

PRESIDING OFFICER'S  
RULING NO. MC2004-1/3

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

Experimental Periodicals  
Co-Palletization Dropship Discounts  
For High Editorial Publications

Docket No. MC2004-1

PRESIDING OFFICER'S RULING  
ESTABLISHING HEARING DATE AND  
DENYING POSTAL SERVICE REQUEST  
TO SHORTEN DISCOVERY PERIOD

(Issued April 20, 2004)

*Hearing date.* At the March 25, 2004 prehearing conference, a June 14 through 25, 2004 period was established in which to conduct a hearing on the Postal Service's direct case. The Postal Service was directed to inform the Commission of the availability of its witness, witness Taufique, to appear during this time frame. *See also*, POR No. MC2004-1/1 (March 29, 2004). The Postal Service provided notice that its witness would be available June 14-17 and June 21-24, and indicated a preference to conduct the hearing on June 14 or 16.<sup>1</sup>

The hearing on the Postal Service's direct case shall be held on June 16, 2004 at 10:00 a.m. in the Commission's hearing room. This date best accommodates the preferences of the participants and the Commission.

*Discovery period.* On April 5, 2004, the Postal Service filed a motion which requests reconsideration of the May 24, 2004 date for close of discovery on the Postal

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<sup>1</sup> Notice of the United States Postal Service on Witness Availability for Hearings, March 29, 2004.

Service's direct case.<sup>2</sup> The Postal Service contends that the discovery period is exceptionally lengthy, and is not compatible with establishing a schedule that allows for a decision to be issued within 150 days. Also, it asserts that it presented three reasons for its desire to expedite this docket at the prehearing conference — this proposal closes a gap in the current co-palletization experiment, some publishers are eager to use the proposed discounts, and obtaining data from the experiment as soon as possible would allow its incorporation into preparing a future case, such as the omnibus rate case. Thus, the Postal Service requests a reduction in the discovery period.

American Business Media (ABM) filed a response in opposition to the Postal Service's request to shorten the discovery period.<sup>3</sup> ABM alleges that the Postal Service has taken two and one-half years to develop the concept of this experiment into a proposal. It argues that this "leisurely pace" is not consistent with its current desire for expedition. ABM also expresses less than total satisfaction with the completeness of Postal Service responses to interrogatories it has received thus far. Therefore, ABM indicates the need for follow-up interrogatories to ascertain satisfactory responses.

The Postal Service has not presented a convincing case for reducing the time for discovery. Although this proposal potentially could close a gap in the current co-palletization experiment, it is not persuasive for the Postal Service to argue that this proposal requires expedition because publishers are eager to utilize these discounts. It would seem improbable that a typical publisher would not want to utilize the most advantageous rates possible whenever they were offered. Further, the Postal Service has not made a persuasive argument of exigency to collect data for a future case, which could be an indication of the need for expedition.

The May 24, 2004 deadline was selected after consideration of the ABM and Time Warner Inc. written comments that indicate the desire for a substantial discovery period, and an initial indication that this docket possibly could be concluded through

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<sup>2</sup> Request of the United States Postal Service for Reconsideration of Schedule Established for Discovery, April 5, 2004.

<sup>3</sup> Response of American Business Media to Postal Service Request for Reconsideration of Discovery Schedule, April 12, 2004.

discovery without hearing. Nevertheless, a hearing date and a deadline for testimony in opposition also were scheduled to keep the proceeding on track in case this docket could not be completed through discovery alone. The selected deadline also had to consider the March 17, 2004 deadline for intervention, and the scheduling requirements of rules 67-67d. The Postal Service's request is denied.

### Ruling

1. The hearing on the Postal Service's direct case shall be held on June 16, 2004 at 10:00 a.m. in the Commission's hearing room.
2. The Request of the United States Postal Service for Reconsideration of Schedule Established for Discovery, April 5, 2004, is denied.

Dana B. Covington, Sr.  
Presiding Officer