

**BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001**

**Six-Day to Five-Day Street Delivery
and Related Service Changes, 2010**

Docket No. N2010-1

**DOUGLAS F. CARLSON
MOTION TO COMPEL THE UNITED STATES POSTAL SERVICE
TO RESPOND TO INTERROGATORIES DFC/USPS-T4-22-24**

May 19, 2010

On May 4, 2010, I filed interrogatories DFC/USPS-T4-22-24.¹ These interrogatories are reasonably calculated to lead to the discovery of admissible evidence because they will allow participants to evaluate the capacity, including underutilized capacity, of mail processing plants on Saturdays. This information will allow participants to evaluate, and possibly propose, further consolidation of outgoing mail processing operations on Saturdays as an alternative to the Postal Service's drastic plan to stop collecting and processing outgoing mail on Saturdays.

The three interrogatories read as follows:

DFC/USPS-T4-22. Please provide the number of AFCS machines at each facility that cancels and processes outgoing mail.

DFC/USPS-T4-23. For each facility that cancels and processes outgoing mail on Saturdays, please provide the percentage of the AFCS cancellation volume at that facility on an average weekday that that facility's AFCS machines cancel on an average Saturday. For example, if the cancellation volume on an average weekday is 1 million pieces, and if the cancellation volume on an average Saturday is 600,000 pieces, the answer to the interrogatory would be 60 percent.

¹ Douglas F. Carlson Interrogatories and Requests for Production of Documents to United States Postal Service Witness Frank Neri (DFC/USPS-T4-22-24), filed May 4, 2010.

DFC/USPS-T4-24. For each facility that cancels and processes outgoing mail on Saturdays, please express the AFCS cancellation volume at that facility on an average Saturday as a percentage of AFCS cancellation capacity at that facility. With reference to appropriate Postal Service productivity benchmarks, please determine a reasonable measure of AFCS cancellation capacity and explain the measure you selected.

The Postal Service filed an objection on May 14, 2010, claiming that the information “would be irrelevant even in an aggregate state, but it is exceptionally irrelevant in the disaggregated state requested by Mr. Carlson.”² I move to compel the Postal Service to respond to these interrogatories.

Discussion

The Postal Service’s plan for five-day service proposes to eliminate two different and largely independent services on Saturdays: carrier delivery of incoming mail, and collection and processing of outgoing mail. The Postal Service acknowledged that it could still enjoy 75 to 85 percent of the estimated \$3.3 billion in savings from its five-day plan if it continued to collect and process outgoing mail on Saturdays.³ The Postal Service has not presented any information indicating that the public agrees with the elimination of collection and processing of outgoing mail if eliminating this service would contribute only 15 to 25 percent of the savings from the unprecedented service reduction that the Postal Service proposes.⁴ In fact, the public has expressed concerns about the termination of Saturday mail processing.⁵

When the Postal Service estimated that it would still save 75 to 85 percent of the \$3.3 billion in projected savings if it continued to collect and process outgoing mail on Saturdays, the Postal Service presumably considered the

² Objection of the United States Postal Service to Interrogatories DFC/USPS-T4-22–24 (“Objection”) at 1–2, filed May 14, 2010.

³ Response to DFC/USPS-T2-3, filed April 15, 2010.

⁴ See, e.g., Response to DFC/USPS-T1-5, filed May 4, 2010.

⁵ In testimony at the Commission’s field hearing in Sacramento on May 12, 2010, Joe Ridout of Consumer Action in San Francisco explained his concern that the Postal Service’s plan could lead to more credit card late fees for consumers. I do not have a copy of the hearing transcript to which to cite, but I attended the hearing and heard the testimony.

current processing environment. In reality, if the Postal Service stopped carrier delivery on Saturdays but continued to collect and process outgoing mail, outgoing mail volume on Saturdays would decline because carriers would not be collecting outgoing mail from homes and businesses on their routes. Distance and volume probably are the two largest factors in determining whether plant consolidations on Saturdays are possible. If collection volume declined, more consolidations likely would be possible on Saturdays. For example, in Northern California, the Oakland P&DC probably could process outgoing mail from Sacramento, Stockton, North Bay, San Jose, and San Francisco on Saturdays. Currently, three of these plants, Sacramento, Oakland, and San Francisco, process outgoing mail on Saturdays.⁶ The San Francisco and Sacramento plants are located approximately 15 to 85 miles, respectively, from the Oakland P&DC.⁷

Congress required the Postal Service to seek an advisory opinion from the Commission before implementing a major service change such as the one the Postal Service proposes now because Congress understood that a hearing on the record, conducted by a commission with expertise in postal matters, could provide valuable advice, suggestions, and input to the Postal Service. Participants in this proceeding therefore are entitled to support, to oppose, *and to present alternatives* to the plan that the Postal Service has presented.

Data indicating available capacity of processing plants on Saturdays will shed light on the extent to which the Postal Service did, or did not, pursue alternatives to the unprecedented service reduction that it proposes. We already know that the Postal Service does not have a headquarters-level Saturday consolidation initiative now.⁸ The data also will allow participants to identify

⁶ Response to DFC/USPS-T4-7.

⁷ The Postal Service already consolidates mail between plants located farther apart than these plants. For example, mail from the San Bernardino P&DC travels approximately 100 miles to the San Diego P&DC on Saturdays. In South Dakota, mail from Rapid City logs approximately 340 miles on its journey to Sioux Falls every Saturday. *Id.*

⁸ Response to DFC/USPS-T4-14.

which processing plants would have capacity to accept mail from a nearby plant, further lowering Saturday operating costs in a hybrid environment in which the Postal Service stopped carrier delivery but continued to collect and process outgoing mail on Saturdays. For example, despite its proximity to San Francisco and Sacramento, the Oakland P&DC may or may not have the capacity to process mail from additional plants on Saturdays because the Oakland, San Francisco, and Sacramento plants already receive mail from other plants on Saturdays.⁹ Evidence of underutilized plant capacity on Saturdays would inform the Commission's advisory opinion and could be crucial to Congress' decision whether to allow the Postal Service to terminate a fundamental service now before first pursuing other steps to increase efficiency and reduce costs.

