

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

**Postal Rate and Fee Changes, 2005**

**Docket No. R2005-1**

**DOUGLAS F. CARLSON  
MOTION TO COMPEL THE UNITED STATES POSTAL SERVICE  
TO RESPOND TO INTERROGATORY DFC/USPS-61**

**June 14, 2005**

On May 19, 2005, I filed interrogatory DFC/USPS-61. This interrogatory reads:

Please refer to the response to DFC/USPS-25. Please provide documents relating to a Postal Service policy or practice for retail window clerks to encourage or induce customers to use Priority Mail or Express Mail, rather than First-Class Mail or Package Services, to send items that they present to the retail window clerk for mailing. This request specifically encompasses records relating to employee training manuals, policies establishing employee sales goals or quotas, directions to employees relating to communication of service standards to customers, and documents describing sales techniques to encourage or induce customers to use Priority Mail or Express Mail, rather than First-Class Mail or Package Services, to send items that they present to the retail window clerk for mailing.

This interrogatory follows up on the Postal Service's response to DFC/USPS-25, which confirms the existence of a Mystery Shopper program and reveals that postal clerks apparently are required to ask when a customer wants an item to *arrive or to offer Express Mail or Priority Mail and to state the service standard of one or both services* (but, notably, *not* the service standard for regular First-

Class Mail). On May 31, 2005, the Postal Service filed an objection<sup>1</sup> on the grounds of relevance and commercial sensitivity. I move to compel a response, as this interrogatory is reasonably calculated to lead to the discovery of admissible evidence relating to demand, volume, and value of service.

Discovery requests for information relating to the value of Express Mail, Priority Mail, First-Class Mail, and Package Services always are relevant to a proceeding such as this one in which the Postal Service seeks to raise the rates for any or all of these services. Value of service has at least two dimensions. First, the independent value of each service is relevant to the determination of the appropriate rate. Second, a determination of the appropriate rate for each service must consider the value of each service in relation to other postal services and even competitor services. For example, Express Mail and Priority Mail theoretically have a higher value of service compared to First-Class Mail in instances in which they provide faster delivery service than First-Class Mail. The rate structure should reflect relative value.

While one may be tempted to assign a value of service based on an expert examination of each service by the Commission, the Postal Service, and other interested parties, value of service may extend to consumers' *perceptions* of the value of a service. Economists evaluating demand for products typically assume that consumers act rationally. A successful advertising campaign can increase demand for products and create the perception in consumers' minds that those products are better than others, even if they are not. Sometimes such

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<sup>1</sup> Objection of the United States Postal Service to Interrogatory of Douglas F. Carlson

an advertising campaign borders on deception, but other times an advertising campaign may simply create an emotional attachment to a product or lead consumers to believe that other people will view them favorably if they purchase and use the product.

A retailer's sales force also can shift demand by providing information selectively. For example, suppose a customer approaches a window clerk in Boston on a Monday with a one-ounce letter to mail to Washington, DC. If the postal clerk informs the customer that Express Mail will provide overnight delivery and that Priority Mail should provide delivery in two days, the customer, needing delivery in two days, may opt for Priority Mail without further conversation. Some customers, such as foreigners and non-English speakers, may not know to ask about First-Class Mail. In this example, by not mentioning that First-Class Mail has a service standard of two days as well, the postal clerk will have succeeded in "upselling" the customer to Priority Mail. The information that the postal clerk provided to the customer was accurate. However, the clerk committed a sin of omission by failing to tell the customer that First-Class Mail, at a fraction of the cost of Priority Mail, also should provide delivery in two days. The response to DFC/USPS-25 (question #5 on the Mystery Shopper evaluation form) indicates that postal clerks offering Express Mail or Priority Mail should state the service standard, but the clerk apparently is not required to state the service standard for First-Class Mail as well, thus indicating that this example is far from hypothetical. (A response to this interrogatory would, of course, definitively answer this question.)

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(DFC/USPS-61) ("Objection"), filed May 31, 2005.

