

This paragraph is a paraphrase of a section of the Postal Reorganization Act, to which no answer is required.

Paragraph 3

This paragraph asserts a legal conclusion predicated on a factual assertion regarding Complainant's use of Express Mail. With respect to the factual assertion, the Postal Service is without information sufficient to permit it to form a belief as to the truth of the matter asserted. To the extent the paragraph states a legal conclusion, no answer is required. To the extent that a response is deemed to be required, it is denied.

Paragraph 4

This paragraph paraphrases a section of the Postal Reorganization Act, to which no response is required.

Paragraph 5

With respect to the first sentence of this paragraph, the Postal Service admits that Express Mail is an expedited postal service available in five basic domestic service offerings (Same Day Airport Service, Custom Designed Service, Next Day Service, Second Day Service, and Military Service) for shipping any mailable matter, subject to standards set out in Section 113.3 of the Domestic Mail Manual (January 6, 2005), except insofar as, at the current time, Express Mail Same Day Airport Service has been

suspended. The second sentence of this paragraph indicates Complainant's intended focus for the Complaint, to which no response is required.

Paragraph 6

The Postal Service admits that Expedited Mail services described as Next Day Service and Second Day Service appear in Section 123 of the Domestic Mail Classification Schedule (DMCS).

Paragraph 7

The Postal Service admits that Section 123.1 of the DMCS states:

Availability of Services. Next Day and Second Day Services are available at designated retail postal facilities to designated destination facilities or locations for items tendered by the time or times specified by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for second day delivery.

Paragraph 8

The Postal Service admits that Section 4.3.1 of the Domestic Mail Manual (DMM) states:

Availability. Express Mail Second Day Service is available to any 3-digit or 5-digit ZIP Code destination not listed in the Next Day Service directory mentioned in 4.2.2.

Paragraph 9

The Postal Service admits that Section 113.4.3 of the DMM states, in part:

Acceptance Times. Express Mail Second Day Service shipments must be presented by 5 p.m., or such later time authorized by the postmaster.

The Postal Service further states that there are instances in which a cut-off time earlier than 5 p.m. may be established for Express Mail Second Day Service by local postal officials in order to meet service commitments.

Paragraph 10

The Postal Service admits that Decal 54-B, designed to be placed on collection boxes, and last revised in August of 1995, bears the following statements, among others:

Express Mail deposited in this box will be delivered overnight or the second day depending upon the time deposited and the destination ZIP Code.

For specific deposit and delivery information for your shipment, call 1-800-222-1811 or your local post office.

Paragraph 11

To the extent that this paragraph constitutes legal argument, no response is required. To the extent that this paragraph constitutes allegations of fact, it is denied. The Postal Service notes that the DMCS contains the following references to Express Mail delivery attempts being made on the second delivery day:

182.4 Second Day. Except as provided in 182.5, the Postal Service will refund postage for Second Day Express Mail not available for claim or not delivered:

- a. By 10:00 a.m., or earlier time(s) specified by the Postal Service, of the second delivery day in the case of Post Office-to-Post Office service;
- b. By 3:00 p.m., or earlier time(s) specified by the Postal Service, of the second delivery day in the case of Post Office-to-Addressee service.

Paragraph 12

This paragraph characterizes legal argument presented on brief by Complainant in Docket No. R2000-1 regarding Express Mail service allegedly experienced prior to completion of that Docket, to which no response is required. To the extent that a response is deemed to be required, it is denied.

Paragraph 13

This paragraph characterizes legal argument presented on brief by Complainant in Docket No. R2000-1, to which no response is required. To the extent that a response is deemed to be required, it is denied.

Paragraph 14

This paragraph consists of a partial quotation from the Commission's Opinion and Recommended Decision in Docket No. R2000-1. The Opinion and Recommended Decision speaks for itself and requires no response.

