

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 TO COMPEL
UNITED STATES POSTAL SERVICE
TO ANSWER INTERROGATORIES
DFC/USPS-19(a)-(c) and (e)-(r), 24-27, and 30-32**

January 6, 1998

Introduction

I move to compel the Postal Service to respond to my interrogatories DFC/USPS-19(a)-(c) and (e)-(r), 24-27, and 30-32, to which the Postal Service has filed objections.¹ The full text of each interrogatory appears at the end of this motion. By filing these interrogatories well in advance of the December 30, 1997, deadline for filing my direct case, I intended to use the responses to these interrogatories in my direct testimony. I was unable to respond to the Postal Service's objections to these interrogatories during December because I needed to use my limited time to prepare my direct testimony. Although I will not be able to incorporate the responses to these interrogatories into my direct testimony if this motion is granted, this information nevertheless will assist me with my case, as I will be able to use the information in my responses to discovery and on brief. I am willing to accept this detriment to my case in exchange for the extension of time that I received to file this motion.²

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

² POR R97-1/83.

Since all the Postal Service's objections discuss Special Rule 2(E) and attempt drastically to limit the scope of this rule, I will begin with a discussion of Special Rule 2(E), then individually discuss each interrogatory and the Postal Service's specific objections thereto.

Special Rule 2(E)

The Postal Service has claimed that my interrogatories are not permissible under Special Rule 2(E). Although discovery on the Postal Service's direct case ended on September 17, 1997,³ Special Rule 2(E) permits discovery against the Postal Service until February 17, 1998, to obtain information that is available only from the Postal Service.⁴ Special Rule 2(E) reads in pertinent part:

Generally, discovery against a participant is scheduled to end prior to the receipt into evidence of that participant's direct case. An exception to this procedure shall operate when a participant needs to obtain information (such as operating procedures or data) available only from the Postal Service. Discovery requests of this nature are permissible up to 20 days prior to the filing date for final rebuttal testimony.⁵

Special Rule 2(E) was limited in scope by a series of rulings in Docket No. R87-1. According to Presiding Officer's Ruling No. R87-1/138, an interrogatory qualifies under Special Rule 2(E) if it seeks "information that is obtainable only from the Postal Service, address[es] areas not explained in the Postal Service's direct case, and [is] needed to prepare the discovering party's evidence."⁶ POR R87-1/118 strongly suggests that information is "explained in the Postal Service's direct case" only if a Postal Service witness addressed the issue "in the Postal Service's initial filing."⁷ All my interrogatories pass this test. In permitting a participant to use Special Rule 2(E) to prepare its direct case, POR R87-1/108 explains the rationale for this rule:

While parties may have to begin to develop evidentiary presentations prior to the appearance of Postal Service witnesses, it would be unusual for a party to have completed preparation of its evidence before the Postal Service direct case has become evidence. As a result, parties generally are preparing evidence after the Postal Service has completed

³ See POR R97-1/4 at Attachment A.

⁴ See *Id.* at Attachment B and POR R97-1/54 at Attachment A.

⁵ POR R97-1/4 at Attachment B.

⁶ POR R87-1/138 at 2.

⁷ See POR R87-1/118 at 2.

presentation of its direct case. While preparing that evidence, participants are likely to encounter areas where additional information from the Postal Service is necessary. Such information may include data maintained by the Postal Service, or involve the methods used by the Postal Service to prepare regularly reported data or perform certain operations; in other words, relevant facts which have not yet become part of the record.⁸

