

# DOCKET SECTION

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 1997

Docket No. R97-1

## DOUGLAS F. CARLSON MOTION FOR EXTENSION OF TIME TO RESPOND TO OBJECTIONS OF THE UNITED STATES POSTAL SERVICE

December 22, 1997

Between December 8, 1997, and December 15, 1997, the Postal Service filed objections to my interrogatories DFC/USPS-19-22<sup>1</sup>, 23<sup>2</sup>, 24-28<sup>3</sup>, 30-32<sup>4</sup>, 34<sup>5</sup>, and 35.<sup>6</sup> I move for an extension of time to January 9, 1998, to evaluate these objections and file a motion to compel responses to any or all of them. I base my motion on three grounds.

First, I am preparing testimony to submit on December 30, 1997. As an individual participant in this case, I can work on this case only on evenings and weekends. I will not have time prior to December 30, 1997, both to write my testimony and respond to these objections.

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<sup>1</sup> United States Postal Service Objection to Interrogatories DFC/USPS-19-22, filed December 8, 1997.

<sup>2</sup> Objection of the United States Postal Service to Interrogatory of Douglas Carlson (DFC/USPS-23), filed December 8, 1997.

<sup>3</sup> Objection of United States Postal Service to Interrogatories of Douglas F. Carlson Directed to the United States Postal Service (DFC/USPS-24-28, and 35), filed December 12, 1997.

<sup>4</sup> Objection of United States Postal Service to Interrogatories of Douglas F. Carlson Directed to the United States Postal Service (DFC/USPS-30-32, 34), filed December 15, 1997.

<sup>5</sup> *Id.*

<sup>6</sup> Objection of United States Postal Service to Interrogatories of Douglas F. Carlson Directed to the United States Postal Service (DFC/USPS-24-28, and 35), filed December 12, 1997.

Second, the Postal Service is responsible for delaying my preparation of my testimony, thus causing me to devote my time between now and December 30, 1997, exclusively to preparing my testimony. On October 14, 1997, I served DFC/USPS-11 on the Postal Service. This interrogatory sought information on the relevance of the aspect ratio to determining whether a card can be processed on automated equipment. This information is important for the testimony that I am preparing on the pricing of stamped cards. On November 20, 1997, *23 days late*, the Postal Service filed an answer that did not respond to the question. I filed a motion to compel a more-responsive answer,<sup>7</sup> and the Postal Service tacitly admitted that the original response was insufficient when it filed a "supplemental response" on December 12, 1997.<sup>8</sup> However, even though I had served my discovery request nearly two months earlier, the Postal Service did not even transmit the "supplemental response" to me by an expedited means. Instead, it arrived by regular First-Class Mail on December 17, 1997.

My requests for admissions, which I served on October 27, 1997, provide another example of the delay that the Postal Service has caused in my preparation of my case.<sup>9</sup> These requests for admissions form the basis for part of my direct case on the pricing of stamped cards. The Postal Service failed to file a response until December 9, 1997, citing the "press of other discovery and the need to coordinate with Postal Service staff" as an explanation for the delay.<sup>10</sup> The presiding officer ruled that this explanation did not "adequately justiff[y]" the length of this delay and that, therefore, participants would be permitted to supplement their direct testimony if this delay "frustrated the timely preparation of testimony."<sup>11</sup> While this delay has frustrated my preparation of my testimony, I have chosen to attempt to file my testimony on time and

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<sup>7</sup> Douglas F. Carlson Motion to Compel United States Postal Service to Answer Interrogatory DFC/USPS-11, mailed on November 28, 1997.

<sup>8</sup> Supplemental Response of the United States Postal Service to Douglas Carlson Interrogatory DFC/USPS-11, filed December 12, 1997.

<sup>9</sup> DFC/USPS-RA-1-5.

<sup>10</sup> Response of United States Postal Service to Request for Admissions of Douglas F. Carlson and Motion for Late Acceptance (DFC/USPS-RA-1-5), filed December 9, 1997.

<sup>11</sup> POR MC97-1/82 at 1, filed December 19, 1997.

instead delay my response to these objections, since the evidence I am seeking in those interrogatories would be useful even if it arrived too late to be included in my testimony.

Ironically, some of the interrogatories to which the Postal Service has objected are follow-up to earlier interrogatories to which the Postal Service also filed tardy responses — thus pushing this current dispute into December and interfering with my preparation of my testimony. For example, interrogatories DFC/USPS-30–32 follow up on DFC/USPS-15–18, which I served on October 27, 1997. The Postal Service did not respond to those interrogatories until November 26, 1997.

Third, many of the objections are based on the Postal Service's argument that my interrogatories are not permitted under Special Rule 2(E). In some of the objections, the Postal Service cited a ruling from Docket No. R87-1 concerning the scope of Special Rule 2(E).<sup>12</sup> I requested a copy of this ruling from Commission staff, which I received on December 15, 1997. In addition, in a recent pleading that the Postal Service filed in Docket No. MC97-5, the Postal Service cited two more rulings from Docket No. R87-1 that apparently are relevant to the scope of Special Rule 2(E).<sup>13</sup> Commission staff mailed me copies of these rulings on December 18, 1997, but I have not received them yet. I will not be able to respond to these objections until I have received and studied all these rulings.

In requesting this extension of time, I note that I am the party who is most likely to be prejudiced by the further delay in receiving answers to these interrogatories that my request for an extension of time will cause. I am willing to accept the consequences of being unable to include this information in my testimony, as I still would be able to refer to the information in responses to discovery and in my briefs. To the extent that the Postal Service is prejudiced by the extension of time that I am requesting, the

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<sup>12</sup> See, e.g., Objection of United States Postal Service to Interrogatories of Douglas F. Carlson Directed to the United States Postal Service (DFC/USPS-24–28, and 35), filed December 12, 1997.

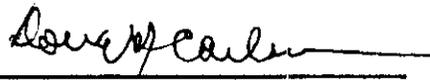
<sup>13</sup> Docket No. MC97-5, Objection of United States Postal Service to Interrogatories of the Coalition Against Unfair USPS Competition (CAUUC/USPS-1–7), filed December 10, 1997.

presiding officer should note that the Postal Service is responsible for delaying my preparation of my testimony and has precipitated the need for the relief that I am now requesting.

For the reasons explained above, I request an extension to January 9, 1998, to respond to the objections listed herein. I am providing the Postal Service with a copy of this motion by electronic mail in order to facilitate an expedited response to this motion.

Respectfully submitted,

Dated: December 22, 1997



DOUGLAS F. CARLSON

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### CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the required participants of record in accordance with section 12 of the *Rules of Practice* and sections 3(B) and 3(C) of the *Special Rules of Practice*.



DOUGLAS F. CARLSON

December 22, 1997  
Emeryville, California