Paragraph 15

The Postal Service admits that during the time when Docket No. R2000-1 was being litigated, the Postal Service had in place a national Express Mail network that was designed, in part, to permit delivery of Express Mail to a large percentage of addresses in the United States on Sundays and all holidays. The Postal Service further admits that, during this time period, the Postal Service delivered Express Mail to a majority of addresses in the United States on Sundays and holidays, with varying degrees of reliability. The Postal Service further admits that during this time period the Postal Service guaranteed Next Day and Second Day Express Mail service deliveries scheduled for delivery on Sundays and holidays to a majority of addresses in the United States. The remainder of this paragraph incorporates legal argument characterized in paragraph 12, *supra*, to which no response is required. To the extent that a response may be deemed to be required, it is denied.

Paragraph 16

The Postal Service admits that on or about April 27, 2001, the Postal Service's ability to deliver Express Mail on Sundays and holidays to a number of ZIP Codes nationwide changed. This change was the result of a number of factors. First, in the years preceding the above date, the Postal Service experienced significant problems with the reliability of its transportation network for Express Mail, including problems with the Eagle network, commercial lift and surface transportation. These problems were serious and ongoing, and the Postal Service determined that corrective action was necessary. One such corrective response was to contract with Federal Express ("FedEx") for provision of more reliable air transportation for Express Mail and other classes of mail. A limitation of the improved Express Mail transportation network provided by FedEx, however, was that this network provided no service on Saturday and Sunday nights, and was not in operation on some federal holidays. Thus, any logistical gaps in the Express Mail air transportation network were required to be filled by commercial aviation, which remained unreliable, and, in some cases, unavailable. In these circumstances, the Postal Service found that it no longer could establish the transportation links necessary to support Sunday and holiday delivery in a number of ZIP Codes. The Postal Service admits that it did not issue broad public notifications specifically addressing this change in circumstances, other than informing customers at the retail window when Sunday or holiday delivery could not be expected for their Express Mail shipments to affected ZIP Codes.

Paragraph 17

Denied. As of the date of this Answer, the Postal Service delivers Express Mail to 13,928 ZIP Codes nationwide on Sundays and holidays. The Postal Service further states that of these 13,928 ZIP Codes, 807 were assigned exclusively to post office boxes. Approximately 73.7 % of Express Mail volume is destined to these zip codes. The Postal Service further states that as of the date of this Answer, 42,503 active ZIP Codes exist, of which 3,194 are unique to a single recipient.

Paragraph 18

The Postal Service admits that it did not request an opinion and recommended decision from the Postal Rate Commission to establish a classification and rate for Express Mail commitments and delivery in three or more calendar days, since the DMCS currently provides for delivery of Express Mail on the second delivery day, and the Postal Service is not offering an Express Mail service that is distinct from that established by the DMCS.

Paragraph 19

Denied. The Postal Service states that it did not enact a policy or take actions directed at "ending delivery of Express Mail on Sundays and holidays to a substantial majority of ZIP Codes nationwide." Rather, the Postal Service experienced problems with its Express Mail transportation network, that, when addressed, led to collateral effects on its ability to maintain Next Day and Second Day delivery on Sundays and holidays to a number of ZIP Codes.

Paragraph 20

The first sentence of this paragraph paraphrases a subsection of the Postal Reorganization Act, to which no response is required. The remainder of this paragraph consists of legal argument to which no response is required. To the extent that a response may be deemed to be required, it is denied.

Paragraph 21

The Postal Service denies that it has developed a new Express Mail service offering called "Second Delivery Day." This wording is merely an effort to more accurately communicate to customers the intent of the existing classification. The Postal Service admits that it guarantees Express Mail for delivery on the "second delivery day" when the Express Mail piece would otherwise be guaranteed for delivery on a Sunday or holiday in a destination ZIP Code for which Sunday or holiday delivery is not available. In such instances, the Postal Service may deliver the item on the next day after the second calendar day, provided that the next day is not a Sunday or holiday. The Postal Service further admits that if an Express Mail item is entered before the cut-off on a Friday, and Next Day service is not available to the destination, the item ordinarily will be delivered on the following Monday (or Tuesday, if Monday is a holiday) if the destination is one for which Sunday and holiday delivery is not available. Finally, the Postal Service admits that in the circumstances described above, Express Mail guaranteed for delivery on the "second delivery day" ordinarily is guaranteed for delivery three or four calendar days after mailing.

