

## DOCKET SECTION

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

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 1997

Docket No. R97-1

RESPONSE OF UNITED STATES POSTAL SERVICE TO  
DOUGLAS F. CARLSON COMMENTS ON  
OPPOSITION OF UNITED STATES POSTAL SERVICE TO  
DOUGLAS F. CARLSON MOTION TO ADMIT  
DFC/USPS-T40-XE-1-9 AND LR-DFC-1 INTO EVIDENCE  
(November 20, 1997)

To set the record straight, the United States Postal Service briefly responds to Douglas F. Carlson Comments on Opposition of United States Postal Service to Douglas F. Carlson Motion to Admit DFC/USPS-T40-XE-1-9 and LR-DFC-1 Into Evidence, filed November 14, 1997 (Hereinafter Comments). In his Comments, Mr. Carlson expresses his concerns with the Postal Service's view, expressed in the October 30, 1997 Opposition of United States Postal Service to Douglas F. Carlson Motion to Admit DFC/USPS-T40-XE-1-9 and LR-DFC-1 Into Evidence (Opposition), that at least those of Mr. Carlson's inquiries dated after the filing of the Postal Service's Request in this docket should have been directed to the Postal Service through its counsel.<sup>1/</sup> The Postal Service believes that Mr. Carlson could have

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<sup>1/</sup> Comments at 1-4. A substantial part of Mr. Carlson's comments discuss his concern that the Postal Service's position in this matter constitutes "a serious threat to [his] right as a postal customer and an American citizen." *Id.* at 4. In this regard, it seems as though Mr. Carlson protests too much. The Postal Service respectfully submits that its Opposition was directed at the situation here involving the proposed introduction into the record of particular correspondence with the Postal Service and the Internal Revenue Service (IRS) in the manner chosen by Mr. Carlson, and was not intended to be an assault on Mr. Carlson's "rights." Whether some of the correspondence initiated by Mr. Carlson was dated three days before the Postal Service's Request, or whether Mr. Carlson initiated the various exchanges of

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advanced the record in this case more effectively by asking his specific questions, about practices for return receipts sent to the Internal Revenue Service (IRS), as discovery to the Postal Service, through its counsel.<sup>2/</sup> Contrary to Mr. Carlson's claims (Comments at 6), the Postal Service expects it would have provided substantive responses to the type of specific questions in Mr. Carlson's letters, after consulting with appropriate field personnel.<sup>3/</sup> Instead, Mr. Carlson chose to ask

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<sup>1/</sup> (...continued)

correspondence in contemplation of the upcoming case, does not alter the Postal Service's position that discovery, or, alternatively, sponsorship through testimony by Mr. Carlson, were the appropriate vehicles for entering the information in the correspondence into the record. In this case, the circumstances surrounding Mr. Carlson's motion speak for themselves. See Opposition at 1-3, 5.

With regard to intervenor contacts with Postal Service employees generally where a case is imminent or pending, the Postal Service has recognized that "whether any conditions can be placed on an individual's ability to communicate with the Postal Service about matters affecting him or her as a citizen or customer is a complex question." Opposition at 4-5 (October 30, 1997). Nonetheless, the Presiding Officer has stated that:

It is proper practice during Postal rate and classification litigation for the Postal Service to designate certain individuals as the appropriate persons to receive discovery requests. Those individuals can then track and coordinate the Postal Service's responses to these requests.

Presiding Officer's Ruling No. R97-1/53, at 2-3 (October 30, 1997).

<sup>2/</sup> Alternatively, Mr. Carlson could have asked any follow-up questions on the first set of letters he received from the Postal Service and IRS as discovery on the Postal Service, directed through Postal Service counsel.

<sup>3/</sup> While Mr. Carlson believes that he could not gain through discovery the information that he obtained independently, he has not yet tried in discovery the type of focused inquiries that he raised in his letters. Thus, in Docket No. MC96-3 and this docket, Mr. Carlson has asked generally whether there are any instances of certain practices for return receipt processing. Even without his independent investigation of return receipt processing for mail addressed to the IRS, discovery focused on particular situations which the Postal Service can practically investigate during the two-week  
(continued...)

Postal Service witness Plunkett to check on Postal Service practices generally, and to withhold the letters Mr. Carlson and Mr. Popkin had received until the hearing.

In this regard, the Postal Service vehemently denies Mr. Carlson's allegation that witness Plunkett provided false responses to Mr. Carlson's questions about whether there are any instances in which the Postal Service routinely allows recipients to sign and/or date return receipt forms after delivery.<sup>4/</sup> Mr. Plunkett truthfully answered that he was not aware of any such instances. In fact, in so responding witness Plunkett was aware of the August 1, 1996 Sandra Curran letter. This letter sought to stop the practices about which Mr. Carlson was asking.

Thus, when witness Plunkett received Mr. Carlson's interrogatories DFC/USPS-T40-16-18, he contacted Ms. Curran's office to inquire into their understanding of conformity to established policies for delivering return receipts, including Ms. Curran's August, 1996 letter. Mr. Plunkett received confirmation that, to the extent that headquarters delivery personnel were aware, return receipts were being delivered in accordance with regulations. Next, Mr. Plunkett contacted the Philadelphia Processing and Distribution Center, whose manager in charge of the detached mail unit that serves the IRS's Philadelphia service center confirmed that Postal Service employees are present when IRS return receipts are completed. When witness Plunkett responded to Mr. Carlson's interrogatory, therefore, he was reporting on information he had obtained from operations personnel, who he believed would

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<sup>3/</sup> (...continued)

period for responding to discovery might be more fruitful, assuming such situations are relevant and material to issues in the proceeding.

<sup>4/</sup> DFC/USPS-T40-16-18.

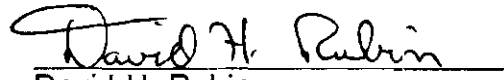
provide the most representative information available.<sup>5/</sup> Only after such inquiries did witness Plunkett answer truthfully that he was not aware of any instances referred to in Mr. Carlson's interrogatories.<sup>6/</sup>

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Ratemaking

  
David H. Rubin

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-2986; Fax -5402  
November 20, 1997

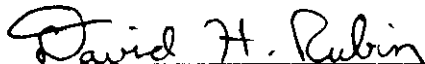
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<sup>5/</sup> The apparent inconsistencies between the information provided to Mr. Carlson by the Consumer Affairs Manager for the Philadelphia District (DFC/USPS-T40-XE-3), who did not mention a detached mail unit, and to witness Plunkett by the manager in charge of the detached mail unit that serves the IRS center in Philadelphia, show the value of having discovery conducted through Postal Service counsel. As the Postal Service pointed out in its earlier pleading, focusing discovery through Postal Service counsel minimizes "the potential for eliciting apparently conflicting information from an organization as large, diverse, and in many ways decentralized as the Postal Service . . . . Moreover, the effort to ensure that Commission proceedings are orderly, that no party is unreasonably burdened by the need to clarify the record, and that the information on which the Commission hopes to rely is as accurate as possible, would be markedly increased." Opposition at 4-5.

<sup>6/</sup> Given the unfocused nature of the interrogatories (see footnote 3 above), the extent of Mr. Plunkett's inquiries was reasonable.

## 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.

  
David H. Rubin

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
November 20, 1997