

**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 INTERROGATORIES DFC/USPS-90-97,  
OR, IN THE ALTERNATIVE, TO RESPOND TO DFC/USPS-58,  
OR, IN THE ALTERNATIVE, TO RESPOND TO DFC/USPS-76**

**July 11, 2005**

Postal services change over time. When changes affect the length of time to delivery or the availability of a service on some days of the week, these changes affect the value of the service. The Postal Reorganization Act requires the Commission to consider the value of a service when recommending a rate for a postal service. Omnibus rate cases represent an important periodic opportunity for the general public and other interested parties to evaluate the rates and fees that the Postal Service is charging and to seek necessary adjustments.

The speed of Express Mail delivery is a central component, if not *the* central component, of the value of this service. In Docket No. R2001-1, all Express Mail was guaranteed for delivery in one or two days. Since Docket No. R2001-1, the Postal Service has stopped delivering Express Mail to a majority of

ZIP Codes on Sundays and holidays. Express Mail sent to these locations now is guaranteed for delivery in two to four days, thanks to the Postal Service's invention of a new level of Express Mail service called "Second Delivery Day" — a new service level that does not appear in the DMCS. Express Mail no longer is a service that provides delivery in one or two days to every address in the country, every day of the week. What, exactly, Express Mail service is now is an unanswered question.

The Postal Service has already provided the percentage of overall Express Mail volume that is guaranteed for delivery in one day, two days, three days, and four days. DFC/USPS-77. Fully 11 percent of Express Mail volume is guaranteed for delivery in three or four days. *Id.* One fundamental question remains: How does Express Mail service on Saturdays differ from the Express Mail service that the Postal Service provides on most weekdays? Since most of the three-day and four-day shipments are accepted toward the end of the week, and on Saturday in particular, a substantial proportion of Express Mail shipments accepted at the end of the week necessarily must be guaranteed for delivery in three or four days if three-day and four-day deliveries represent 11 percent of total volume across all days. These daily fluctuations in service levels affect the value of Express Mail service. If customers learn from past experience that Express Mail may be guaranteed for delivery in one to four days, with the guarantee varying by five-digit destination ZIP Code and even varying within a destination city, they may rely on Express Mail service less than they did when Express Mail was always guaranteed for delivery in one or two days. For

example, if customers realize that half of Express Mail sent on Fridays will be guaranteed for delivery in three days and 90 percent of Express Mail sent on Saturdays will be guaranteed for delivery in two days, they may view Express Mail as having a lower value of service than if, on every day of the week, they could count on 90 percent of Express Mail volume being guaranteed for delivery in one day and 10 percent in two days.<sup>1</sup> Consistency in the level of service that customers can expect, as they plan their mailings, affects the value of service. Therefore, data revealing fluctuations in the level of Express Mail service throughout the week are relevant to the value of Express Mail service.<sup>2</sup>

Since May 19, 2005, I have been attempting to obtain information describing the fluctuation in the level of Express Mail service provided to items accepted on weekdays versus items accepted on Saturdays. I began by filing interrogatory DFC/USPS-58, which stated:

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<sup>1</sup> The percentage of Express Mail that is guaranteed for delivery in each number of days is a sufficient proxy for an individual customer's chance of receiving a particular service level for his shipment.

<sup>2</sup> In its opposition to my motion to compel a response to DFC/USPS-67, another interrogatory designed to explore weekly variations in Express Mail service, the Postal Service cited POR R2001-1/119 for the proposition that daily variations in Express Mail service "would not necessarily bear on the overall value of Express Mail service." Opposition of the United States Postal Service to Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-67 at 3, filed July 5, 2005. This ruling is not dispositive of the current issue. First, the interrogatories at issue in Docket No. R2001-1 did not focus on the value of service of Express Mail based on the consistency or variability in the service guarantee provided throughout the week. At a fundamental level, the time-to-delivery guarantee of Express Mail is what the service is. Second, in Docket No. R2001-1, the Postal Service's service guarantees for Express Mail were fairly consistent throughout the week because all Express Mail was guaranteed for delivery in one or two days. Now, due to changes in the FedEx transportation network, the radius of Next Day Express Mail service on Saturdays has been substantially constricted, and most post offices do not deliver Express Mail on Sundays and holidays. Eleven percent of Express Mail is guaranteed for delivery in three or four days. Information on weekly variations in Express Mail service will contribute much more to the record in this docket than it might have in Docket No. R2001-1. The previous ruling must be interpreted in the context of the different factual circumstances of Docket No. R2001-1. Therefore, that ruling is inapposite.

Please refer to the response to DFC/USPS-13.

