

# DOCKET SECTION

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

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POSTAL RATE AND FEE CHANGES, 1997

Docket No. R97-1

COMMENTS OF UNITED STATES POSTAL SERVICE ON EVIDENTIARY STATUS  
OF DOUGLAS F. CARLSON LETTERS ADMITTED INTO THE RECORD  
AT THE MARCH 16, 1998 HEARING FOR POSTAL SERVICE WITNESS NEEDHAM  
(March 20, 1998)

At the end of the hearing for Postal Service witness Needham on March 16, 1998, intervenor Douglas F. Carlson presented three letters marked as DFC/USPS-RT-23-XE-2, 3, and 4. Tr. 32/17094. These letters apparently are letters that Mr. Carlson sent to Berkeley, CA Postmaster George Banks on October 27 and September 27, 1997, and to Oakland, CA Senior Plant Manager Carol Miller, on November 3, 1997, concerning service issues. Mr. Carlson next conducted brief cross-examination of witness Needham concerning why she had not obtained copies of these letters when she prepared her rebuttal testimony, since it included as exhibits the responses of Postmaster Banks and Plant Manager Miller to certain of Mr. Carlson's inquiries. Tr. 32/17094-96. Mr. Carlson then moved "that these letters be admitted into evidence because I don't believe that the responses actually assess the situation unless the initial inquiry is seen also." Tr. 32/17096-97. Postal Service counsel objected because the letters had not been "authenticated as the incoming letters which were responded to." Tr. 32/17097. The Presiding Officer admitted the letters into the record "subject to authentication by the Postal Service." The Presiding Officer stated that the Postal Service could later provide any information contrary to the authenticity of the letters to help the Commission determine the appropriate weight to be given to Mr. Carlson's letters. *Id.*

The Postal Service has determined that two of the three letters are not the initial inquiries to which Postmaster Banks and Plant Manager Miller responded. Witness Needham's rebuttal testimony describes (1) a September 12, 1997 letter to Mr. Carlson from Postmaster Banks (Exhibit USPS-RT-23A), in response to witness Carlson's August 26, 1997 letter; (2) an October 3, 1997 letter from Postmaster Banks (Exhibit USPS-RT-23B), in response to two letters from Mr. Carlson dated September 27, 1997; (3) a November 3, 1997 letter from Postmaster Banks, which included an October 30, 1997 memorandum from Plant Manager Miller, in response to one of Mr. Carlson's September 27, 1997 letters; and (4) a January 21, 1998 letter from Postmaster Banks, in response to Mr. Carlson's January 7, 1998 letter. The Postal Service accepts that the September 27, 1997 letter from Mr. Carlson (DFC/USPS-RT-23-XE-4) is one of the initial inquiries responded to by letters included in witness Needham's rebuttal testimony. However, the October 27 and November 3, 1997 letters are not "initial inquiries", as claimed by Mr. Carlson.<sup>1/</sup> They moreover are not mentioned by witness Needham, nor referred to by the letters in the exhibits to her testimony. The October 27 letter apparently was mentioned in Mr. Carlson's direct testimony (DFC-T-1 at 15, Tr. 23/12811), but Mr. Carlson chose not to sponsor the letter into evidence. The November 3, 1997 letter appears to be Mr. Carlson's *response* to Plant Manager Miller's October 30, 1997 memorandum.

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<sup>1/</sup> Despite the Presiding Officer's ruling that participants are to provide cross-examination exhibits at least 24 hours before the appearance of the witness (Presiding Officer's Ruling No. R97-1/107 at 1), Mr. Carlson did not provide his letters to Postal Service counsel until a few minutes before the beginning of the day's hearings. Since Postal Service counsel was representing the first 3 witnesses of the day, he only glanced at the letters before providing them to witness Needham. Witness Needham only had time to briefly skim the letters because of her interest in the post office box service testimony of witness Kaneer, who preceded her. Tr. 32/17083, 17095. Postal Service counsel therefore was not aware during the hearing that these letters were not the initial inquiries that Mr. Carlson indicated.

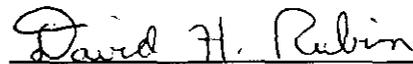
Mr. Carlson's only grounds for moving these letters into evidence was that the initial inquiries were needed to determine whether the response letters are indeed responsive. Chairman Gleiman accepted the letters into evidence in reliance on Mr. Carlson's indication that these letters were the inquiries to which the Postal Service letters responded. Tr. 32/17097. Since the predicate upon which the letters were accepted into evidence was Mr. Carlson's inaccurate representation that the letters are the "initial inquiries", two of the letters (DFC/USPS-RT-23-XE-2 and 3, Tr. 32/17099-102) should be stricken from the record, or accorded no weight by the Commission.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

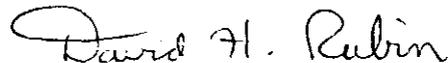
By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Ratemaking

  
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David H. Rubin

#### CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

  
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David H. Rubin

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