

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

**Classification Changes for Express Mail
Second Day Service**

Docket No. MC2006-4

**DOUGLAS F. CARLSON
RESPONSE TO NOTICE AND ORDER
INSTITUTING PROCEEDING**

May 3, 2006

On April 18, 2006, the Commission issued a notice and order instituting a classification proceeding to “clarify” DMCS language pertaining to Express Mail Second Day Service.¹ The Commission proposes to redefine Second Day Service as “available for delivery on the second delivery day as specified by the Postal Service.”

In Order No. 1461, the Commission exercised its discretion not to hear my complaint on Express Mail Service,² deciding instead to rely on “Postal Service representations that it will strive to assure accurate information is provided to customers regarding when Express Mail will be delivered.”³ I remain deeply concerned about the inaccurate information that the Postal Service is providing to customers. In fact, while I was researching issues for this document and trying to clarify the meaning of “second delivery day,” the Postal Service twice provided incorrect information to me about Express Mail delivery times, once at 800-ASK-USPS and once at *www.usps.com*. Labels on Express Mail collection boxes still

¹ Notice and Order Instituting Docket No. MC2006-4 for Classification Changes to Clarify Express Mail Second Day Service (“Notice”), filed April 18, 2006.

² Docket No. C2005-1.

³ Order No. 1461 at 19, filed April 18, 2006.

promise delivery in one or two days, even though items deposited by the collection time may be guaranteed for delivery in three or four days, and even though the Postal Service promised a year ago to strive to assure that it provides accurate information to customers.

Left to rely on Postal Service representations that it will strive to provide accurate information to customers, I am now particularly concerned about developing language for the DMCS that will clearly and accurately represent Express Mail service. The term “second delivery day” will not clarify Express Mail service because the term is vague and ambiguous, and its literal meaning deviates from its actual meaning.

Literal Meaning of “Second Delivery Day”

Suppose a customer mails an item on a Saturday to a three-digit ZIP Code for which Next Day service is not available.⁴ Suppose, further, that Monday is a holiday and that the Postal Service does not deliver Express Mail on Sundays or holidays to the destination address. I believe that the item will be guaranteed for delivery on Tuesday (and not later than Tuesday), and I believe that the Postal Service will describe the delivery guarantee for this item as “second delivery day.” Since, in this example, the Postal Service does not deliver Express Mail on Sundays or holidays to the destination address, the first delivery day would be Tuesday, and the second delivery day would be Wednesday. The public can reasonably expect to rely on the literal meaning of language. The literal meaning of “second delivery day” would suggest Wednesday delivery, when in fact the Postal Service would be guaranteeing delivery on Tuesday.

In this example, the item would be delivered in three calendar days. The word “second” adds further confusion because delivery would not be in two

⁴ Unless otherwise indicated, all discussions assume that the customer deposits the item before the applicable cutoff time.

calendar days or two delivery days. The word “second” is completely inaccurate, irrelevant, and misleading when modifying “delivery days.”

On its Web site, the Postal Service defines “second delivery day” as “Guaranteed second-day delivery by noon or 3:00 p.m. For Post Office™ to Addressee mailing, excluding Sundays and holidays.” The first sentence states, in unqualified terms, that delivery is guaranteed by noon or 3:00 PM on the second day. The second sentence adds further confusion because “excluding Sundays and holidays” modifies “For Post Office to Addressee™ mailing,” thus suggesting that the *service* is not available on Sundays and holidays. If “excluding Sundays and holidays” somehow is read to qualify the commitment stated in the first sentence, the phrase still is ambiguous. From which calculation would Sundays and holidays be excluded?

Actual Meaning of “Second Delivery Day”

Under the current design of Express Mail service, two answers to two questions determine an Express Mail service guarantee. First, which level of service (Next Day or Second Day) does the Express Mail directory guarantee from the origin three-digit ZIP Code to the destination three-digit ZIP Code? Second, if the targeted delivery day is a Sunday or holiday, does the destination post office deliver Express Mail on Sundays and holidays? If it does not, Second Day service becomes “second delivery day” service, and the item is delivered on the first delivery day after the targeted day. But the literal meaning of “second delivery day” is not the same as the actual meaning.