- a. For an average origin ZIP Code on a weekday mailing date that does not immediately precede a holiday, please provide the average number of ZIP Codes to which Next Day Service is available.
- b. For an average origin ZIP Code on a Saturday mailing date, please provide the average number of ZIP Codes to which Next Day Service is available.
- c. For an average origin ZIP Code on a weekday mailing date that does not immediately precede a holiday, please provide the average number of addresses to which Next Day Service is available.
- d. For an average origin ZIP Code on a Saturday mailing date, please provide the average number of addresses to which Next Day Service is available.

For this interrogatory, data for an average origin ZIP Code may be calculated by adding the number of ZIP Codes to which Next Day Service is available for each origin ZIP Code nationwide and then dividing this sum by the total number of ZIP Codes. If a different calculation is used to define an average origin ZIP Code, please explain the calculation.

On June 2, 2005, the Postal Service responded by professing an inability to determine an “average origin ZIP Code” because local and network transportation schedules change “continually” and “regularly.” This response was a flimsy excuse for refusing to provide information for a snapshot in time — i.e., a particular date. Nonetheless, rather than moving to compel an answer, on June 3, 2005, I filed interrogatory DFC/USPS-76. This interrogatory read:

Please refer to the response to DFC/USPS-58.

- a. Please select a weekday between June 6, 2005, and June 17, 2005. For an average origin ZIP Code on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.

- b. For an average origin ZIP Code on Saturday, June 11, 2005, or Saturday, June 18, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a weekday between June 6, 2005, and June 17, 2005. For an average origin ZIP Code on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For an average origin ZIP Code on Saturday, June 11, 2005, or Saturday, June 18, 2005, please provide the number of addresses to which Next Day Service is available.

For this interrogatory, data for an average origin ZIP Code may be calculated by adding the number of ZIP Codes (or addresses) to which Next Day Service is available for each origin ZIP Code nationwide and then dividing this sum by the total number of ZIP Codes. If a different calculation is used to define an average origin ZIP Code, please explain the calculation. If an average origin ZIP Code cannot be calculated, please provide the data for a typical or representative origin ZIP Code.

By focusing the Postal Service on a particular date, DFC/USPS-76 tried to help the Postal Service to understand that it could, in fact, calculate data for an “average origin ZIP Code” because transportation schedules would not be shifting during a particular day. Unfortunately, by referring back to the response to DFC/USPS-58, on June 17, 2005, the Postal Service once again professed an inability to perform the calculation, which clearly would have provided significant insight into the difference between Express Mail service on weekdays and on Saturdays. In its response to DFC/USPS-76, the Postal Service did, however, provide data for origin ZIP Code 10001, the post office in New York, New York, which happens to be one of the *least-representative* post offices in the country because the New York post office is located in the middle of the largest city in the country; therefore air-transportation constraints do not limit the availability of

Next Day Express Mail service on Saturday to New York, which has a huge number of addresses, and the greater Northeast Corridor. In contrast, the reach of Next Day Express Mail service on Saturdays in most other parts of the country is severely limited.

With the Postal Service refusing to provide information to create a nationwide picture of the difference in the availability of Next Day Express Mail service on weekdays versus Saturdays, on June 20, 2005, I filed interrogatories DFC/USPS-90–97 to obtain the data on Next Day Express Mail service for eight cities that, when taken together, arguably are representative of Express Mail service nationwide because they are geographically diverse, and some are urban and some are rural. Interrogatories DFC/USPS-91–97 appear as an appendix, but by way of example, interrogatory DFC/USPS-90 appears below:

Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 94612 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.
- b. For origin ZIP Code 94612 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 94612 on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For origin ZIP Code 94612 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.

The eight interrogatories seek data for Express Mail originating in the following cities:

DFC/USPS-90	Oakland, California
DFC/USPS-91	Atlanta, Georgia
DFC/USPS-92	Detroit, Michigan
DFC/USPS-93	Memphis, Tennessee
DFC/USPS-94	Boise, Idaho
DFC/USPS-95	Saint Louis, Missouri
DFC/USPS-96	Chicago, Illinois
DFC/USPS-97	Sioux City, Iowa

The Postal Service objected on the grounds of relevance.<sup>3</sup> As I have explained previously, the variance in the level of Express Mail service provided as the weekend approaches is relevant to the value of Express Mail service. By Saturday, Express Mail starts to look very much like Priority Mail and First-Class Mail, except for the multi-part mailing label and substantially higher rate. Participants must have an opportunity to argue that the value of Express Mail service has changed since Docket No. R2001-1, but they cannot advance this argument without access to data that the Postal Service controls. Data focusing on both ZIP Codes and addresses will be useful, as ZIP Codes and addresses provide different and important measures of the reach of Next Day Express Mail service.

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<sup>3</sup> Objection of the United States Postal Service to Interrogatories of Douglas F. Carlson (DFC/USPS-90-97, 99) (“Objection”), filed June 30, 2005.

