

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

POSTAL RATE AND FEE CHANGES

Docket No. R2006-1

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-T16-6 (August 21, 2006)

The United States Postal Service hereby opposes the motion of Douglas F. Carlson to compel the Postal Service to respond to DFC/USPS-T16-6, which he filed on July 28, 2006, and to which the Postal Service objected on August 7, 2006. The interrogatory reads as follows:

DFC/USPS-T16-6. Please refer to your response to DFC/USPS-T16-5. Please provide the file '&MPATH.RTE_FDX.CSV'.

The Postal Service objected to this interrogatory on the bases of relevance, security, and commercial sensitivity. See Objections of the United States Postal Service to Douglas F. Carlson Interrogatory to United States Postal Service Witness Joseph E. Nash (DFC/USPS-T16-7) (August 7, 2006) ("Objections").

Background Information

Mr. Carlson first sought to obtain this information on June 1, 2006, when he filed DFC/USPS-T16-4, which read:

DFC/USPS-T16-4 Please refer to your testimony at page 10, lines 6–17. Please provide a list showing the FedEx air facility that is mapped to each SCF.

The referenced lines of witness Nash's testimony make it clear that in USPS-LR-L-38, the Postal Service had matched each Priority Mail origin to a FedEx facility:

In the air group (zones 5-8), each Priority Mail origin is matched to a FedEx day air facility using mapping data provided by Network Operations. Priority Mail is considered to travel via highway between the origin and the air facility for a connection to long haul air transportation. Then, Priority Mail in the air group is divided into air interconnecting with Inter-SCF highway transportation and air interconnecting with Intra-SCF highway transportation. This is based on the SCF grouping of the mail origin and the FedEx air facility mapped to that origin, indicated by the L005 SCF grouping labeling list. The Priority Mail pound-miles in the air group are calculated as the product of Priority Mail pounds and the associated distances between the mail origin and the FedEx air facility. To simplify the calculation, only interconnectivity at the origin side is examined. This assumes that interconnectivity at the destination side mirrors the origin side.

USPS-T-16 at 10:6-17. The Postal Service filed objections on June 12, 2006, taking the position that this information was irrelevant to any of the issues in this rate and classification proceeding, and pointing out that the Postal Service does not disclose this type of information -- concerning specific routes where planes carry large parcels -- for security reasons. Objections of the United States Postal Service to Douglas F. Carlson Interrogatories to United States Postal Service Witness Joseph E. Nash (DFC/USPS-T16-2 and 4) (June 12, 2006) at 2. The Postal Service also indicated that it considers the information to be proprietary and commercially sensitive, and that this information is considered confidential under the FedEx Transportation Agreement. Id., citing Docket No. R2001-1, USPS-LR-J-97, p. 31 (Art. 17).

Mr. Carlson did not move to compel a response to DFC/USPS-T16-4. On July 10, 2006, four weeks after the Postal Service's objections to DFC/USPS-T16-4, he filed DFC/USPS-T16-5, which asked for portions of a code, in plain text format, that was used in USPS-LR-L-38. On July 24, the Postal Service provided the requested portion of the code. Four days later, Mr. Carlson filed the

interrogatory at issue here, DFC/USPS-T16-6, requesting the specific file that contained the same information he had sought in DFC/USPS-T16-4, but had failed to pursue.

In objecting to this interrogatory, the Postal Service pointed out that the requested file -- '&MPATH.RTE_FDX.CSV' -- is a file that maps every 3-digit zip code to a FedEx air stop. See Objections at 1. It repeated the objections it had made to DFC/USPS-T15-4, based on relevance, security concerns about revealing specific routes where planes carry large parcels, proprietary information and commercial sensitivity, as well as confidentiality under Article 17 of the FedEx Transportation Agreement. See Id. at 1-2.

Argument

As Mr. Carlson points out in the instant motion to compel, Mr. Nash's testimony indicated that this mapping was used in USPS-LR-L-38, which seeks to more accurately allocate ground transportation costs incurred in connection with mail that flies on FedEx planes. Motion to Compel at 1. In seeking this file, Mr. Carlson cites the need for "robust cross-examination and independent analysis by participants." Id. at 2. Specifically, he cites the Administrative Procedure Act for the principal that parties are "entitled . . . to conduct such cross-examination as may be required for a full and true disclosure of the facts." Id. at 2-3, citing 5 U.S.C. § 556(d).

If cross examination is Mr. Carlson's reason for seeking the requested information, he lost that opportunity when he failed to file a motion to compel a response to DFC/USPS-T16-4, to which the Postal Service objected back on

June 12, 2006. Had he done so, there would have been sufficient time for the Commission to rule on such a motion and for Mr. Carlson to cross examine Mr. Nash, whose testimony was accepted into the record on August 10, 2006. By waiting until July 28, 2006 to essentially refile the same interrogatory, and by not seeking the opportunity to cross-examine witness Nash on the stand, Mr. Carlson has forgone the very opportunity he claims to be seeking.

More importantly, the file at issue -- '&MPATH.RTE_FDX.CSV -- would allow a user to determine the exact plane routes that any large package, with any origin or destination in the United States and its territories, would travel on the FedEx network. The Postal Service does not make this information available to the public for security reasons. While Mr. Carlson states, in his motion to compel, that he "will consent to the disclosure of this information subject to protective conditions," Motion to Compel at 3, the Postal Service does not believe that protective conditions can adequately safeguard this data.

Furthermore, as noted above, this information is considered proprietary by the Postal Service, and Article 17 of the FedEx Agreement prohibits its disclosure.

The Postal Service acknowledges, however, that as Mr. Carlson states, this file was utilized in the preparation of USPS-LR-L-38. Should the Commission desire to review this file, *in camera*, for the purpose of evaluating USPS-LR-L-38, the Postal Service is willing to provide the file to the appropriate Commission staff, along with a tutorial from the individual who used this file under the direction of Joe Nash. The Postal Service believes that such *in*

camera review would address any concerns regarding appropriate administrative review of the Postal Service's evidence, and safeguard the security of this information.

Accordingly, the Postal Service respectfully submits that the Commission should deny Mr. Carlson's motion to compel a response to DFC/USPS-T16-6.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

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