

PRESIDING OFFICER'S
RULING NO. MC2008-1(Phase II)/6

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

Review of Nonpostal Services

Docket No. MC2008-1
(Phase II)

PRESIDING OFFICER'S RULING ENTERING
POSTAL SERVICE TESTIMONY INTO EVIDENCE

(Issued May 18, 2009)

Presiding Officer's Ruling No. 5 canceled the hearing on the Postal Service's direct case in this proceeding.¹ Consequently, that Ruling listed the testimony and materials previously identified by the Postal Service as constituting its direct case and directed the Postal Service to file certifications by April 22, 2009, subject to correction and amendment, attesting to the accuracy of that testimony and other material.² The Response itemized the following corrections and updates to the testimony and materials previously filed by the Postal Service:³

¹ POR No. MC2008-1 (Phase II)/5, Presiding Officer's Ruling Canceling Hearing on Direct Case and Establishing Further Procedures, April 17, 2009 (POR No. 5).

² POR No. 5 also entered as evidence into this record four declarations of Randall E. Hooker of Pinpoint LLC that were identified as supporting the Postal Service's direct case in this Phase II proceeding.

³ United States Postal Service Response to Presiding Officer's Ruling No. 5 Regarding Certification of Materials Comprising Its Direct Case, April 22, 2009 (Response).

1. The Supplemental Statement of Carrie A. Bornitz was revised to remove references to two CDs no longer sold in retail locations and a different CD no longer sold at the Postal Store on USPS.com.⁴
2. The Response to Question 18 of the Presiding Officer's Information Request No. 1 was revised to reflect the fact that the "Postal Service" band CD is no longer sold at the Postal Store.⁵
3. The Initial Response of the United States Postal Service to Order No. 74, filed June 9, 2008 (at 22), was revised to reflect the fact that there are 42 commercial trademark licenses as previously noted at page 4 in the Statement of Gary A. Thuro. Subsequently, the Response was again updated to reflect that there are 40 current commercial licenses rather than 42.⁶
4. The Supplemental Sworn Statement of Gary A. Thuro was consolidated to include his revisions of March 20, 2009, with unrevised pages filed on January 30, 2009.⁷

Signed declarations having been submitted, the following testimony and materials identified by the Postal Service as constituting its direct case will be entered into evidence in this proceeding:

- Statement of Gary A. Thuro, filed November 17, 2008;
- Supplemental Sworn Statement of Gary A. Thuro, filed January 30, 2009, as revised March 20, 2009;
- Statement of Rick L. Osburn, filed January 29, 2009;

⁴ See United States Postal Service Notice of Filing a Revised Page to the Supplemental Statement of Carrie A. Bornitz, April 22, 2009.

⁵ See United States Postal Service Notice of Revision to its Response to Question 18 of Presiding Officer's Information Request No. 1, April 22, 2009.

⁶ United States Postal Service Notice of Filing a Certification of Additional Information Related to the Licensing Program, May 11, 2009, at 1-2.

⁷ See United States Postal Service Notice of Filing a Consolidated Version of the Supplemental Statement of Gary A. Thuro, April 22, 2009.

- Supplemental Statement of Carrie A. Bornitz, filed January 29, 2009, with page 4 revised April 22, 2009;
- Material sponsored by Gary A. Thuro from the Initial Response of the United States Postal Service to Order No. 74 filed June 9, 2008, introductory material on licensing on pages 20-21, text on page 21 regarding “USPS Trademarks Used on Third Party Consumer Goods,” the text on page 22, revised April 22, 2009, regarding “Commercial Trademark Licenses,” and the financial information for commercial licenses on page 23;⁸
- Material (in tabular form) sponsored by Gary A. Thuro from the Attachment to the Response of the United States Postal Service to Order No. 126 Regarding Licensing Agreements filed November 17, 2008 and Errata filed on November 19, 2008, concerning five commercial licenses involving mailing and shipping supplies.⁹

In addition, the Postal Service’s Response to Presiding Officer’s Information Request No. 1, filed April 3, 2009, as amended by the Response, is an institutional response to the information request and will be entered into evidence in this proceeding.

⁸ On May 11, 2009, the Postal Service resubmitted copies of pages 20-23 specifically identifying the portions of material intended as part of its direct case, with portions not part of the direct case lined out, together with Gary A. Thuro’s signed declaration. The material filed May 11, 2009 (page 21, page 22 revised May 11, 2009, and page 23) is entered into evidence. See note 7, *supra*. See also United States Postal Service Response to Presiding Officer’s Ruling No. 4 Regarding Witness Statements and Sponsorship of Additional Material, March 20, 2009, at 2.

⁹ The tabular material relating to mailing and shipping supplies licenses was also resubmitted on May 11, 2009 with portions not part of the direct case lined out. The tabular material filed May 11, 2009, is entered into evidence. *Id.*

RULING

1. The direct case of the Postal Service as identified in the body of this Ruling is entered as evidence into the record of this proceeding.
2. The Postal Service's Response to the Presiding Officer's Information Request No. 1, as amended, is entered as evidence into the record of this proceeding.

Dan G. Blair
Presiding Officer