Precedent from Docket No. R87-1 clearly establishes that Special Rule 2(E) is available to participants such as I who need information to prepare their *direct* case. In its objections, the Postal Service cites POR MC96-3/36. In POR MC96-3/36, the presiding officer wrote, "The Postal Service correctly states that Special Rule 2(E) applies for the limited purpose of allowing parties to develop evidence for submission as rebuttal to the direct cases of participants other than the Postal Service."⁹ The Postal Service now cites this ruling to suggest that Special Rule 2(E) is not available to participants who need information that is available only from the Postal Service to prepare their *direct* case.¹⁰ This language from POR MC96-3/36 conflicts with the rulings in Docket No. R87-1, yet POR MC96-3/36 expresses no intent to overrule the previous rulings. Most likely, POR MC96-3/36 was responding to the facts that led to the ruling in that case, not denouncing nine years of practice and precedent. Specifically, POR MC96-3/36 responded to my motion to compel responses to interrogatories that I had filed after the deadline for discovery on the Postal Service *and after I had filed my direct testimony*. In moving to compel answers, I was relying on the plain language of Special Rule 2(E); I was not aware of the historical precedent surrounding Special Rule 2(E). POR MC96-3/36 denied my motion, noting that, based on the precedent from Docket No. R87-1, interrogatories that I filed after I filed my direct testimony would have been permissible only to rebut the testimony of participants other than the Postal Service. Since I was not claiming to need the information to rebut another participant's case, my motion was denied. POR MC96-3/36 certainly was not intended to overrule precedent that the Commission has followed for nine years and deny use of Special Rule 2(E) to participants who need information that is available only from the Postal Service to prepare their direct case. Rather, the holding is limited

⁸ POR R87-1/108 at 2.

⁹ POR MC96-3/36 at 2.

¹⁰ See, e.g., Objection (DFC/USPS-19-22) at 7 and Objection (DFC/USPS-24-28, and 35) at 3.

to the permissible use of Special Rule 2(E) for an interrogatory that a participant files after that participant has filed his direct case. POR MC96-3/36 does not apply to any of my interrogatories that are at issue now.

In fact, Postal Service counsel has represented to me that Special Rule 2(E) is available to participants who need information that is available only from the Postal Service for preparation of their direct case. See Tr. 3/658, lines 16–19. I relied upon counsel’s representation, but the Postal Service’s interpretation of Special Rule 2(E) seems to have narrowed considerably since counsel made that statement.

DFC/USPS-19(a)–(c) and (e)–(r)

DFC/USPS-19(a)–(c) and (e)–(r) follow up on the Postal Service’s response to DFC/USPS-9, in which the Postal Service revealed the existence of a system that will “monitor whether respective facilities meet their box cut off times.”¹¹ These interrogatories are permissible under Special Rule 2(E) because: (1) They request information concerning operating procedures; (2) The information is available only from the Postal Service; and (3) When I filed these interrogatories, I needed this information for my direct testimony, in which I discuss delivery to post-office boxes.¹²

The Postal Service claims that these interrogatories are not permissible under Special Rule 2(E) because they do not request information on “operating procedures.”¹³ In reality, delivery of mail to post-office boxes is an operation. The system cited in DFC/USPS-9 by which the Postal Service is beginning to monitor delivery to post-office boxes is a procedure. Thus, this system is an operating procedure, especially since this system could prompt changes in the delivery operations at a particular post office.¹⁴

More significantly, by focusing the debate on whether this system is an operating procedure, the Postal Service diverts attention from the language of Special Rule 2(E). Special Rule 2(E) allows participants to obtain “information (such as operating

¹¹ DFC/USPS-9.

¹² DFC-T-1 at 14–15.

¹³ Objection (DFC/USPS-19–22) at 7.

¹⁴ DFC/USPS-9.

procedures or data) available only from the Postal Service.”¹⁵ The main thrust of Special Rule 2(E) is to allow participants to obtain *information that is available only from the Postal Service*. The term “operating procedures” is in parentheses, apparently intended to provide an *example* of the type of information that a participant may seek under the rule. Although my interrogatories apparently do not meet the Postal Service’s unrealistically narrow definition of “operating procedures,” the key question is whether they seek information that is available only from the Postal Service. They do. Moreover, the term “operating procedures,” while relevant, must be interpreted somewhat flexibly, since it appears in the rule merely by way of example. Even if the Postal Service can somehow argue that my interrogatories do not concern “operating procedures” in the strictest sense of the term, they concern, at worst, a subject very *similar* to operating procedures. Since Special Rule 2(E) does not *require* that every interrogatory that qualifies under Special Rule 2(E) request either data or operating procedures, my interrogatories clearly concern the type of information to which Special Rule 2(E) applies.