Paragraph 22

The Postal Service admits that it has designated 807 ZIP Codes which are assigned exclusively to post office boxes, for which Sunday and holiday delivery is available. The Postal Service further states that the 13,928 ZIP Codes that receive Express Mail on Sundays and holidays (see response to paragraph 17) have post office boxes within them, not just the 807 ZIP Codes that are exclusively assigned to post office boxes. Thus, there are far more than 807 destinating ZIP Codes to which Next Day and Second Day Express Mail is delivered on Sundays and holidays. The Postal Service admits that Express Mail items destined for post office boxes for which Sunday and holiday delivery is not available may be marked as “2nd Del. Day” on the “Day of Delivery” section of the March 2004 Label 11-B, (assuming that label is used, and not a previous version, and that the item ordinarily would have been marked as “2nd” and guaranteed for delivery on a Sunday or holiday if such Sunday and holiday delivery service were available).

Paragraph 23

The Postal Service admits that DMM Section 113.4.3 states, in part: “Express Mail Second Day Service shipments must be presented by 5 p.m., or such later time authorized by the postmaster.” The Postal Service admits that at some post offices, it is possible that Express Mail presented on a Thursday may be marked for delivery on the “second delivery day” (meaning delivery on the following Monday, or the following Tuesday if Monday is a holiday), and that this marking may be applied as early as 3 p.m. on that Thursday. The Postal Service further states that, for some Express Mail

presented after the cut-off on Thursday, items marked for delivery on the “second delivery day” will, in fact, be delivered on the following Saturday.

Paragraph 24

The Postal Service admits that it has created a web site that provides information regarding Express Mail service commitments to the public. The Postal Service admits that this web site provides information regarding the locations and collection times of Express Mail collection boxes. The Postal Service admits that the commitments provided on the web site in some limited instances may reflect information that is out of date or otherwise incorrect. The Postal Service admits that the web site indicates a guarantee of two-day delivery for Express Mail items sent on Friday from San Francisco to Ellensburg, Washington. The Postal Service further states that the web page contains a notice indicating that two delivery days excludes Sundays and holidays. The Postal Service admits that, as of the date of this Answer, the Postal Service generally does not deliver Express Mail on Sundays or holidays in Ellensburg, Washington. The Postal Service admits that Express Mail entered before the cut-off time at a retail window in San Francisco and destined for delivery in Ellensburg, Washington, will be marked as “second delivery day” and be guaranteed for delivery on the following Monday (or Tuesday, if Monday is a holiday).

Paragraph 25

This paragraph contains allegations regarding sample printouts from the web site mentioned in Paragraph 24, purportedly relating to Express Mail sent on Friday, December 24, 2004 and destined for the cities of Santa Cruz, California (ZIP Code 95060), and Berkeley, California (ZIP Code 94703). Since the web site in question

does not permit the entering of past dates for the date of mail entry, the Postal Service has not been able to confirm whether the printouts accurately reflect the web site results alleged to have been produced on December 24, 2004. Thus, the Postal Service can neither confirm nor deny the accuracy or authenticity of the printouts in question. The Postal Service admits that Express Mail is not currently delivered on Sundays and holidays in ZIP Code 95060 and ZIP Code 94703. The Postal Service admits that an Express Mail item mailed in ZIP Code 95060 on December 24, 2004, and destined for that same ZIP Code, would have been marked as "second delivery day," and that the "second delivery day" in that ZIP Code would have been December 27, 2004. The Postal Service admits that an Express Mail item mailed in ZIP Code 94703 on December 24, 2004, and destined for that same ZIP Code, would have been marked as "second delivery day," and that the "second delivery day" in that ZIP Code would have been December 27, 2004.

