

ORDER NO. 1471

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

George Omas, Chairman;  
Dawn A. Tisdale, Vice Chairman;  
Ruth Y. Goldway; and  
Tony L. Hammond

Denial of General Delivery Service Complaint

Docket No. C2006-1

ORDER DISMISSING COMPLAINT  
WITHOUT PREJUDICE

(Issued July 11, 2006)

I. Introduction

Daniel Ray Unger (Complainant) lodged a formal complaint with the Commission pursuant to section 3662 of the 1970 Postal Reorganization Act<sup>1</sup> (the Act) regarding the Postal Service's general delivery service.<sup>2</sup> He asserts that the United States Postal Service arbitrarily and capriciously denied him general delivery mail service at its post office located in Elkhart, Texas, by terminating his general delivery service after a 30-day period. Complainant further argues that the Postal Service's nationwide policy limiting itinerant people's general delivery service to 30 days violates the Act and the First Amendment. The Commission finds that the Complaint is moot, and dismisses the Complaint without prejudice.

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<sup>1</sup> 39 U.S.C. § 3662.

<sup>2</sup> Daniel Ray Unger Complaint on General Delivery Service, April 24, 2006 (Complaint).

## II. Arguments Presented

General delivery service allows customers without carrier delivery, transients, and people without a permanent address to pick up mail at post offices. For most customers, general delivery service is temporary until they acquire a post office box or permanent address.

Prior to 2006, Complainant had obtained and terminated indefinite general delivery services at post offices located in Texas, Wyoming, Washington, Idaho, and Kentucky. Complaint at 2, ¶ 6. During the months of January and February of 2006, the Elkhart, Texas Postmaster, Consumer Affairs in the Dallas District, and Consumer Affairs in Washington, D.C., informed Complainant that under Domestic Mail Manual (DMM) § 508.6.4 general delivery service was limited to 30 days. *Id.* at 2-4, ¶¶ 7-9. On February 21, 2006, the Elkhart, Texas Postmaster sent Complainant a letter confirming that his general delivery service had been terminated. *Id.* at 4, ¶ 10; see also Answer of the United States Postal Service and Motion to Dismiss as Moot, May 24, 2006 at 6, ¶ 10 (Motion). After changing to the Grapeland Post Office in March 2006, the Grapeland, Texas Postmaster told Complainant that while it was the Postal Service's policy to allow general delivery for only 30 days, he would allow Complainant to receive mail for an indefinite period. Complaint at 4, ¶ 11. Complainant then contacted the Alto, Texas Post Office, where he had received indefinite general delivery service in the past, and was informed that general delivery service was limited to 30 days. *Id.* at 5, ¶ 12.

In terminating Complainant's general mail delivery, the Postal Service officials cited DMM § 508.6.4, which states that "[g]eneral delivery mail is held for no more than 30 days... ." *Id.* at 2-4, ¶¶ 7-9. Complainant asserts that while pursuant to DMM § 508.6.4 the Postal Service is required to retain mail for 30 days from receipt pending customer pickup, *Postal Bulletin* 22060 clarifies that this time restraint does not limit the length of time of general delivery service. *Id.* at 7, ¶¶ 21, 23. In addition, he cites to a Postal Service decision acknowledging that general delivery service is available to the

homeless indefinitely.<sup>3</sup> *Id.*, ¶ 24. Complainant, therefore, argues that limiting his and other transients' general delivery service to 30 days is arbitrary and capricious. *Id.* at 8, ¶¶ 25, 27.

Complainant also alleges that the Postal Service's nationwide policy limiting itinerant people's general delivery service to 30 days violates the Postal Reorganization Act and the First Amendment. *Id.* at 8-9, ¶¶ 26, 28. To support his claim, he relies on sections 101, 401(10), 403, 3621, and 3661(a) of the Act, which broadly enumerate the Service's purpose, responsibilities, and powers to provide mail service promptly, reliably, and efficiently without discriminating among customers. *Id.*, ¶ 26.