This example is important for three reasons. First, it shows how the Postal Service may be shifting demand from First-Class Mail to higher-priced services. Intervenors are entitled to conduct their own independent review of the demand analyses and volume projections of witnesses Thress and Bernstein. Documents relating to sales goals and quotas will provide some insight into the strength of Postal Service attempts to shift demand and, therefore, the likely shift in volume. If, for example, window clerks are required to sell Express Mail and Priority Mail 75 percent of the time, one can begin to quantify volume and demand for these services. Witnesses Thress and Bernstein appear not to have accounted for these demand-shifting factors in their analyses.

Second, this example suggests that the Postal Service possesses information about the value of each service and that it trains its window clerks to use this information to sell products. After all, any good salesman must be able to tout the quality of his company's products. The Postal Service's opinions about the value of each service are a proper subject of discovery. For this reason, documents relating to a policy or practice for retail window clerks to encourage or induce customers to use Priority Mail or Express Mail, rather than First-Class Mail or Package Services, are relevant to the Postal Service's belief in the value of each service. Employee training manuals should be a particularly good source for this information, as should documents describing sales techniques. Rule 27 entitles participants to obtain information from another party on a relevant subject by requesting documents.

The Boston-to-Washington example is important for a third reason. It shows how the Postal Service can shift demand by creating the mere perception that a service such as Priority Mail has a higher value of service than First-Class Mail, the lower-priced alternative. In sales, perception often is reality. If so, customers' perceptions of the value of each postal service may be almost as important as the actual value. In most instances, the Postal Service is the sole source of information to customers about service standards. Therefore, directions to employees relating to communication of service standards to customers, as DFC/USPS-61 specifically requests, should shed particular light on how the Postal Service forms customers' perceptions of the value of each service.

As I have explained, the relevance of this information, and therefore its admissibility in this proceeding, is beyond question. Perhaps the only remaining issue is whether this document request is reasonably calculated to lead to the discovery of admissible evidence. That is, is this document request likely actually to produce relevant documents? According to the old adage, where there is smoke, there is fire. Smoke already is pouring out of two chimneys. The first chimney is the response to DFC/USPS-25, which confirms that a Mystery Shopper program exists and that window clerks receive specific direction on how to sell services. The second chimney is the response to DFC/USPS-45, which revealed a rather startling statistic. Of all the Priority Mail flat-rate envelopes that customers sent at a retail window, fully 48.2 percent were sent to a destination for which the service standards for Priority Mail and First-Class Mail were

*identical*. Over half of these flat-rate envelopes weighed four ounces or less. *Id.* For some reason, rational customers chose to pay significantly more money to send their lightweight mail by Priority Mail instead of First-Class Mail. One hardly can say that the customers were to blame for ignorance because they were at the retail window, where they should have received the best and most-accurate information about each service.<sup>2</sup> If Priority Mail has a higher value of service than First-Class Mail even when the service standards are identical, perhaps the Postal Service has information about this value of service and is communicating this information to customers. DFC/USPS-61 is likely to produce relevant documents on the real or perceived value of postal services.

Lastly, on the issue of public disclosure of these documents, the Postal Service is free to file a motion for protective conditions. Commercial sensitivity is not, however, a basis for refusing to provide the documents in response to a discovery request.

For the reasons described herein, I request that the presiding officer compel the Postal Service to respond to DFC/USPS-61.

Respectfully submitted,

Dated: June 14, 2005

DOUGLAS F. CARLSON

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<sup>2</sup> Based on my observations at retail windows, I doubt that a substantial percentage of these customers approached the window with their product already selected. And even if they did, one still must wonder why they were induced to make this seemingly irrational buying decision. Perhaps some of the lightweight Priority Mail volume is associated with customers' desire for Delivery Confirmation, although one still would need to ask why these customers would not opt for Certified Mail, which would provide the same information, plus a signature, for a lower total price in most cases. Thus, Delivery Confirmation does not explain the heavy volume of lightweight Priority Mail flat-rate envelopes.