DFC/USPS-22 will allow participants to evaluate the relative size of processing plants. As a general starting point for an analysis, a participant would reasonably look for smaller plants whose Saturday volume could be consolidated into larger plants. Since much of the Saturday volume consists of loose letters, the number of AFCS machines at each plant will provide an excellent measure of relative plant size without requiring the Postal Service to disclose facility-specific volume data.

DFC/USPS-23, which seeks to compare Saturday volume to weekday volume, will help to identify which plants, because of existing Saturday consolidation plans, may already be operating near capacity or otherwise might not be good candidates to receive mail from an additional plant.¹⁰ Similarly, DFC/USPS-24 assumes that some measure of capacity exists for each plant based on the number of machines, mail arrival time, processing windows, and reasonably expected throughput, so DFC/USPS-24 seeks to measure existing Saturday volume against a productivity benchmark that may serve as a proxy for

⁹ See Response to DFC/USPS-T4-7.

¹⁰ Weekday volume may not indicate a plant's capacity, but a plant that is processing 50 percent of weekday volume on Saturday surely has capacity to process additional volume on Saturday, whereas a plant that is processing 99 percent of weekday volume on Saturday may not have capacity to process volume from another plant on Saturday.

the plant's capacity. Plants that are operating well below capacity on Saturday could accept additional mail, while plants that are operating near capacity may not have capacity to process additional mail.

In support of its objection, the Postal Service asserts that this proceeding "does not concern intervenors' general curiosity about Postal Service machinery or intervenors' personal proposals for saving the Postal Service money."¹¹ The presiding officer should find the Postal Service's attitude toward citizen participants troubling. The Postal Service proposes to take away a significant service from the public on Saturdays. Congress required this hearing on the record to provide the public an opportunity to evaluate the Postal Service's proposal and to inform the Commission's advisory opinion.

The Postal Service's answer in opposition to my recent motion to compel¹² a response to a similar line of discovery reveals the full extent of the Postal Service's disturbing position that underlies its objection. The Postal Service asserted:

Section 3661 is not intended to create a forum for the adversarial development of alternative, competing, or conflicting service change 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.¹³

Assuming the Postal Service has any interest at all in listening to advice from the Commission or the public, the Postal Service clearly wants only a thumbs-up or thumbs-down response to the precise proposal that it presented to the Commission. To see the troubling direction in which this position would lead, suppose the Commission determines that the Postal Service has not established that the agency would continue to provide adequate postal services within the

¹¹ Objection at 2.

¹² Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatory DFC/USPS-T4-14, filed May 10, 2010.

¹³ Opposition of the United States Postal Service to Carlson Motion to Compel Response to DFC/USPS-T4-14 ("Opposition") at 4–5, filed May 17, 2010.

meaning of 39 U.S.C. § 3661(a) if it eliminated collection and processing of outgoing mail on Saturdays. Under the Postal Service's view of the Commission's role, the Commission would be limited to advising Congress and the public that the proposal would not provide adequate postal services. Perhaps the Postal Service would allow the Commission to explain, as the basis for its advisory opinion, that eliminating collection and processing of outgoing mail would deny postal customers adequate postal services; therefore, the entire plan must fail. However, the Postal Service clearly would object if the Commission supported eliminating carrier delivery but advised the Postal Service to continue Saturday collections and outgoing mail processing, since such a recommendation would constitute an "alternative" that the Commission "would implement if it were authorized to manage the Postal Service."¹⁴

The Postal Service is entitled to its opinion, of course. However, one cannot reasonably imagine that Congress, when it enacted section 3661(b), envisioned such a narrow scope of review. The statute does not preclude the Commission from weighing the costs and benefits of *each aspect* of the Postal Service's proposal. Moreover, Congress surely did not intend that participants, the Postal Service, and the Commission would be required to invest so much time and money into a process that was forbidden from exploring alternatives that emerged during the hearing.

More importantly, Congress certainly did not want the Commission to hand it an advisory opinion that failed to mention reasonable alternatives. To the contrary, Congress would welcome an advisory opinion that determined that the Postal Service could maintain an important service on Saturdays, reduce Saturday operating costs through further plant consolidations, and still save more than 75 to 85 percent of the \$3.3 billion that the agency estimates that it would save from the unpalatable plan currently before Congress and the American people. Lawmakers faced with tough choices usually seek alternatives and

¹⁴ *Id.* at 5.

compromises. They would appreciate an advisory opinion presenting another option. Such an advisory opinion would validate the entire advisory opinion process and justify every penny spent conducting it. One would not expect to find legislative history stating a point as obvious as this one. In contrast, the narrow advisory opinion that the Postal Service envisions could leave Congress and the public with only minimal guidance on how to move forward.

Participants seeking to introduce evidence are not required to ensure that the Postal Service agrees with the evidence or that the Postal Service even wants to hear it. However, if the evidence may inform the Commission's advisory opinion, the evidence will be admissible. Interrogatories DFC/USPS-T4-22-24 are reasonably calculated to lead to the discovery of admissible evidence because they will allow participants and the Commission to explore an alternative to the service reduction that the Postal Service proposes. Therefore, I move to compel the Postal Service to respond to interrogatories DFC/USPS-T4-22-24.

Respectfully submitted,

Dated: May 19, 2010

DOUGLAS F. CARLSON