On May 24, 2006, the Postal Service filed its response to the Complaint in the form of an Answer and Motion to Dismiss. The Motion addresses each specific paragraph of the Complaint, provides additional facts where it believes they are appropriate, and sets forth its position on both of Complainant's claims. The Postal Service agrees with Complainant's reading of DMM § 508.6.4, and acknowledges that transients are entitled to indefinite general delivery service. Motion at 1-2. While DMM § 508.6.1 states that "[g]eneral delivery is intended primarily as a temporary means of delivery[,]" the Postal Service asserts that an exception exists for people without a fixed address.<sup>4</sup> *Id.* at 3. It relies on *Postal Bulletin* No. 22060 to emphasize that the Postal Service's policy is to provide indefinite general delivery mail service to transients. *Postal Bulletin* No. 22060 (October 4, 2001) at 89. The Postal Service, therefore,

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<sup>3</sup> The United States Postal Service decision for P.S. Docket Nos. POB 00-209, POB 00-271, and POB 00-272, which concerned providing the homeless with postal offices boxes free of charge, was appealed to the Ninth Circuit Court. See *Currier, et al., v. Potter*, 379 F.3d 716 (9<sup>th</sup> Cir. 2004), *cert. denied* 125 S. Ct. 2935 (2005).

<sup>4</sup> The Postal Service cites to DMM D953.1, which provides "[g]eneral delivery is...for use...at any office to serve transients and customers who are not permanently located." *Id.* at 2; see also DMM Issue 45 (December 20, 1992). Although the Postal Service relies on DMM D953.1 from 1992, the current DMM does not contain that provision. Rather, section 508.6.1 of the current DMM states that

General delivery is intended primarily as a temporary means of delivery:  
a. For transients and customers not permanently located. ...

Due to the uncertainty caused by the current language of DMM § 508.6.1 which does not identify the Postal Service's exception, the Postal Service should reword DMM § 508.6.1 to reduce confusion in the future.

argues that it does not have a nationwide policy restricting general delivery service to 30 days for transients in violation of the Act and the First Amendment. Motion at 3-4.

To rectify Complainant's individual concerns, the Postal Service informed the officials who denied Complainant general delivery service of their error and of the Postal Service's policy regarding transients. *Id.* at 2-3. Additionally, it instructed the Dallas District Manager to supply Complainant indefinite general service delivery at the Grapeland, Texas Post Office, provided he is ineligible for carrier delivery and cannot meet the requirements for post office box service. *Id.* Based on its actions, the Postal Service requests that the Commission dismiss the Complaint as moot. *Id.* at 3-4.

The Office of the Consumer Advocate (OCA) informed the Secretary of the Commission by a letter dated June 19, 2006,<sup>5</sup> that it contacted the Postal Service and Complainant in the hopes of facilitating a resolution of the case and to ensure that Complainant, who is unfamiliar with Commission procedures, understood the need to respond to the Postal Service's Motion if he opposed the dismissal of his case. Letter at 1. In its Letter, the OCA indicates that Complainant responded on June 14, 2006, by e-mail.<sup>6</sup> *Id.* It then summarizes the e-mail acknowledging that Complainant is now being provided indefinite general delivery service at the Grapeland, Texas Post Office, and agreeing that the Commission should dismiss the case. *Id.* The OCA emphasizes that Complainant requests the dismissal be without prejudice, thus allowing him to bring a renewed claim if he is denied general delivery service in the future. *Id.* Because Complainant has indicated that he no longer seeks a remedy under 39 U.S.C. § 3662, the OCA asserts that the case is ripe for dismissal without prejudice. *Id.* at 2.

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<sup>5</sup> Letter to the Hon. Steven W. Williams, June 19, 2006 (Letter).

<sup>6</sup> The OCA attached a copy of Complainant's June 14, 2006 e-mail to the Letter it submitted.

### III. Commission Analysis

Complainant brought the Complaint pursuant to 39 U.S.C. § 3662. Deciding whether each count of the Complaint meets the requirement of raising an issue regarding rates and services that contravene the policies of the Act, and whether the Commission should exercise its discretion to hear those counts, is not necessary. Because the Postal Service is providing indefinite general delivery service to Complainant, the Complaint no longer represents a live controversy warranting Commission action under 39 U.S.C. § 3662 and is moot. The Postal Service's motion to dismiss is granted and the Complaint is dismissed without prejudice.

It is ordered:

1. The Complaint filed by Daniel Ray Unger on April 24, 2006, is dismissed without prejudice.
2. The Motion of the United States Postal Service to Dismiss as Moot filed May 24, 2006, is granted.

By the Commission  
(SEAL)

Garry J. Sikora  
Acting Secretary