In requesting data for eight specific cities, I must emphasize that I tried twice, in DFC/USPS-58 and DFC/USPS-76, to obtain the necessary data by submitting interrogatories designed to obtain truly representative nationwide data. The first time, the Postal Service feigned an inability to calculate the data. The second time, the Postal Service provided data for an unrepresentative post office. If the presiding officer is reluctant to compel the Postal Service to provide data for specific cities, I move in the alternative to compel the Postal Service to respond to DFC/USPS-58 or DFC/USPS-76, and I move for a waiver of the normal deadline to move to compel on the grounds that I initially submitted follow-up interrogatories in an attempt to clarify the issue and avoid the need to file a motion to compel.

The Postal Service also asserts that the interrogatories are objectionable as improper follow-up because I “easily could have asked for data for any of these ZIP Codes during the initial round of discovery.” No Commission rule, however, limits follow-up interrogatories to only those interrogatories that a participant could have filed during the initial round of discovery. Although the Postal Service has been asserting this fallacious definition of follow-up interrogatories for several years, the Postal Service forgets that the presiding officer rejected this definition in POR R2000-1/79<sup>4</sup> at 2. The record is clear that I filed interrogatories DFC/USPS-90–97 after the Postal Service provided the information for the New York post office (ZIP Code 10001) in response to an interrogatory that requested data for a typical or representative post office. Since

Express Mail service originating from the New York post office is not representative of Express Mail service nationwide, and since the Postal Service declined to provide the representative data that I requested, my eight interrogatories seeking representative data constitute proper follow-up to DFC/USPS-76. While I theoretically could have filed DFC/USPS-90–97, as well as hundreds of other interrogatories, during the initial round of discovery, I chose to limit my interrogatories to those that were most reasonably calculated to lead to the discovery of admissible evidence. Interrogatories DFC/USPS-58 and DFC/USPS-76 reflect my discovery strategy, and the only reason why I did not file DFC/USPS-90–97 during the initial round of discovery is because I was trying to obtain the most-useful data in the least-burdensome way. Therefore, as was true in the circumstances leading to POR R2000-1/79, the Postal Service’s claim that I should have filed these interrogatories sooner is “too subjective to be meaningful,” see POR R2000-1/79 at 2, and does not state the correct test for follow-up interrogatories.

If the presiding officer compels the Postal Service to respond to DFC/USPS-90–97, the presiding officer should direct the Postal Service to choose new test dates in July or August if the Postal Service cannot obtain the information for dates that have since passed due to this discovery dispute.

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<sup>4</sup> POR R2000-1/79, filed June 13, 2000.

For the reasons explain herein, I move to compel the Postal Service to respond to DFC/USPS-90–97 or, in the alternative, to respond to DFC/USPS-58 or DFC/USPS-76.

Respectfully submitted,

Dated: July 11, 2005

DOUGLAS F. CARLSON

## APPENDIX

**DFC/USPS-90.** Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 94612 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.
- b. For origin ZIP Code 94612 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 94612 on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For origin ZIP Code 94612 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.

**DFC/USPS-91.** Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 30304 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.
- b. For origin ZIP Code 30304 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 30304 on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For origin ZIP Code 30304 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.

**DFC/USPS-92.** Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 48233 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.

- b. For origin ZIP Code 48233 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 48233 on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For origin ZIP Code 48233 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.

**DFC/USPS-93.** Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 38130 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.
- b. For origin ZIP Code 38130 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 38130 on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For origin ZIP Code 38130 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.

**DFC/USPS-94.** Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 83708 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.
- b. For origin ZIP Code 83708 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 83708 on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For origin ZIP Code 83708 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.

**DFC/USPS-95.** Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 63155 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.
- b. For origin ZIP Code 63155 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 63155 on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For origin ZIP Code 63155 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.

**DFC/USPS-96.** Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 60607 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.
- b. For origin ZIP Code 60607 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 60607 on the selected weekday, please provide the number of addresses to which Next Day Service is available.
- d. For origin ZIP Code 60607 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.

**DFC/USPS-97.** Please refer to the response to DFC/USPS-76.

- a. Please select a non-holiday weekday between June 20, 2005, and July 5, 2005. For origin ZIP Code 51101 on the selected weekday, please provide the number of ZIP Codes to which Next Day Service is available.
- b. For origin ZIP Code 51101 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of ZIP Codes to which Next Day Service is available.
- c. Please select a non-holiday weekday between June 25, 2005, and July 5, 2005. For origin ZIP Code 51101 on the selected weekday, please provide the number of addresses to which Next Day Service is available.

- d. For origin ZIP Code 51101 on Saturday, June 25, 2005, or Saturday, July 2, 2005, please provide the number of addresses to which Next Day Service is available.