

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 FOR RECONSIDERATION OF
PRESIDING OFFICER'S RULING N2010-1/4
(July 8, 2010)

On July 7, 2010, Douglas Carlson filed a Motion for Reconsideration of Presiding Officer's Ruling N2010-1/4 (hereinafter "Motion for Reconsideration"). For the reasons outlined below, Mr. Carlson's motion should be denied.

The background to this discovery dispute is summarized in Presiding Officer's Ruling N2010-1/4.¹ Mr. Carlson's Motion for Reconsideration is premised on the fact that, in response to a Freedom of Information Act (FOIA) request filed by Mr. Carlson, the Postal Service's Oakland Processing & Distribution Center ("P&DC") located an Excel file containing an informal estimate, performed by the Oakland P&DC's manager of in-plant support, of the potential cost savings associated with the consolidation of the Saturday outgoing processing operations of the San Jose P&DC into the Oakland P&DC. Based upon the disclosure of this record in response to his FOIA request, Mr. Carlson insinuates that the Postal Service misrepresented to the Presiding Officer that

¹ See Presiding Officer's Ruling N2010-1/4, at pages 1-2.

responsive records to his interrogatory did not exist.² On this basis, he argues that reconsideration of Ruling N2010-1/4 is appropriate. Because the insinuation is demonstrably false, the motion for reconsideration is baseless.

The point of the Postal Service's Opposition Motion³ was not that records of cost savings estimates associated with Saturday consolidations absolutely do not exist. The Postal Service openly acknowledged that informal records regarding such savings may exist in some districts.⁴ Even the Presiding Officer's ruling recognized this fact.⁵ The point of the Opposition Motion was that no standardized cost savings records exist, that any records that do exist were created locally and would not be comparable across districts, and that for a great many of the consolidations records would have to be recreated out of whole cloth years after the fact. In other words, information *responsive*

² The unfortunate insinuation appears in somewhat dramatic fashion in the motion's penultimate paragraph: "One FOIA request produced one cost savings estimate. Records that the Postal Service advised the presiding officer did not exist do, in fact, exist." Motion for Reconsideration, at page 4.

³ Opposition of the United States Postal Service to Carlson Motion to Compel Response to DFC/USPS-T4-14 (May 17, 2010) (hereinafter "Opposition Motion").

⁴ For example, on pages 2-3 of the Opposition Motion, the Postal Service states that "[i]t is safe to assume that before implementing Saturday consolidations, many district managers examine available data that they deem relevant to their Saturday consolidation decisions." On page 3, the Postal Service states that "[t]here would be no way to compare the bases for various local decisions for which records may be located..." These and other statements in the Opposition Motion would make no sense if it were the Postal Service's position that cost savings records absolutely do not exist.

⁵ For example, page 2 of Presiding Officer's Ruling N2010-1/4 states that "[a]ny cost savings analysis developed by local managers might be difficult to access, and might not be comparable to analysis developed by managers in another area."

to the interrogatory, which asked the Postal Service to “identify the cost savings from each existing Saturday area mail processing plan,” does not exist.

Thus, the existence of the record located by the Oakland P&DC does not affect the Postal Service’s arguments in its Opposition Motion and should not change the Presiding Officer’s ruling. Further, discovery on the Postal Service’s direct case closed a month ago, and the Postal Service’s witnesses will begin testifying in less than a week. Parties are entitled to some measure of finality in discovery rulings.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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