The Postal Service also argues that the information that I have requested is “beyond the scope of an omnibus rate proceeding.”¹⁶ The Postal Service asserts that “[d]etailed inquiries into customer service are not proper issues during rate proceedings, and are beyond the scope of what is considered in determining, within a limited time period, rates, fees, and classifications for postal services.”¹⁷ Unfortunately, this position overlooks the testimony of the Postal Service’s own witness Needham, who has justified a large fee increase for post-office boxes by asserting that post-office-box customers receive an “extremely high value[] of service.”¹⁸ For example, the Postal Service proposes an increase in the cost coverage for Group C, size 1 boxes from 130.0 percent to 146.2 percent.¹⁹ By basing a fee increase on the value of the service, the Postal Service has, quite simply, made an issue of the value of the service that boxholders receive. I have submitted testimony in this case about the problems

¹⁵ POR R97-1/4 at Attachment B.

¹⁶ Objection (DFC/USPS-19–22) at 3.

¹⁷ *Id.* at 4.

¹⁸ USPS-T-39 at 66.

¹⁹ Tr. 3/572 (Attachment to Response to DFC/USPS-T39-1).

with the time of delivery and consistency of delivery to my post-office box in Berkeley, California.²⁰ The information that I seek in DFC/USPS-19(a)–(c) and (e)–(r) is relevant to the value of service that boxholders receive. In fact, if the Postal Service responds to DFC/USPS-19(b) by revealing that the system was developed due to complaints about consistency of delivery to boxes or observations about widespread problems, the Postal Service will *admit* the problem that I suggest in my testimony. The Postal Service should be directed to answer these interrogatories.

If these interrogatories are deemed not to be permissible under Special Rule 2(E), I request that they be accepted as follow-up interrogatories. I received the response to DFC/USPS-9 on November 12, 1997. I drafted follow-up interrogatories as quickly as I could. However, I believed that the interrogatories qualified under Special Rule 2(E), so I did not believe that the Special Rule 2(D) seven-day time limit for serving follow-up interrogatories applied. I was unable to mail the interrogatories on November 21, 1997, as I had originally planned. Instead, I dated the documents November 24, 1997, but I mailed the envelopes to the Commission and Postal Service on November 22, 1997. Thus, I mailed the interrogatories nine days after I received the original response. If these interrogatories are deemed not to qualify under Special Rule 2(E), I move for late acceptance on the grounds that I reasonably relied on Special Rule 2(E) in not rushing to mail the interrogatories within seven days. To the extent that the Postal Service is prejudiced by this two-day delay, I note that the Postal Service filed the response to the original interrogatory, DFC/USPS-9, nine days late. Moreover, the Postal Service prejudiced preparation of my case²¹ by filing a nonresponsive answer to DFC/USPS-11 23 days late; I then was required to file a motion to compel a more-responsive answer,²² and the Postal Service responded by filing a “supplemental answer” on December 12, 1997.²³ I finally received my response nearly two months later. The Postal Service’s excuse for the 23-day delay in filing the

²⁰ DFC-T-1 at 13–15.

²¹ Although I did not cite this interrogatory in my direct testimony, I relied on it in developing my rate proposal for stamped cards. This information will be useful in interrogatory responses and on brief to rebut any opposition to my proposal from the Postal Service or other participants.

²² Douglas F. Carlson Motion to Compel United States Postal Service to Answer Interrogatory DFC/USPS-11, mailed on November 28, 1997.

²³ Supplemental Response of the United States Postal Service to Douglas Carlson Interrogatory DFC/USPS-11, filed December 12, 1997.

original response was unpersuasive,²⁴ especially when compared to my reason for filing these interrogatories nine days after receipt of the original response instead of seven days.

The Postal Service's other objections concerning undue burden and commercial sensitivity apparently apply only to part (d), to which I have not moved to compel an answer. The relevance of the operating procedures by which the Postal Service provides its supposedly "extremely high value of service" to boxholders outweighs any concerns about commercial sensitivity. If the Postal Service disagrees on this point, the Postal Service should file the response under protective conditions.

