

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Six-Day to Five-Day Street Delivery  
and Related Service Changes

Docket No. N2010-1

PRESIDING OFFICER'S RULING DENYING DOUGLAS F. CARLSON  
MOTION TO COMPEL THE UNITED STATES POSTAL SERVICE  
TO RESPOND TO INTERROGATORIES DFC/USPS-T4-22-24

(Issued June 11, 2010)

On May 4, 2010, Douglas F. Carlson (Carlson) filed several interrogatories seeking discovery from the Postal Service witness Frank Neri.<sup>1</sup> On May 14, 2010, the Postal Service objected to the interrogatories, which sought facility-specific capacity and volume information for Advanced Facer Cancellor System (AFCS) machines.<sup>2</sup> The Postal Service objected to the interrogatories on the grounds that the information sought is not relevant in an aggregate state, but is “exceptionally irrelevant in the disaggregated state requested by Mr. Carlson.” *Id.* at 1-2. The Postal Service, however, agreed to file the number of AFCS machines in an aggregate format, which it did on May 18, 2010.<sup>3</sup>

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

<sup>2</sup> Objection of the United States Postal Service to Interrogatories DFC/USPS-T4-22 to 24, May 14, 2010.

<sup>3</sup> Response of United States Postal Service Witness Neri to Interrogatory of Douglas Carlson (DFC/USPS-T4-22), May 18, 2010.

Carlson filed a motion to compel the Postal Service to answer interrogatories DFC/USPS-T4-22-24 on May 19, 2010.<sup>4</sup> Carlson explains his theory that the Postal Service could continue to provide outgoing mail processing on Saturdays and simply eliminate delivery. *Id.* at 2-3. Carlson believes that under this framework, because the Postal Service would not be collecting outgoing mail from routes, the Postal Service could employ more mail processing consolidations on Saturdays and save some processing costs. *Id.* at 3-4.

Carlson states that data of the kind he seeks in his Motion “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.” *Id.* at 3.

The Postal Service filed in opposition to the Motion on May 26, 2010.<sup>5</sup> The Postal Service contends that because this docket is established to examine a Postal Service plan to eliminate or reduce certain operations on a national scale, facility-specific information is irrelevant. *Id.* at 1-2. The Postal Service also states that facility-specific information is not necessary for Carlson to make his arguments concerning alternative mail processing on Saturdays. *Id.* at 5. The Postal Service contends that volume throughput of the AFCS machine cannot be extrapolated to determine capacity or ability to consolidate processing. *Id.* at 6-7. Finally, it claims that portions of the data sought by Carlson would place an undue burden on the Postal Service. *Id.* at 7. The Postal Service notes that to provide all the data requested by Carlson would require separately compiling information from each local processing facility (if the information is even compiled locally). *Id.*

The Postal Service argues that the purpose of this docket is limited to consideration of the service change that it plans to implement. Section 3661 of title 39

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<sup>4</sup> Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatories DFC/USPS-T4-22-24, May 19, 2010 (Motion).

<sup>5</sup> Opposition of the United States Postal Service to Carlson Motion to Compel Response to DFC/USPS-T4-22 to 24, May 26, 2010.

requires only an opportunity for stakeholders to have a hearing on the record concerning the Postal Service's proposal.

The Presiding Officer does not find it necessary or appropriate to limit the scope of this docket with the narrow reading propounded by the Postal Service. In reviewing the Postal Service's proposal and the assumptions that underlie it, participants may develop a record that extends beyond the Postal Service's proposal to determine whether adjustments to the Postal Service's planned service changes may make the proposal better conform with the policies established under title 39.

While participants may seek evidence that offers a new perspective on the balance between service quality and the cost savings presented in this proposal (or as the Postal Service characterizes it, alternatives to its proposal), such evidence must also be relevant to the issues under consideration in the docket. In this instance, though the Postal Service's capacity to process outgoing mail may be relevant, the Presiding Officer must determine if the throughput of an individual machine or operation by facility, when it is not indicative of network capacity as a whole, meets this threshold. The Presiding Officer must also balance whether the burden to compile and create this data is offset by its expected probative value.

On the narrow issue of this Motion, the Presiding Officer does not find it appropriate to compel the Postal Service to respond. A motion to compel a response to an interrogatory is initially evaluated against a standard of whether or not an interrogatory "appears reasonably calculated to lead to the discovery of admissible evidence" relevant to the subject matter of the proceeding. 39 CFR 3001.26(a). The information requested may lead to the discovery of admissible evidence; however, it is at best marginally relevant to this docket. Carlson does not present a persuasive argument that the facility-specific AFCS information is necessary to present alternatives to the Postal Service's proposal.

Rule 3001.26(c) requires that a party objecting to discovery on the basis of undue burden must "state with particularity the effort that would be required to answer the interrogatory, providing estimates of the cost and workhours required, to the extent

possible.” The Postal Service notes the difficulty in collecting information on such a specific level, but does not provide estimates of cost or work hours. However, the Postal Service offers details as to the type of burden it must endure to fulfill this discovery request. The Postal Service also contends that Carlson may make alternative cost savings arguments with the aggregate information in the record, and that it has provided Carlson with an estimate of the cost savings it would expect under Carlson’s alternate scenario.

On balance, the limited probative value of the site-specific capacity information sought by Carlson does not justify the burden of the nationwide data collection efforts required. In light of the Postal Service claims that information on AFCS capacity is not relevant, should Carlson present evidence or argument on alternative Saturday mail processing scenarios the Postal Service is precluded from responding with claims of inadequate AFCS capacity.

#### RULING

The Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatories DFC/USPS-T4-22-24, filed May 19, 2010, is denied.

Ruth Y. Goldway  
Presiding Officer