Paragraph 26

The Postal Service admits that the version of Label 11-B, dated March 2004, pertaining to Post Office to Addressee Express Mail, shows, under the heading "Day of Delivery," the following three check boxes: "Next", "2nd", and "2nd Del. Day." The Postal Service further states that previous versions of Label 11-B did not show the check box "2nd Del. Day."

Paragraph 27

The Postal Service denies that the term "Second Delivery Day" denotes an Express Mail service distinct from Express Mail Second Day service. The Postal Service further denies that "Second Delivery Day" is a term that does not appear in the

DMM or DMCS. The Postal Service notes that the DMCS contains the following references to Express Mail delivery attempts being made on the second delivery day:

182.4 Second Day. Except as provided in 182.5, the Postal Service will refund postage for Second Day Express Mail not available for claim or not delivered:

- a. By 10:00 a.m., or earlier time(s) specified by the Postal Service, of the second delivery day in the case of Post Office-to-Post Office service;
- b. By 3:00 p.m., or earlier time(s) specified by the Postal Service, of the second delivery day in the case of Post Office-to-Addressee service.

The Postal Service further denies that it has established a classification or rate for a “Second Delivery Day” Express Mail service, or that it has shifted Express Mail volume from guaranteed Second Day Service to a “Second Delivery Day” service. The remainder of this paragraph consists of legal argument to which no response is required. To the extent that a response may be deemed to be required, it is denied.

Paragraph 28

The Postal Service admits that it has not filed a request for a recommended decision from the Postal Rate Commission to establish a classification or rate for a distinct “Second Delivery Day” Express Mail service. The Postal Service denies that it has shifted Express Mail volume from guaranteed Second Day Service to a “Second Delivery Day” service.

Paragraph 29

The Postal Service denies that it has established a classification or rate for a distinct “Second Delivery Day” Express Mail service. Because the allegations of this paragraph presuppose the establishment of such a distinct service, they are denied.

Paragraph 30

The Postal Service admits that, when customers send Express Mail on Fridays to destinations for which Next Day Service is not available, or when customers' Express Mail is accepted on Fridays after the cut-off time for Next Day Service, their Express Mail is guaranteed for delivery on Monday (or Tuesday, if Monday is a holiday) unless the destination ZIP Code is one in which Sunday and holiday delivery is available. The Postal Service further admits that the service standard for First-Class Mail deposited before the last collection on Fridays is overnight, Saturday, or Monday delivery, depending on the destinating ZIP Code. The Postal Service admits that, as of the date of the Complaint, the undiscounted first-ounce rate for First-Class Mail was 37 cents.

Paragraph 31

The Postal Service admits that in 2001 the Postal Service, as a collateral effect of efforts to correct problems with its Express Mail transportation network, experienced a reduction in the scope of the overnight network for Express Mail sent on Saturdays and eves of holidays. The Postal Service admits that from most cities on weekdays, Next Day Express Mail Service typically is available to 50 states. The Postal Service further states that the extent to which Next Day Express Mail Service typically is available for delivery on Sundays and on holidays varies according to the originating and destinating ZIP Codes, and depends upon the availability of surface and commercial air links necessary to permit such delivery and whether the volume levels experienced at a particular destinating ZIP Code are determined by local postal management to justify maintaining Sunday and holiday delivery capacity. The Postal Service admits that Next Day Express Mail Service is available to every state from

Oakland, California, on weekdays. The Postal Service denies that on Saturdays and eves of holidays, the only ZIP Code in the entire state of Washington for which Next Day Express Mail Service is available from Oakland is 98110.

Paragraph 32

This paragraph consists of legal argument, to which no response is required. To the extent that a response may be deemed to be required, it is denied.

