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BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Docket No. MC96-3

SPECIAL SERVICES FEES AND CLASSIFICATIONS, 1996)

NASHUA PHOTO INC., MYSTIC COLOR LAB, AND SEATTLE FILMWORKS INC.
MOTION FOR LEAVE TO FILE REPLY AND REPLY
TO POSTAL SERVICE'S OPPOSITION TO MOTION FOR EXPEDITED RESPONSE
AND RULING ON PENDING MOTION TO ENLARGE THE TIME WITHIN WHICH
DIRECT TESTIMONY MUST BE FILED
(September 19, 1996)

Nashua Photo Inc. ("Nashua"), Mystic Color Lab ("Mystic"), and Seattle FilmWorks, Inc. ("Seattle"), also referred to jointly herein as the "movants," pursuant to Rule 21 of the Commission's Rules of Practice , 39 C.F.R. sec. 3001.21, respectfully seek leave to submit this Reply to the Postal Service's opposition to the motion filed by these movants for an expedited response and ruling on the movants' other pending motion (to enlarge the time within which they must submit direct testimony in this proceeding). In view of the very narrow time frame in issue, and the Postal Service's continued opposition to the movants' motion for an extension of time, this Reply was considered important.

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The Postal Service's opposition to the motion for an expedited ruling is a tactic designed to deprive the movants of the modest relief they seek. That opposition is based only upon the Postal Service's "right" to respond to certain discovery on or before Monday, September 23, 1996. In other words, the Postal Service refuses to expedite its opposition to the motion for extension of time because it wants to base its opposition on documents it has the "right" to file on September 23. The Postal Service apparently feels that the fact that it has this right to file responses as late as September 23 — it apparently intends to wait until the very last possible day to file the discovery responses — coupled with its alleged intent to

somehow use those responses to explain its opposition to the movants' request for an extension of time, is all the explanation needed for its current stance.

According to the Postal Service, the Commission would have perhaps a day — September 24 — to digest the Postal Service opposition and rule on the pending motions. Since direct testimony is due to be filed on September 25, this would give the movants virtually no time, if the Commission should deny their motion, to evaluate the Postal Service responses and to finalize their direct testimony.

This kind of thinking and action by the Postal Service in this matter goes to the very heart of the movants' request for an extension of time. It is precisely because the Postal Service continued to resist the expansion of this docket and delayed its discovery responses that without an extension the movants will not have a reasonable amount of time to finalize their very important direct testimony in this proceeding.

The Postal Service's opposition seems inappropriate, particularly in light of the dilatory, or even obstructive, manner in which the Postal Service has proceeded with respect to the movants' efforts to expand the docket and to take discovery. The movants' request for an extension of time to submit their direct testimony, under the circumstances of this case — where many of the Postal Service's responses to the movants' discovery are not even due until two days prior to the due date for all direct testimony — seems very reasonable. Most parties would not even contest it, and would rely upon the Commission to decide the matter in its discretion. The motion for an expedited ruling itself, moreover, seems not only reasonable, but critically necessary in the current circumstances. In other words, even if the Postal Service intends to oppose the motion for extension of time, it should have been able to

at least articulate the reasons for its opposition on an expedited basis in view of the deadlines in this docket. The Postal Service's opposition on an issue such as this, without even considering ordinary litigation courtesy, goes too far.

Whatever the Postal Service has to say about the requested extension of time to file direct testimony could be said now; there is no truly valid reason to wait any longer. This is a simple issue, and one which in most matters could be quickly and easily resolved. The Postal Service's opposition gives the impression of having been concocted in an effort to obfuscate the real reason for its refusal to accede on even this simple matter: a continued effort to resist with every fiber the Commission's consideration of movants' proposal for a modification with respect to business reply mail, and to make it as difficult as possible for the movants to proceed.

Even in circumstances where blame for delay could not be ascribed to the Postal Service, the movants' request for additional time (and for an expedited decision on that request) because of missing information would be reasonable. Here, where the Postal Service itself is the cause of the delay, the Postal Service's advancement of a weak claim in opposition to the movant's request should be lightly regarded, at most.

The issue of the Postal Service's dilatory actions aside, the movants respectfully submit that the relief they seek is reasonable, would prejudice no party to this proceeding, and would not cause a disruption in the hearing schedule that has been established. For these reasons, the motion for an expedited ruling should be granted, and the movants' motion to extend the time for submitting direct testimony any matter in this proceeding should be granted as well.

Obviously, there is little time, but a ruling by Friday, September 20, would give the movants some at least some notice about whether they will have an extension of time to finalize their direct testimony in this matter. This Reply is being filed as soon as possible on the morning of September 19, in the hope that the Commission can still rule on the underlying motion for extension of time by the end of the week (September 20).

Respectfully submitted,

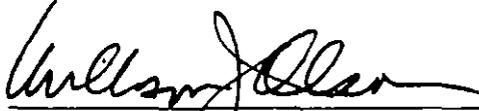


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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.


William J. Olson

September 19, 1996