“Next Delivery Day”

A Postal Service interrogatory response in Docket No. R2005-1 introduced a new concept: “next delivery day”.⁵ In the previous example, I believe that the Postal Service will use the “next delivery day” term for an item accepted on a

⁵ Docket No. R2005-1, Response to DFC/USPS-64, filed July 12, 2005.

Saturday or day before a holiday that is destined to a three-digit ZIP Code for which *Next Day* service is available, if Sunday or holiday delivery is not available to the destination address. (In the previous example, *Second Day* service became “second delivery day” service.) The Express Mail Label 11-B does not have a box for “next delivery day.” “Next delivery day” presumably could mean three days to delivery if an item is mailed on Friday, if Saturday is a holiday, and if Sunday and holiday delivery are not available to the destination address.

Commission’s Proposal

The Commission proposes language that mixes the concepts of “second day” and “second delivery day.” The Commission proposes: “Second Day Service is available for delivery on the second delivery day as specified by the Postal Service.”⁶ This language does not resolve the confusion because the concept of “second delivery day” is ambiguous and misleading, as delivery may not occur on either the second calendar day or the second delivery day. Moreover, the language does not accommodate the “next delivery day” concept revealed in response to DFC/USPS-64 in Docket No. R2005-1.

Recommendation

Customers who use Express Mail service almost always want to know when their item will be delivered — with a fair amount of specificity. After all, they have determined that First-Class Mail and Priority Mail, which provide delivery in one to three days at a fraction of the cost, are not fast or reliable enough for their needs. Whether an item will be delivered in one, two, three, or four days is likely to be of interest to most actual or potential Express Mail customers.

Express Mail has evolved from a service that always provided delivery in one or two days to a service that provides delivery in one to four days. Seven

⁶ Notice at 3.

percent of Express Mail is guaranteed for delivery in three calendar days, and another five percent is guaranteed for delivery in four calendar days.⁷ Twelve percent of Express Mail is delivered in three or four days — a volume that cannot be dismissed as insignificant. The time is now to call Express Mail service what it is. Express Mail provides service in one, two, three, or four days. Therefore, Express Mail service guarantees should be stated in the number of days to delivery — one, two, three, or four.

The concept of Next Day and Second Day Express Mail service embodied in the DMCS is an anachronism. The desire to use language such as “next delivery day” and “second delivery day” reflects an attempt to allow the number of days to delivery to slide to reflect the modern realities of the service while still retaining terms — Next Day and Second Day — that describe a historical service level and have only one meaning: one day and two days.

Two approaches are possible. The first would be to retain Next Day and Second Day Express Mail service and to add Third Day and Fourth Day service. The second, and probably preferable, approach would be to abandon these terms and, instead, describe Express Mail generally and state that the service provides delivery in one, two, three, or four days, as specified by the Postal Service. Since the same rate applies to Express Mail service regardless of the number of days to delivery, specifying service levels such as “Next Day” and “Second Day” is unnecessary and misleading. The Express Mail label should allow the Postal Service to check the box next to the number of days to delivery — or simply provide a space for this information to be entered by hand.

Under my proposal, service guarantees could be provided to customers on the Web and at retail windows in clear terms that everybody could understand. If the Postal Service informs a customer that an Express Mail item deposited on Friday will be delivered in “three days,” the customer will be much more likely to conclude that the item will be delivered on Monday than if the

⁷ Docket No. R2005-1, Response to DFC/USPS-77, filed June 24, 2005.

Postal Service informs the customer that the item will be delivered on the “second delivery day.”

Further Proceedings

My response to the Commission’s notice introduces a new concept that will not likely appear in the Postal Service’s opening comments. At minimum, a third round of comments seemingly will be necessary to allow participants to reply to the reply comments filed on May 10, 2006. To the extent that the reply comments filed on May 10, 2006, reveal factual disputes, a hearing would be in order to ensure participants’ due process and an adequate record to support the Commission’s decision.

Respectfully submitted,

Dated: May 3, 2006

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