DFC/USPS-24–27

Interrogatories DFC/USPS-24–27 concern an ongoing dispute in this case over the processing of return-receipt mail that is delivered to high-volume recipients such as the Internal Revenue Service. On September 14, 1997, I directed DFC/USPS-16–18 to witness Plunkett to determine whether the Postal Service turns over return-receipt mail to the recipient and allows the recipient to complete the information on the return receipts under conditions that prevent the Postal Service from ensuring that the recipient places the correct date of delivery on the return receipts. Such procedures would violate the very specific requirements of DMM § D042.1.7 that govern delivery of accountable mail, and witness Plunkett has indicated that these procedures contribute to the value of return-receipt service.²⁵ In responses filed on September 30, 1997, that I received on October 6, 1997, witness Plunkett stated, "I am not aware of any instances of this kind." On the following day, during oral cross-examination, I presented to witness Plunkett letters from postmasters and other postal employees that I had obtained (DFC/USPS-T40-XE-1–9) that confirmed that the delivery procedures envisioned by my interrogatories do, in fact, exist.²⁶ Witness Plunkett even *admitted* that my letters appeared to contradict his earlier testimony.²⁷ I then moved to admit the

²⁴ See United States Postal Service Motion for Late Acceptance of Responses to Interrogatories of Douglas Carlson (DFC/USPS-11 and 12), filed November 20, 1997.

²⁵ See Tr. 3/848–50 (DFC/USPS-T40-1(b) and (c)), Tr. 3/865 (DFC/USPS-T40-15(b)), and Tr. 3/869 (DFC/USPS-T40-19(b)).

²⁶ See DFC/USPS-T40-XE-1–9 and Tr. 3/1021–27.

²⁷ Tr. 3/1031–32.

letters into evidence. The Postal Service opposed my attempt to clarify the record.²⁸ After returning to California, I filed a motion to admit the letters into evidence.²⁹ The Postal Service opposed my motion.³⁰ Each side then filed comments.³¹ On November 25, 1997, the presiding officer denied my motion, suggesting that I should sponsor the letters when I submit my direct testimony.³² Three days later, on November 28, 1997, I submitted DFC/USPS-24–27. Despite the Postal Service’s objections to these interrogatories, I have decided to obtain answers directly from the Postal Service, rather than submitting my letters with my direct case.³³ Nonetheless, I do testify on delivery problems with return receipts.³⁴

These interrogatories are permissible under Special Rule 2(E), as they concern operating procedures, request information that is available only from the Postal Service, and were necessary for my preparation of my direct case. The Postal Service argues that they are not allowable under Special Rule 2(E) because “they concern issues that are addressed by the Postal Service’s direct case.”³⁵ The Postal Service is unable to support this assertion with a citation to any portion of its direct case because, in reality, no portion of its direct case addresses delivery procedures for return receipts. Instead, the Postal Service apparently bases its claim on the fact that the issue of delivery procedures for return receipt arose in written and oral cross-examination. However, based on POR R87-1/118, the test for whether a subject was addressed in

²⁸ Tr. 3/1023–27.

²⁹ Douglas F. Carlson Motion to Admit DFC/USPS-T40-XE-1–9 and LR-DFC-1 into Evidence, filed October 20, 1997.

³⁰ 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 October 30, 1997.

³¹ 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, and 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, filed November 20, 1997.

³² POR R97-1/70, filed November 25, 1997.

³³ I elected not to sponsor the letters for two reasons. First, if I had sponsored the letters as part of my direct case, the Postal Service likely would have resisted my attempt to introduce the letters into evidence, instead engaging me in a costly battle over the admissibility of the letters (to duplicate and serve a document on each party in the case costs a minimum of approximately \$50). Second, the Postal Service then could have submitted evidence in March to rebut my letters. Since written discovery on rebuttal evidence is not permitted, I likely would have needed to make a trip to Washington to cross-examine the Postal Service’s rebuttal witness(es). If I can instead obtain and follow up on this information through written discovery, I possibly will be able to save myself a trip to Washington.

³⁴ DFC-T-1 at 17–23.

³⁵ Objection (DFC/USPS-24–28, and 35) at 2.

the Postal Service's direct case for purposes of Special Rule 2(E) appears to be whether a Postal Service witness addressed the issue in the Postal Service's *initial filing*.³⁶ My interrogatories concern an issue that the Postal Service did not address in any way in its initial filing.

