

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Postal Rate and Fee Changes, 2006

Docket No. R2006-1

DOUGLAS F. CARLSON
MOTION TO COMPEL THE UNITED STATES POSTAL SERVICE
TO RESPOND TO INTERROGATORY DFC/USPS-77

September 15, 2006

I move to compel the Postal Service to respond to interrogatory DFC/USPS-77. This interrogatory follows up on a line of discovery that began with DBP/USPS-91. In DBP/USPS-91, intervenor David Popkin noted that certain sections of the *Postal Operations Manual* provide specific minimum requirements for collection schedules, while other sections impose general requirements. Mr. Popkin sought to understand whether a local post office could avoid the specific requirements by asserting compliance with the general requirements. Mr. Popkin's interrogatory specifically noted that POM section 322.231 requires a final weekday collection at post offices at 5:00 PM or later. Mr. Popkin asked whether a post office could provide a final weekday collection at a post office at only 4:00 PM by asserting that this collection time met the general requirement of POM section 313(b), which requires collection schedules to be "consistent with the requirements of the local community and timely handling of mail at the processing point."

In compelling the Postal Service to respond to this interrogatory, the presiding officer ruled that the

collection box policy descriptions provided in the POM are relevant to the instant proceeding as far as they are an indication of actual Postal Service policy. This could be relevant to the value of service

related to the collection of mail. Subparts a through d are reasonably calculated to furthering an understanding of the Postal Service's collection box policy. If the POM does not represent actual policy, the Postal Service should explain what the current policy is. The motion to compel is granted with respect to subparts a through d.¹

The Postal Service's response revealed that, "in certain cases," a post office may establish a final weekday collection at the post office prior to 5:00 PM. In response to part (a), the Postal Service provided the example of a post office in a mountain community located "several hours (or more) from the processing plant" — a distance that might prevent processing of the outgoing mail on the same processing day. The response to part (d) indicates that the POM language still represents Postal Service policy.

The response to DBP/USPS-91 identified one understandable situation in which an exception to a specific requirement in the POM would be justified. However, depending on which other types of exceptions are justified, the example may or may not be somewhat extreme. The example does not, for example, explain whether exceptions are justified in urban areas in which distance from the processing plant is not an issue. The presiding officer determined that "actual Postal Service policy" is relevant. I testified that the Postal Service "has steadily eroded collection services in the past 10 to 15 years, not by changing policy but by consistently deviating from it." DFC-T-1 at 50. Understanding the extent to which the Postal Service approves exceptions to stated policies or ignores stated policies is critical to understanding the policy. For example, if the Postal Service ignores a policy 25 percent of the time, the actual policy, for purposes of understanding the value of mail services that rely on collections, will be far different than if the Postal Service observes a policy 99 percent of the time. As I testified, the Postal Service's policy to make collections as late in the day as possible clearly does not apply in Chicago. DFC-T-1 at 46–47. Thus, while this policy may be interesting and inspire nostalgia for the days

¹ POR R2006-1/19 at 4–5, filed July 20, 2006

of better mail service, it does not describe the level of service that the Postal Service provides in Chicago.

On August 2, 2006, I filed interrogatory DFC/USPS-75.² This interrogatory accepted the example of the post office in a mountain location and asked for other examples of conditions that might justify an exception to the specific requirements of the POM. In its response,³ rather than providing some examples, the Postal Service responded that “[i]t is not possible to anticipate or document all possible circumstances (or combinations of circumstances) that could justify an exception.” Of course, the interrogatory did not ask for all possible circumstances. Instead, the interrogatory asked for examples, which subject-matter experts at Postal Service headquarters should have been able to provide.

As my testimony reveals, the Postal Service’s deviations from policy illustrate the true level of collection services that Americans are receiving. If the actual services being provided constitute authorized or sanctioned deviations from policy, the policy, for purposes of postal rate-setting, is not the policy stated in the POM. On the other hand, if these deviations are improper, the Commission should recognize that these problems are subject to correction, either on the Postal Service’s initiative or upon receipt of customer complaints.

² DFC/USPS-75 reads:

Please refer to the response to DBP/USPS-91.

- a. Please confirm that the primary condition described in the response to DBP/USPS-91(b) that might permit POM section 313.1 to take precedence over other requirements in sections 316 to 321 is the distance of the post office from the processing plant or facility. If you do not confirm, please explain.
- b. Please describe conditions other than distance from the processing plant or facility that might permit POM section 313.1 to take precedence over other requirements in POM sections 316 to 321.
- c. When the processing plant or facility is located a normal distance (e.g., a driving time during relevant hours of 90 minutes or less) from the post office, may local postal officials determine that POM section 313.1 takes precedence over other requirements for collection services specified in POM sections 316 to 321? If the answer is not an unqualified no, please explain, and please provide an approximate distance or driving time between the post office and the processing plant or facility that would allow the answer to be an unqualified no.

³ Response of the United States Postal Service to Interrogatory of Douglas Carlson (DFC/USPS-75), filed August 16, 2006.