Paragraph 33

Denied. The Postal Service further states that the value of service for Express Mail does not depend solely on the scope of the overnight network for Express Mail sent on Saturdays and the eves of holidays, but rather on an evaluation and weighting of many intrinsic factors including network scope, size of the collection system, tracking capability, service performance against the stated service standard, and the availability of a guarantee. In addition, as the Postal Service has noted in a prior case (see Docket No. R2001-1, Direct Testimony of Joseph D. Moeller, USPS-T-27 at 27), the relatively high own price elasticity (in absolute value) for Express Mail suggests that Express Mail has for many years had a very low economic value of service.

Paragraph 34

Although the Postal Service admits that Sunday and holiday delivery of Express Mail is currently not available to a majority of ZIP Codes, the Postal Service denies that it makes it a policy or practice of misleading customers regarding the availability of such Sunday and holiday delivery. Approximately 73.7% of Express Mail is destined to zip codes that receive Express Mail on Sundays and holidays. The Postal Service further states that the Postal Service strives to provide accurate information to customers

regarding when their Express Mail items will be delivered, including, in some instances, marking the item as due for delivery on the second delivery day, rather than the second [calendar] day.

Paragraph 35

The Postal Service admits that the September/October 2004 issue of *Mailers Companion* contains the text quoted in this paragraph. The remainder of the paragraph consists of argument regarding whether specific statements in the quoted portion are misleading, to which no response is required. To the extent that a response may be deemed to be required, the allegations made in the remainder of this paragraph are denied.

Paragraph 36

The Postal Service admits that on December 20, 2004, Communications Programs Specialist Augustine Ruiz, Jr. was interviewed by television station KTVU Channel 2. The Postal Service admits that Mr. Ruiz manages communications affecting media markets covering the Postal Service's Bay-Valley and Nevada-Sierra Districts. The Postal Service admits that from many statements made by Mr. Ruiz during the interview, the following statement pertaining to Express Mail was selected for broadcast by KTVU:

RUIZ: At this point people should be considering their options on what they want to use. Express Mail, we encourage them to use it, because we do deliver on Christmas Day.

The Postal Service states that on Christmas Day, December 25, 2004, the Bay-Valley District delivered 1,354 Express Mail packages, and the Nevada-Sierra District delivered 1,103 packages. The Postal Service admits that no mention that "the Postal

Service does not guarantee delivery of Express Mail on Christmas Day for most destination ZIP Codes” was among the statements broadcast by KTVU on December 20, 2004 as a result of their interview with Mr. Ruiz.

Paragraph 37

The Postal Service admits that during or around the month of November 2004 the Postal Service mailed a *Shipping and Mailing Holiday Guide* to postal customers throughout the nation. The Postal Service admits that this Guide contained a chart wherein the following statement, among others, was made in reference to Express Mail service: “Services most locations 365 days a year.” The Postal Service further states that in conjunction with the statements made in the chart regarding Express Mail, the following footnoted language appears: “Express Mail service overnight delivery to most major markets, including Saturday at no extra cost. Sunday and holiday delivery available to select ZIP Code™ locations at no extra cost. Some restrictions apply, call or visit your local Post Office™ for details.” The Postal Service admits that under the heading “Ship by this date to arrive before December 25th”, the following information is provided in reference to Express Mail service: “December 23rd (national)” and “December 24th (local).” The Postal Service further admits that, with respect to Express Mail service, the heading mentioned above might have been more accurately stated: “Ship by this date to arrive on or before December 25th.” The remainder of the paragraph consists of argument regarding whether specific statements in the quoted portions are misleading, to which no response is required. To the extent that a response may be deemed to be required, the allegations made in the remainder of this paragraph are denied.

Paragraph 38

The Postal Service admits that on December 23, 2004, the Postal Service issued a press release that contained the following text:

Customers can obtain Express Mail delivery for Dec. 25 when shipping Express Mail items on Friday, Dec. 24 from a Post Office within the overnight service area of the addressee. Any address within the same 3-digit ZIP Code area is within the guaranteed overnight service area, e.g., "123XX" to "123YY."