According to POR R87-1/118, this test exists to prevent "another round of discovery against the Service."³⁷ My interrogatories do not constitute another round of discovery. Rather, as the discussion above indicates, they represent a tight, direct continuation of the initial round of discovery that I began on September 14, 1997, when I mailed DFC/USPS-16-18. Witness Plunkett conducted what can at best be described as a superficial investigation for his response to those interrogatories.³⁸ Aside from witness Plunkett's telephone call to the Philadelphia P&DC, neither witness Plunkett nor any other postal employee conducted *any* investigation that was reasonably calculated to produce a reliable response to my interrogatory.³⁹ Asking employees at headquarters whether they were "aware" of a certain situation was passive. The Postal Service attempted to rely on ignorance, rather than the results of a reasonable, active inquiry, to justify denying that these problems with delivery of return receipts exist. Moreover, by failing to explain in the interrogatory response the scope of the inquiry that he conducted, witness Plunkett caused me to believe that follow-up questions would be pointless — and, probably, objectionable as cumulative⁴⁰ — as his answer was quite straightforward in denying that these situations exist. I then attempted to introduce my letters in DFC/USPS-T40-XE-1-9 into evidence, but when the presiding officer eventually denied my motion, I *immediately* filed my interrogatories under Special Rule 2(E). Far from constituting another round of discovery against the Postal Service, my interrogatories seek to clarify the record, as witness Plunkett himself admitted after he saw my letters that his earlier testimony about processing of return

³⁶ See POR R87-1/118 at 2.

³⁷ *Id.*

³⁸ 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 at 3-4.

³⁹ *Id.*

⁴⁰ Indeed, the Postal Service claims that the current interrogatories are cumulative. Objection (DFC/USPS-24-28, and 35) at 4.

receipts may not have been accurate.⁴¹ These follow-up interrogatories hardly can be considered cumulative, as the Postal Service claims,⁴² because the Postal Service's original answer was inaccurate. If the Commission does not grant my motion to compel the Postal Service to answer these interrogatories, the Commission will be supporting the Postal Service's effort to exclude damaging evidence and require participants and the Commission to rely on an inaccurate record.

The Postal Service's proposed rule denying use of Special Rule 2(E) to participants who inquired into the subject matter of the interrogatories during the discovery period on the Postal Service's direct case is illogical. Under the Postal Service's rule, a participant who filed an interrogatory on September 17, 1997, the deadline for discovery on the Postal Service's direct case, would be barred from asking further interrogatories on that same subject for the remainder of the case (unless those interrogatories qualified as follow-up under Special Rule 2(D)). Meanwhile, the Postal Service's rule would not bar a participant who filed his first interrogatory on a particular subject on, e.g., October 1, 1997, from filing further interrogatories on that same subject under Special Rule 2(E), since discovery under Special Rule 2(E) is permitted until February 17, 1998, and since, according to POR R87-1/138, Special Rule 2(D) does not apply to Special Rule 2(E) discovery.⁴³ The Postal Service's proposed rule would create an illogical, inequitable, and unfair result, as it would apply different treatment to these two similarly situated participants. The correct test, therefore, is simple: Do the interrogatories concern an issue that a Postal Service witness addressed in the Postal Service's initial filing? If they do not, as my interrogatories do not, the interrogatories are permissible under Special Rule 2(E), regardless of when the participant initiated discovery on that subject.

Even if a Postal Service witness addressed the subject of the interrogatory "in depth" in the Postal Service's initial filing, a party might still be able to use Special Rule 2(E).⁴⁴ In contrast, in my case, the Postal Service did not address the subject of my

⁴¹ Tr. 3/1031-32.

⁴² Objection (DFC/USPS-24-28, and 35) at 2.

⁴³ POR R87-1/138 at 5.

⁴⁴ POR R87-1/118 at 2.

interrogatories in any way in its initial filing, let alone in depth. Moreover, the interrogatory responses that I did receive are inaccurate. DFC/USPS-24–27 are permissible under Special Rule 2(E).