The Postal Service's response to DFC/USPS-75 reflected a clear attempt to evade the question by pretending that the question asked for a comprehensive list of circumstances that might justify exceptions; in reality, the question simply sought examples. Supported by a presiding officer's ruling authorizing discovery into the actual policy, and faced with the Postal Service's refusal to cite examples other than a post office's mountain location that might justify exceptions, I presented the Postal Service in DFC/USPS-77 with specific examples of apparent inconsistencies with policy and asked for confirmation that these examples are inconsistent with policy or an explanation of why exceptions might be justified. The full text of DFC/USPS-77 appears here:

Please refer to the responses to DBP/USPS-91, DFC/USPS-35, and DFC/USPS-75.

- a. Please confirm that the final weekday collection times listed below for collection boxes at the following stations of the post office in New York, New York, are not consistent with POM sections 321 to 326 and, in particular, section 322. If you do not confirm, please provide the POM sections that may justify an exception and the reasons in support thereof:

Location ID	Station	Street Address	Time
1000200016	Pitt	185 Clinton Street	Noon
1000200081	Knickerbocker	128 E Broadway	Noon
1000900005	Peter Stuyvesant	432 E 14th St	1 PM
1000300036	Cooper	93 4th Ave	1 PM

- b. Please confirm that the final weekday collection times prior to 5:00 PM at all stations of the post office in Bronx, New York, except the Co-op Station at 3300 Conner Street are not consistent with POM sections 321 to 326 and, in particular, section 322. If you do not confirm, please provide the POM sections that may justify an exception and the reasons in support thereof.

Due to time constraints, my testimony identified only a fraction of the apparent inconsistencies with policy that plague Postal Service collection

schedules nationwide.⁴ However, I consider the examples cited in DFC/USPS-77 to be representative of the types of deviations that exist. Understanding whether these deviations represent sanctioned exceptions to policy is critical to understanding the Postal Service's current policy — a topic of discovery that POR R2006-1/19 specifically authorized.

Moreover, I have cited these examples in my testimony as evidence that the Postal Service is not providing the level of collection service that its own national service standards in Chapter 3 of the POM require. DFC-T-1 at 48–49. By citing these examples in my testimony, I have placed these examples squarely at issue in this case. The basic intent and purpose of discovery entitle me to understand *now* whether the Postal Service considers these deviations to be sanctioned exceptions to the apparent policy requiring weekday collections at 5 PM or later at post offices, stations, and branches. I should not be required to wait to be surprised on the witness stand when the Postal Service hands me a memo indicating that the Postal Service officially sanctions these deviations from the national service standards. Moreover, even though I have already filed my testimony, a response to this interrogatory still will be useful as I argue my case on brief.

In sum, the way in which the Postal Service interprets and applies a policy may be just as important as knowing the underlying policy. By focusing on a representative example of manageable scope, interrogatory DFC/USPS-77 is reasonably calculated to lead to the discovery of admissible evidence on the Postal Service's actual collection policy — and, by extension, the value of mail services that use the collection system.

The Postal Service objected on the grounds of relevance, materiality, and burden.⁵ The preceding discussion establishes the relevance and materiality of

⁴ For example, although I did not include the example in my testimony, the Postal Service provides a final collection on weekdays at just 2 PM for the station located in the busy Hartsfield-Jackson Atlanta International Airport. DFC-LR-2, Location ID # 3033700054.

⁵ Objection of the United States Postal Service to Interrogatory of Douglas Carlson (DFC/USPS-77) ("Objection"), filed September 1, 2006.

this interrogatory. The Postal Service's objection on the grounds of burden is baseless. All the collection boxes in question are under the jurisdiction of the New York District. The manager of Operations Programs Support typically is responsible for collection schedules. A single telephone call or e-mail message to this person would put Postal Service headquarters staff well on the way to obtaining information about the rationale behind these collection schedules. Even if the New York District is an aberration and the local postmasters actually are responsible for the collection schedules, all these boxes are under the jurisdiction of just two postmasters. I carefully crafted this interrogatory to minimize the burden in obtaining responsive information.

The Postal Service also asserts that it is not possible to determine the number of boxes in Bronx to which the question relates. I invite the Postal Service to review the Collection Point Management System data that it provided in response to DFC/USPS-35. The data are posted on the Commission's Web site in DFC-LR-2. The Postal Service should filter boxes in Bronx for those with location type equal to "post office outside." All the boxes in question will be identified. This process should take fewer than five minutes.

The Postal Service also suggests that the Commission and participants should worry about the supposed burden in tracking down someone "willing" to respond to a question about why a collection schedule is set as it is. Objection at 2. This suggestion is truly disturbing. As a postal *customer*, I do, indeed worry sometimes about my ability to obtain an explanation of why the Postal Service fails to provide particular service levels. However, the Commission is conducting this hearing in response to the Postal Service's request for a recommended decision to increase postal rates and fees. Participants are legally entitled to this hearing. Neither participants nor the Commission should be concerned with the Postal Service's speculative difficulty in finding someone "willing" to provide information requested through discovery. The Postal Service is responsible for utilizing its chain of command and, as necessary, disciplining employees who do not obey orders from superiors. I am fully confident that the

Postal Service can obtain the necessary answers from its employees. Internal personnel problems should not create the type of burden that would excuse the Postal Service from responding to a lawful discovery request.

For the reasons explained herein, I move to compel the Postal Service to respond to DFC/USPS-77.

Respectfully submitted,

Dated: September 15, 2006

DOUGLAS F. CARLSON