The remainder of the paragraph consists of argument regarding whether specific statements in the quoted portions are misleading, to which no response is required. To the extent that a response may be deemed to be required, the allegations made in the remainder of this paragraph are denied.

Paragraph 39

This paragraph is premised on argument contained in previous paragraphs regarding allegedly misleading information provided to the public, and contains speculation regarding possible detriment to the public arising from reliance on such allegedly misleading information, to which no response is required. To the extent that a response may be deemed to be required, the allegations made in this paragraph are denied.

Paragraph 40

The Postal Service admits that some remote or rural post offices do not receive mail at least six days a week. The Postal Service denies that the Postal Service guarantees Express Mail delivery to remote or rural offices on days when transportation does not exist to achieve delivery on the scheduled delivery day. The Postal Service further states that it updates its delivery network information on a regular basis to prevent such events from occurring.

Paragraph 41

The Postal Service admits that when customers present Express Mail items at a retail window equipped with a Postal Service computerized retail terminal, they receive the delivery guarantee or guarantees pertaining to their Express Mail items, as reported by the retail terminal. The Postal Service further admits that, depending on the origin and destination of the Express Mail items, a number of different cut-off times for Next Day delivery may apply to the different items. The Postal Service further admits that if an Express Mail item is presented to a post office in Oakland, California for delivery to New York, New York, and the item is presented at the post office by 2:30 p.m., it will be eligible for Next Day delivery service. The Postal Service further states that of the 24 ZIP Codes associated with the City of Oakland, California, 5 have Express Mail cut-off times as early as 2:30 p.m. (for East Coast destinations), 19 have an earliest cut-off time of 2:40 p.m., and all have significantly later cut-off times, depending on the destination of the Express Mail item. The Postal Service further admits that if other Express Mail items are presented to a post office in Oakland, California for delivery to locations within the regional vicinity of Oakland, those items may be eligible for Next Day delivery service until as late as 5:00 p.m., which may or may not coincide with the closing time of the post office.

Paragraph 42

The Postal Service admits that for Express Mail pieces entered at a post office's retail window, the cut-off time for Express Mail overnight delivery is determined when the Express Mail piece is presented at the retail window for mailing, regardless of when the presenting customer entered the post office, and regardless of whether the

transportation used to enable overnight service has or has not yet departed the post office. The Postal Service further admits that an Express Mail piece presented at a retail window for mailing after the cut-off time for Next Day service has elapsed will be guaranteed for second-day delivery, yet still, in some instances, be placed in the same dispatch container as Express Mail processed at the retail window before the cut-off time. The Postal Service further states that the practicalities of running a post office in an efficient, orderly manner sometimes require the establishment of, and adherence to, operating rules, such as Express Mail cut-off times, rather than relying on ad-hoc arrangements that might require individual window clerks to ascertain eligibility for Next Day service based on whether a particular truck has departed from a facility, whether the clerk has knowledge of the status of transportation arrivals and departures, and whether that clerk estimates that a mail piece entered at her window will be placed on particular vehicles for transportation to a processing facility.

Paragraph 43

This paragraph consists of argument purporting to support Complainant's interpretation of section 123.1 of the DMCS, and thus requires no response. To the extent that a response may be deemed to be required, the allegations made in this paragraph are denied.

Paragraph 44

This paragraph consists of argument purporting to support Complainant's interpretation of section 3661(a) of Title 39, United States Code, and thus requires no response. To the extent that a response may be deemed to be required, the allegations made in this paragraph are denied.

Paragraph 45

The Postal Service denies that some post offices, as a matter of policy or practice, do not guarantee Express Mail for delivery on Sundays or holidays even when the retail terminal correctly indicates that Sunday or holiday delivery is available and guaranteed.