Finally, the Postal Service also makes the rather remarkable claim that my interrogatories do not concern “operating procedures.” While Special Rule 2(E) does not limit the scope of information that may be obtained under Special Rule 2(E) to “operating procedures,” I can hardly imagine a better example of an operating procedure than the procedure by which the Postal Service delivers return-receipt mail. Whether the information comes from Postal Service headquarters or personnel in the field, the information constitutes operating procedures. In addition, my interrogatories are quite limited in scope, so the burden of obtaining information from the field would be modest.

In sum, these interrogatories are relevant to my direct case and permissible under Special Rule 2(E). The Postal Service should be required to answer them.

DFC/USPS-30–32

Interrogatories DFC/USPS-30–32 follow up on the accuracy of the information that the Postal Service provided in response to DFC/USPS-16 and 29 on the number and type of problems that customers reported via Consumer Service Cards. (The interrogatory should cite DFC/USPS-17, not DFC/USPS-16, but this error is immaterial because the response to DFC/USPS-29 includes the information provided in response to DFC/USPS-17.) The Postal Service objects on the grounds of relevance, undue burden, and inapplicability of Special Rule 2(E).⁴⁵

The interrogatories are relevant. The Postal Service is basing fee increases for post-office boxes and return receipt on the value of the service. Customer complaints — and the accuracy of complaint data — are relevant to the value of service. Moreover, in my direct testimony I discussed problems with post-office box service and return receipt. I noted that the Postal Service received 4,689 complaints about return-receipt service in 1996.⁴⁶ While I consider this number to be significant, the Postal

⁴⁵ Objection (DFC/USPS-30–32, 34) at 1 and 3.

⁴⁶ DFC-T-1 at 24.

Service might argue on brief that this number is small when considered as a percentage of the number of return receipts that are sent each year. Therefore, the *accuracy* of this number is relevant. If, as I suspect,⁴⁷ these data significantly underreport customer complaints, I have a right to know how accurate these data are so that I can counter such an argument from the Postal Service. Inquiries into the accuracy of data are always relevant. If the Commission does not require the Postal Service to answer these interrogatories, it will allow the Postal Service to respond to discovery selectively, providing certain information but refusing to comment on the accuracy of the information.

In claiming undue burden, the Postal Service seriously misreads the scope of these interrogatories.⁴⁸ According to the objection, the Postal Service apparently does not know how accurate its data are and does not wish to conduct an extensive investigation to determine this information.⁴⁹ Given the burden of conducting an investigation, the Postal Service should simply state that it does not know how accurate the data are. Such an answer to DFC/USPS-30 and 31 would be useful to me, as it would support my assertion that the data likely underestimate the number of customer complaints that actually have been filed. I offered this interpretation of the interrogatories as well as this suggested answer to Postal Service counsel, but counsel refused to withdraw the objection. As for DFC/USPS-32, the Postal Service either has audit procedures or it does not. It can answer this question based on the information that is available at headquarters.

DFC/USPS-32 clearly is permissible under Special Rule 2(E), as it requests information on operating procedures that is available only from the Postal Service and that was necessary for preparation of my direct case. DFC/USPS-30–32 are proper follow-up under Special Rule 2(D). I served these follow-up interrogatories eight days after I received them. I received them on Thanksgiving Day. I was out of town on Thanksgiving weekend and was unable to begin writing the follow-up interrogatories immediately. Although I served the follow-up interrogatories one day late, the Postal

⁴⁷ See *Id.* at 24, fn. 101.

⁴⁸ Objection (DFC/USPS-30–32, 34) at 2.

⁴⁹ *Id.*

Service's own motion for late acceptance admits that the responses to the original interrogatories were filed 16 days late.⁵⁰ If the Postal Service had filed the responses on November 10, 1997, when they were due, the Thanksgiving weekend would not have interfered with my preparation of timely follow-up interrogatories. If a 16-day delay was reasonable, I believe that my one-day delay was at least as reasonable.

In sum, these interrogatories are relevant to the accuracy of the data on customer complaints. Customer complaints, in turn, are relevant to the value of the service that the Postal Service is providing. Answering the interrogatories — especially simply stating that the information is not available at headquarters — would entail a minimal burden. Therefore, the Postal Service should be required to provide answers.

