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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 REFORM, 1996

STATEMENT OF UNITED STATES POSTAL SERVICE CONCERNING MAJOR MAILERS ASSOCIATION'S AND OFFICE OF THE CONSUMER ADVOCATE'S MOTIONS FOR EXTENSION OF TIME TO FILE TESTIMONY (September 25, 1996)

The United States Postal Service hereby responds to the Major Mailers Association's ("MMA") and the Office of the Consumer Advocate's ("OCA") motions for extension of time to file testimony.¹ The Postal Service, with pronounced misgivings, does not oppose MMA's motion.² However, this lack of opposition is subject to the three conditions outlined below.

First, the Postal Service requests that the Commission only grant the MMA motion for extension if the Commission is able to reasonably conclude that granting the extension will not cause a corresponding delay in issuance of its recommended decision. MMA states that "the limited extension MMA is requesting will not jeopardize the Commission's ability to issue a recommended

¹ Major Mailers Associations's Motion for Limited Extension of Time to File Testimony and Request for Shortened Answering Period, September 24, 1996 ("MMA Motion"); Office of the Consumer Advocate Answer in Support of MMA Motion for Extension of Time, September 24, 1996 ("OCA Answer"). Although the OCA's pleading is styled as an answer in support of MMA's requested extension, it is, in fact, a motion for extension of time for all participants to file testimony.

² The Postal Service opposes the OCA's motion that all parties be granted the same extension, for reasons discussed below.

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decision in a timely fashion." *MMA Motion at 2, para. 5*. This is a determination for the Commission to make, not MMA.³

Second, the Postal Service requests that the Commission only grant the MMA motion if it denies the OCA's motion that "all participants receive the same extension." *OCA Answer at 1*. Given the filing of the MMA Motion and OCA Answer the day before the deadline for submitting participant testimony, participants other than MMA and OCA likely are not even aware of this turn of events. The only probable participant thus benefitting from the granting of the OCA's requested extension is, not surprisingly, the OCA. Moreover, the OCA's discovery directed to the Postal Service and its witnesses, and its oral cross-examination of witnesses, strongly suggest that the OCA is likely to take substantive positions against the Postal Service's proposals.⁴ Accordingly, it would be extremely unfair for the OCA to benefit from this "windfall" extension of time, especially where it has failed to posit either a reason why it needs an extension, or a connection between MMA's grounds for extension and its own planned testimony.

³ MMA has offered no explanation to justify its conclusion, nor is there a clear understanding of what it means by "timely fashion." In addition, MMA has not indicated why the time between the issuance of Order No. 1134 and the original filing date was not sufficient to permit timely filing, or detailed the nature of the testimony. If it consists of a relatively simplistic analysis that truly will not cause delay, extension might not be justified. In this connection, the Postal Service notes its fundamental disagreement with the basic findings in Order No. 1134 regarding delay, and notes that the Order fails to make and justify the specific day-for-day finding required by the statute.

⁴ MMA states that its testimony "addresses the importance of having reliable information showing the consequences of using Commission-approved cost attribution methodologies...." *MMA Motion at 2, para. 4*. It thus seems that MMA's testimony does not consist of substantive opposition to the Postal Service's proposals.

Third, the Postal Service requests that the Commission only grant the MMA motion if it also grants a commensurate extension of the deadline for completion of discovery against MMA, if the Postal Service requests the extra time.⁵ The Postal Service does not now make that request, but will do so, if warranted, at a later date.

As stated, the Postal Service does not oppose MMA's requested extension, subject to the above three conditions. If, however, the Commission does not concur with the conditions, especially if it intends to grant the OCA's requested extension of time, then the Postal Service opposes MMA's extension as well. Moreover, if the Commission grants the OCA's requested extension, then the Postal Service now requests that the deadline for completion of discovery against all intervenors and the OCA be extended accordingly. *See page 3, n.5, supra.*

Finally, the Postal Service, though not opposing the MMA extension as explained above, still has serious misgivings. MMA's abbreviated description of the content of its testimony (*MMA Motion, at 2, para. 3*), raises grave doubts about the relevance of its testimony to the Postal Service's circumscribed proposals in this docket. It seems as if MMA's testimony will be more in the nature of a legal pleading suited perhaps for a procedural rulemaking, rather than testimony suitable for a proceeding under 39 U.S.C. § 3623. Further, MMA's motion does not address the critical question of sponsorship of the recently-filed Commission Library References, which MMA apparently intends to incorporate in its testimony. *See MMA Motion, at 2, para. 4.* It is unclear whether MMA will respond to discovery or be subject to oral cross-examination on the Commission's

⁵ This would extend the October 25, 1996 deadline by three business days until October 30, 1996.

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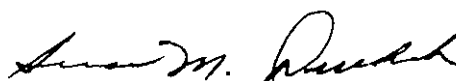
work, or how challenges, uncertainties, or errors in this material will be addressed, clarified, and rectified on the record.⁶ Nonetheless, the Postal Service will take appropriate action to resolve these issues after analysis of MMA's testimony.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

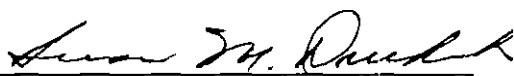
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CERTIFICATE OF SERVICE

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.


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⁶ In this regard, the Postal Service again emphasizes its fundamental agreement with the court's conclusion in *Mail Order Association of America v. United States Postal Service*, 2 F.3d 408 (D.C. Cir. 1993), regarding the responsibilities of sponsors of methodological costing approaches, including the Commission, to support them on the record, and its opposition to the Commission's interpretation of that conclusion. Further, it should be noted that library references are not considered to be evidence under the Commission's rules.