

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

Rate and Service Changes to
Implement Baseline Negotiated
Service Agreement with Bookspan

Docket No. MC2005-3

PRESIDING OFFICER'S RULING
CERTIFYING OFFICE OF THE CONSUMER ADVOCATE MOTION
TO THE COMMISSION

(Issued October 11, 2005)

On September 21, 2005, the Office of the Consumer Advocate (OCA) filed a motion to strike the testimony of witness Yorgey, or alternatively to suspend the procedural schedule.¹ The Postal Service filed a response to this motion on September 29, 2005.²

The issue concerns a discovery dispute in regard to responses to interrogatory OCA/USPS-T2-11 subparts (c), (d) and (e). Interrogatory OCA/USPS-T2-11 requests Postal Service witness Yorgey to elaborate on her experience with International Customized Mail agreements as referred to in her Autobiographical Sketch.³ Presiding Officer's Ruling MC2005-3/6 granted an OCA request to compel a response, finding the interrogatory relevant, consistent with due process, and reasonably calculated to lead to

¹ Office of Consumer Advocate Motion to Have the Presiding Officer Strike the Testimony of Witness Yorgey or, Alternatively, Suspend the Procedural Schedule, September 21, 2005 (Motion to Strike).

² Response of the United States Postal Service to Motion of the Office of the Consumer Advocate to Strike the Testimony of Witness Yorgey or, Alternatively, Suspend the Procedural Schedule, September 29, 2005 (Response).

³ USPS-T2 at ii.

admissible evidence.⁴ OCA contends that witness Yorgey's compelled response fails to answer the questions asked by the interrogatory.

The Motion to Strike requests that the Presiding Officer either strike the testimony of witness Yorgey, or alternatively to suspend the procedural schedule. Granting a motion to strike is reserved for "extraordinary" relief. 39 USC § 3001.21(c). The Commission will grant a stay in the procedural schedule "only if it finds that failure to supply adequate information interferes with the Commission's ability promptly to consider the request and to conduct its proceedings with expedition in accordance with the Act." 39 USC § 3001.194. Granting either form of relief would have a significant effect on the proceeding, and is of such importance that it should be considered by the entire Commission.

Therefore, I certify the Motion to Strike to the entire Commission for its consideration and disposition.⁵

RULING

The Office of Consumer Advocate Motion to Have the Presiding Officer Strike the Testimony of Witness Yorgey or, Alternatively, Suspend the Procedural Schedule, filed September 21, 2005, is certified to the Commission for its consideration and disposition.

George Omas
Presiding Officer

⁴ P.O. Ruling No. MC2005-3/6, September 13, 2005.

⁵ 39 USC § 3001.23(a)(8).