Conclusion

For the reasons explained in this motion, I request that the Commission compel the Postal Service to answer interrogatories DFC/USPS-19(a)–(c) and (e)–(r), 24–27, and 30–32. A ruling will have the added benefit of further clarifying Special Rule 2(E).

Respectfully submitted,

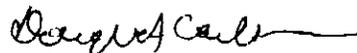
Dated: January 6, 1998



DOUGLAS F. CARLSON

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

January 6, 1998
Emeryville, California

⁵⁰ United States Postal Service Motion for Late Acceptance of Responses to Interrogatories of Douglas F. Carlson (DFC/USPS-15–18), filed November 26, 1997.

TEXT OF INTERROGATORIES

DFC/USPS-19. This interrogatory refers to the response to DFC/USPS-9 and the system revealed in that response that will "monitor whether respective facilities meet their box cut off times."

- a. When did the Postal Service begin planning this system?
- b. Please provide all documents and other information relating to the reasons why this system was developed.
- c. Please describe the meaning of "in the process of rolling out." Please provide a timetable for implementation to the extent that one is known.
- e. Will this system require all post offices to post a cutoff time for box mail?
- f. If the answer to part (e) is not an unqualified yes, will a post office be able to opt out of or otherwise avoid this new system by removing its signs that indicate cutoff times for box mail? Please explain.
- g. Please explain the difference, if any, between the "scheduled" time for box mail to be finalized and available to customers and the "posted" time.
- h. Will a unit be considered to be on time only if the box mail is *distributed to the boxes* not later than the scheduled and posted cutoff time?
- i. Please provide the best quantitative definition that is available of "consistently" as the term is used in the following sentence in the interrogatory response: "If a unit consistently fails to meet the box cut off time, analysis should be done to review possible actions to help the unit meet the cut off time."
- j. Would the system's operation be accurately described if the word "should" in the quoted sentence in part (i) were replaced with the word "must"? If not, please explain why operations at an office that consistently failed to meet the cutoff time might nevertheless not be analyzed to review possible corrective actions.
- k. Please explain how the Postal Service will determine the needs of customers if corrective action is not effective and the Postal Service considers moving the cutoff time.
- l. Suppose a unit consistently fails to meet the posted cutoff time. Suppose, further, that this post office is located in an urban area, five miles from the P&DC, and receives all its First-Class Mail by 7:00 AM. Would the Postal Service consider movement of the existing 11:00 AM cutoff time to a later time to be a reasonable step to improve consistency in meeting the cutoff time? Please explain.
- m. Is an 11:00 AM cutoff time for the unit described in part (l) reasonable?
- n. Under this system, how often will a unit's performance be monitored?
- o. Will the staff of the unit be aware of the monitoring while it is taking place?
- p. Will the manager of the facility be aware of the monitoring more than one day before the monitoring begins? If so, for how many days prior to the beginning of the monitoring will the manager be aware of the monitoring?
- q. Will the personnel who conduct the monitoring work for the post office that is being monitored? If not, please identify the office for which these employees will work.
- r. Will this system monitor every postal facility?

DFC/USPS-24. This interrogatory concerns delivery of mail that is sent via certified mail, return receipt requested, to Franchise Tax Board, Sacramento, CA, using ZIP Code 94240 or 94267. For each part, if you do not confirm the statement in its entirety, please specify which parts of the statement you do confirm. Also, for every part that you do not confirm, please provide a full explanation of every aspect of the statement that you do not confirm.

- a. Please confirm that the certified letters are picked up from the Sacramento P&DC by an authorized agent of the Franchise Tax Board with their Form 3811, Domestic Return Receipt, still attached.
- b. Please confirm that the Franchise Tax Board, not the Postal Service, removes the Form 3811 from each certified letter.
- c. Please confirm that the Postal Service in Sacramento considers it impractical or impossible for the Franchise Tax Board agents to sign each Form 3811 at the time of delivery.
- d. For each part of this interrogatory, please provide the title of each person who provided the information on which the interrogatory response is based.

