

PRESIDING OFFICER'S
RULING NO. N2009-1/11

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

Station and Branch Optimization and
Consolidation Initiative, 2009

Docket No. N2009-1

PRESIDING OFFICER'S RULING
GRANTING, IN PART, MOTION TO EXTEND SCHEDULE
AND ESTABLISHING PROCEDURAL SCHEDULE

(Issued October 9, 2009)

On October 2, 2009, The American Postal Workers Union, AFL-CIO (APWU) filed a motion requesting that it be provided an additional two weeks for filing rebuttal testimony.¹ This would move the deadline for filing rebuttal testimony from October 14, 2009 to October 28, 2009. In a subsequent motion, the Association of U.S. Postal Lessors, Inc. requests that it be allowed to join the APWU Motion.²

APWU identifies seven areas of interest for possible rebuttal testimony. It contends that many of these areas only recently came to light in the hearing and in recently filed library references. APWU acknowledges the tension between the Commission providing timely, useful advice to the Postal Service versus the need to provide participants with due process. However, it contends that without an extension, it will not be afforded appropriate due process.

¹ Motion of American Postal Workers Union, AFL-CIO, to Extend Deadline for Filing Rebuttal Testimony, October 2, 2009 (Motion).

² Motion to Join With APWU to Extend the Deadline Date for Filing Affirmative Rebuttal Testimony, October 7, 2009.

The Postal Service filed a reply disputing APWU's contention that most areas identified by APWU for possible rebuttal testimony only recently came to light.³ With the exception of the first area identified by APWU, "the inconsistencies and problems with the current studies (e.g. notices provided, or not, as the case may be; problems obtaining community input)", the Postal Service contends that all other areas are readily discernable from testimony and discovery responses. Thus, it opposes an extension of time concerning these six areas.

The Postal Service recognizes its difficulties in complying with discovery deadlines and does not oppose providing some relief in the area of the inconsistencies and problems with the current studies as identified by APWU. It suggests an October 21, 2009 date for APWU to file supplemental or separately designated rebuttal testimony limited to this topic.

Analysis. The Commission is committed to providing the Postal Service with timely advice on this topic of national importance. The Postal Service argues persuasively that most issues that might be addressed on rebuttal have been readily apparent for some time. At the same time, due process considerations must be considered in light of the timing of responses to discovery requests provided by the Postal Service. On balance, some scheduling relief is appropriate.

The Postal Service's suggestion that separate dates be established for the filing of rebuttal testimony appears likely to cause more problems than it solves. It may be administratively burdensome, and has the potential to inhibit the development of cohesive and informative rebuttal testimony.

A one week extension shall be granted, until October 21, 2008, for the filing of all rebuttal testimony.

This Ruling provides an opportune time for scheduling the remainder of this proceeding. Along with providing the date for filing rebuttal testimony, dates are provided for: concluding discovery directed towards rebuttal testimony; notice

³ Reply of the United States Postal Service to the Motion of the American Postal Workers Union to Extend the Deadline for the Filing of Rebuttal Testimony, October 8, 2009.

requesting oral cross-examination; the hearing to enter rebuttal testimony; notice of intent to file surrebuttal testimony; the filing of surrebuttal testimony (if any); the hearing to enter surrebuttal testimony (if any); briefs; and reply briefs. If no participant requests cross-examination of a rebuttal witness, the hearing to enter this testimony may be canceled, and testimony may be entered by motion and the filing of the appropriate affidavits. Alternative dates are provided for briefs and reply briefs in the event that there is no request to file surrebuttal testimony. The schedule for the remainder of this proceeding follows the signature of this Ruling.

RULING

1. The Motion of American Postal Workers Union, AFL-CIO, to Extend Deadline for Filing Rebuttal Testimony, filed September 2, 2009, is granted, in part, consistent with the body of this Ruling.
2. The Motion to Join With APWU to Extend the Deadline Date for Filing Affirmative Rebuttal Testimony, filed October 7, 2009, is granted.
3. The schedule for the remainder of this proceeding follows the signature of this Ruling.

Ruth Y. Goldway
Presiding Officer

**Procedural Schedule for Docket No. N2009-1
(October 9, 2009)**

Filing of rebuttal testimony	October 21, 2009
Conclusion of discovery directed towards rebuttal testimony	November 4, 2009
Notice indicating intent to conduct oral cross-examination	November 16, 2009
Hearing to enter rebuttal testimony into the record (10:00 AM in the Commission's hearing room)	November 18, 2009
Notice of intent to file surrebuttal testimony	November 19, 2009
Filing of surrebuttal testimony (if requested)	November 27, 2009
Filing of briefs	
If no surrebuttal testimony filed	December 2, 2009
If surrebuttal testimony filed	December 10, 2009
Hearing to enter surrebuttal testimony into the record (10:00 AM in the Commission's hearing room, if necessary)	December 3, 2009
Filing of reply briefs	
If no surrebuttal testimony filed	December 16, 2009
If surrebuttal testimony filed	December 23, 2009