Paragraph 46

The Postal Service admits that some post offices may from time to time advise customers that printed Express Mail Next Day Service directories are unavailable. The Postal Service further states that at post offices having electronic terminals, the Express Mail Next Day Service directory is available in electronic form, and information from this directory may be viewed by customers at the retail window. The Postal Service further admits that DMM Section 113.4.2.2 states, in full:

Next Day Service may not be available at or between all post offices or at all times of deposit. An Express Mail Next Day Service directory, showing detailed local information about Express Mail Next Day Service, is available at post offices.

Paragraph 47

The Postal Service denies that the Postal Service does not provide sufficient information to customers to allow them to determine the service guarantee that will apply to an item that they deposit in Express Mail collection boxes. The Postal Service further states that collection times at Express Mail collection boxes are established such that mail deposited in the collection box before the last collection of the day will receive the same service as an identical Express Mail piece entered at a retail window before the earliest cut-off time in that jurisdiction. The Postal Service admits that DMM Section 116.1.1 states, in full:

Next Day and Second Day Services

Express Mail Next Day and Second Day Service items:

- a. If not prepaid, must be deposited at places and times designated by the postmaster, including post offices, branches, or stations. The “time and date of mailing” for these items is the time and date when the items are presented and accepted.
- b. If prepaid, may be deposited in Express Mail collection boxes, handed to delivery and collection employees during their normal delivery and collection duties, or picked up by USPS pickup service. The “time and date of mailing” for items deposited in these ways is the time and date the items are brought to the Express Mail acceptance unit.
- c. If manifested, will be accepted at the locations specified in the Express Mail Manifesting agreement.

Paragraph 48

This paragraph states Complainant’s contention that postal customers nationwide are affected by unspecified “Express Mail service changes.” To the extent that these alleged service changes have not been specified, the Postal Service denies that there have been any such changes. This paragraph also alleges that postal customers nationwide have been affected by the Postal Service’s alleged “establishment of a rate or classification for ‘second delivery day’ Express Mail service without Commission approval.” The Postal Service denies that it has established a rate or classification for “second delivery day” Express Mail service, with or without Commission approval.

Paragraph 49

The paragraph states that correspondence with the Postal Service relating to the subject matter of the Complaint appear attached to the Complaint as Exhibit 5, pursuant

to Rule 83(e). The Postal Service admits that Exhibit 5 contains copies of correspondence between Complainant and Postal Service officials.

Paragraph 50

This paragraph consists of Complainant's plea for relief, to which no response is required. Insofar as an answer is deemed to be required, the Postal Service denies that Complainant is entitled to any relief whatsoever.

Paragraph 51

This paragraph consists of another plea for relief, to which no response is required. Insofar as an answer is deemed to be required, the Postal Service denies that Complainant is entitled to any relief whatsoever.

Conclusion

The Postal Service denies all allegations of material fact in the Complaint that have not been answered specifically herein.

Pursuant to rule 84(b), the Postal Service states its position that its actions with respect to Express Mail are and have been entirely consistent with its statutory obligations, including its obligation to develop and promote adequate and efficient postal services under 39 U.S.C. § 3661(a), are consistent with applicable sections of the DMCS, and do not constitute a nationwide change in service requiring an advisory opinion under 39 U.S.C. § 3661(b). The Postal Service further states that the information it provides to customers about Express Mail service, although not without occasional inadvertent or unavoidable error, is, overall, not misleading or inadequate, and should not become the subject of Commission scrutiny as a result of this Complaint

under 39 U.S.C. §3662. The Postal Service further states that because Express Mail service, including service for pieces that are marked “2nd Delivery Day”, currently is consistent with applicable law and the DMCS, it is neither necessary nor appropriate for the Commission to initiate a classification proceeding pursuant to 39 U.S.C. § 3623(b)

Pursuant to rule 84(c), the Postal Service believes that the complainant is not entitled to the relief requested and that the complaint should be dismissed without further proceedings.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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May 5, 2005