DFC/USPS-25. This interrogatory concerns delivery of mail that is sent via certified mail, return receipt requested, to Internal Revenue Service Center, Austin, TX 73301. For each part, if you do not confirm the statement in its entirety, please specify which parts of the statement you do confirm. Also, for every part that you do not confirm, please provide a full explanation of every aspect of the statement that you do not confirm.

- a. Please confirm that the Forms 3811, Domestic Return Receipt, are detached from the certified letters before the letters are delivered to the IRS.
- b. Please confirm that an IRS employee, not a Postal Service employee, stamps the Forms 3811 with the date of delivery.
- c. Please confirm that a Postal Service employee does not constantly visually supervise the process by which the IRS stamps the Forms 3811 with the date of delivery.
- d. Please confirm that the volume of certified mail affects the amount of time that is required for the IRS to return the Forms 3811 to the sender.
- e. Please confirm that the Forms 3811 normally are mailed back to the sender within a range of one day to several weeks.
- f. For each part of this interrogatory, please provide the title of each person who provided the information on which the interrogatory response is based.

DFC/USPS-26. This interrogatory concerns delivery of mail that is sent via certified mail, return receipt requested, to Internal Revenue Service Center, Memphis, TN 37501. For each part, if you do not confirm the statement in its entirety, please specify which parts of the statement you do confirm. Also, for every part that you do not confirm, please provide a full explanation of every aspect of the statement that you do not confirm.

- a. Please confirm that the Postal Service delivers the mail to the IRS' Receiving and Control Department.
- b. Please confirm that the IRS, in a particular processing stage, separates the certified mail from other First-Class Mail and gives those certified pieces to a Postal Service employee.
- c. Please confirm that as many as 10 days may pass before a certified letter is given back to a Postal Service employee in the processing stage described in part (b). If you do not confirm, please specify the maximum number of days that may pass.

d. Please confirm that certified mail sometimes is delivered directly to the IRS before the Postal Service has recorded the date of receipt of each article in its delivery records.

e. Please confirm that certified mail sometimes is delivered directly to the IRS before the Postal Service has indicated the date of receipt on the Form 3811.

f. Please confirm that the postmaster in Memphis would characterize the Postal Service as having "limited control" over certified mail once it has been delivered to the IRS but before the date of receipt has been indicated on the Forms 3811.

g. For each part of this interrogatory, please provide the title of each person who provided the information on which the interrogatory response is based.

DFC/USPS-27. This interrogatory concerns delivery of mail that is sent via certified mail, return receipt requested, to Internal Revenue Service Center, Philadelphia, PA 19255. For each part, if you do not confirm the statement in its entirety, please specify which parts of the statement you do confirm. Also, for every part that you do not confirm, please provide a full explanation of every aspect of the statement that you do not confirm.

a. Please confirm that an IRS employee, not a Postal Service employee, indicates the date of receipt on each Form 3811, Domestic Return Receipt.

b. Please confirm that an IRS employee, not a Postal Service employee, removes each Form 3811 from each certified letter.

c. Please confirm that the Philadelphia post office is unable or unwilling to assist a customer who did not receive a return receipt for mail that he sent to the IRS.

d. Please confirm that the Philadelphia post office's Consumer Affairs unit recommends that customers who do not receive their return receipt write to the IRS directly.

e. For each part of this interrogatory, please provide the title of each person who provided the information on which the interrogatory response is based.

DFC/USPS-30. Please discuss the extent to which the data provided in the responses to DFC/USPS-16 and DFC/USPS-29 accurately reflect the number of Consumer Service Cards that customers actually submitted and the number of telephone, written, or in-person complaints that actually were transferred to Consumer Service Cards in accordance with the procedures described in Attachment A to the response to DFC/USPS-15. Please state the basis for your answer.

DFC/USPS-31. Please discuss the extent to which postal employees follow the procedures described in Attachment A to the response to DFC/USPS-15 (pages 2-3) in transferring customer complaints to Consumer Service Cards. Please state the basis for your answer.

DFC/USPS-32. Please discuss all procedures that the Postal Service uses to audit postal employees' compliance with the procedures described in Attachment A to the response to DFC/USPS-15. Please provide the results of any audits or procedures.