

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

SIX-DAY TO FIVE DAY STREET DELIVERY
AND RELATED SERVICE CHANGES, 2010

Docket No. N2010-1

OPPOSITION OF THE UNITED STATES POSTAL SERVICE TO
CARLSON MOTION TO COMPEL RESPONSE TO DFC/USPS-T4-14
(May 17, 2010)

On April 20, 2010, Douglas Carlson submitted the following interrogatory to the
United States Postal Service:

DFC/USPS-T4-14: Please refer to your response to DFC/USPS-T4-7.
Please identify the cost savings from each existing Saturday area mail
processing plan.

The Postal Service filed the following response on May 4, 2010:

There is no headquarter-sponsored Saturday consolidation program.
Individual district managers assess the opportunities and, where
economically feasible and while maintaining service, consolidate Saturday
originating mail for selected sites into other sites. District managers are
empowered to evaluate these opportunities and make these decisions on
their own, at the local level.

Unsatisfied with this response, Mr. Carlson filed a motion to compel on May 10, 2010,
requesting that the Postal Service be forced to provide information on the cost savings
from each Saturday outgoing mail consolidation. Mr. Carlson is convinced that this
information "surely exists," but if it does not exist, he asks that such information be
developed.¹ The information does not exist and, moreover, even if it did, it would not be
relevant to the evaluation of the Postal Service's proposal in this proceeding. The
motion to compel should be denied.

¹ Motion at 4.

The point of the Postal Service's answer to DFC/USPS-T4-14 was to make clear that responsive information does not exist. As noted in that answer, Saturday outgoing mail consolidations among neighboring processing and distribution plants are among the innumerable decisions left to the discretion of district managers and the plant management teams that report to them. Such decisions are made on the basis of their collective expert judgment and familiarity with local mail processing operations and capabilities. They may be permanent arrangements. They may be temporary. In contrast to Area Mail Processing (AMP) consolidations of all outgoing and/or incoming plant operations, Saturday consolidations do not require review or approval from headquarters. Nor are local Saturday consolidation decisions required to follow any form of standardized pre-implementation and/or post-implementation analytical review, such as is required for AMP consolidations, as reflected in the USPS Handbook PO-408.² The response to DFC/USPS-T4-7 reflects a list of known Saturday consolidations implemented over the years. Some were implemented in recent years. Others were implemented so long ago that, in order to initiate a search for any responsive records that may be preserved, the institutional memories of local managers would have to be tapped just to narrow down the range of years during which implementation likely occurred.

It is safe to assume that before implementing Saturday consolidations, many district managers examine available data that they deem relevant to their Saturday

² See Docket No. N2006-1, USPS Library Reference N2006-1/3.

consolidation decisions. Analytical methods may vary from district to district and records are not required to be created or preserved. Unlike with Handbook PO-408 AMP consolidations, there is no central repository of standard Saturday consolidation decision-making documentation files from which one could attempt to perform “apples-to apples” comparisons or calculate aggregate cost savings.

Accordingly, canvassing district offices for documents related to each Saturday consolidation listed in response to DFC/USPS-T4-7 in order to attempt to respond to DFC/USPS-T4-14 would not be a fruitful exercise. There would be no way to compare the bases for various local decisions for which records may be located and no meaningful way to understand how representative they are of the cost savings incurred by the innumerable Saturday consolidations for which no similar documents may be found. To fully respond to this interrogatory, the Postal Service would have to reconstruct each relevant historical local mail processing scenario and the rationale that may have motivated pursuit of a Saturday consolidation, and then establish a uniform method of analyzing the operational cost savings that may have been expected at the time of each such consolidation. In other words, the information sought by the interrogatory would effectively have to be produced from scratch, and in many cases the information would simply be impossible to produce.

Mr. Carlson argues that the costs that would be incurred by the Postal Service to produce this information would be justified by its relevance to his personal plan for

saving the Postal Service money.³ He further argues, without providing any evidence or citation, that it was Congress's intent that the advisory opinion process allow for private parties to use discovery to develop their own alternative plans to the plan presented by the Postal Service.⁴ The Postal Service disagrees.

The present request for an advisory opinion was filed pursuant to 39 U.S.C. § 3661. This section provides an avenue for *the Postal Service* to request an advisory opinion from the Commission when Postal Service management “determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.” Section 3661 requires that the Postal Service submit its service change proposal within a reasonable amount of time prior to the effective date of the proposal, in order for the Commission to exercise its authority to provide an opportunity for a hearing on that proposal. Nowhere in the legislative history of section 3661 is there any evidence that Congress intended for this provision to provide a forum for other parties to request advisory opinions from the Commission on alternative plans for nationwide service changes.

Any hearings under section 3661 are for the purpose of providing the Commission a reasonable basis for forming its non-binding opinion regarding whether the specific service changes the Postal Service intends to implement conform to the policies of title 39, United States Code. Section 3661 is not intended to create a forum for the adversarial development of alternative, competing, or conflicting service change

³ Motion at 4.

⁴ Motion at 2.

plans by different parties, or for a subsequent recommendation by the Commission regarding which alternatives it would implement if it were authorized to manage the Postal Service. In this regard, section 3661 stands in stark contrast to former section 3622(a), which authorized the Commission, in response to a Postal Service request, to recommend a mix of rates to satisfy the Postal Service's revenue requirement, and permitted the Postal Service to accompany such request with "suggestions for rate adjustments as it deemed suitable."

Accordingly, it would run counter to the intent of the statute for the Commission to permit in a section 3661 proceeding discovery that imposes an unnecessary burden on the Postal Service for the purpose of permitting parties to imagine and submit alternative service changes for review. Otherwise, there would be no limit to the scope of discovery in a section 3661 proceeding.

The Postal Service endeavors to provide intervenors in the present docket with information relevant to the service changes it plans to implement, in order to permit a fair examination of whether those changes would satisfy applicable statutory criteria. The record in this docket bears ample evidence that the Postal Service has refrained from objecting to every request for information irrelevant to its request. Such forbearance has minimized motions practice and the need for the Commission to step forward to resolve disputes. However, there are limits that must be managed by the Commission if the purposes of section 3661 are to be respected and served. Accordingly, the motion to compel should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Rules of Practice and Procedure.

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