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PRESIDING OFFICER'S  
RULING NO. MC2000-2/3  
POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

Mailing Online Experiment

Docket No. MC2000-2

PRESIDING OFFICER'S RULING  
ESTABLISHING THE PROCEDURAL SCHEDULE  
AND LIMITATION OF ISSUES

(December 21, 1999)

*Procedural Schedule.* The Commission and the Postal Service proposed two similar procedural schedules at the December 13, 1999, pre-hearing conference. The difference between the proposed schedules that affected all of the schedule dates is the date for the start of hearings for cross-examination of the Postal Service's case-in-chief. The Commission proposed a hearing start date of January 11, 2000. This date allowed for adequate time between the different schedule components and allowed for adequate time at the end of the schedule for the Commission to write the decision. The Postal Service proposed hearings for cross-examination of the Postal Service's case-in-chief to begin on January 18, 2000. The one-week difference in schedules was based on a concern that the Postal Service may be preparing and filing another case the week of January 10, 2000. The Postal Service schedule slightly reduced the time that the Commission has to write the decision and it also compressed the other intermediate deadlines in the schedule.

January 12, 2000 shall be the start date of the hearings for cross-examination of the Postal Service's case-in-chief. The earlier start date was chosen to allow for adequate time between the different procedural steps, provide the commission with adequate time to write the decision, and meet the rule 67, 150 day expedited schedule requested by the Postal Service. After the start date has been fixed, the differences between the Commission's and the Postal Service's proposed schedules were minor. The resulting procedural schedule for evaluating the proposed Mailing Online experiment is set out in Attachment A to this ruling.

*Discovery on the Postal Service direct case will end on December 29, 1999.* Participants are to file a notice of intent specifying each Postal Service witness that is expected to require oral cross-examination by January 7, 2000. Hearings for cross-examination of the Postal Service's case-in-chief will take place on January 12-13, 2000. The Postal Service shall have witnesses Garvey, Poellnitz, and Lim available (in the order specified) for oral cross-examination starting on January 12, 2000. The Postal Service shall have witnesses Takis and Plunkett available (in the order specified) for oral cross-examination starting on January 13, 2000.

Filing of each participant's case-in-chief, including rebuttal to the Postal Service will be due on January 26, 2000. Discovery on the participants' cases shall end on February 10, 2000. At the pre-hearing conference, the Postal Service voiced concern that the 14 days allowed for discovery in the Commission's proposed schedule may be inadequate and that the Postal Service's proposed schedule was able to find 18 days. The Commission has added one day, allowing 15 days for discovery. The addition of

any more time may adversely impact the 150 day decision deadline without a benefit to the due process rights of any party. Hearings for cross-examination of the participants' case-in-chief will take place on February 24-25, 2000.

Filing of rebuttal to the participants' cases, if necessary, shall be due on noon, March 3, 2000. March 3<sup>rd</sup> falls on a Friday. At the pre-hearing conference, the Postal Service reasonably requested a noon deadline to assure that it could receive the testimony prior to the start of the weekend due to the short time period prior to the hearing on the rebuttal cases. The hearing for the cross-examination on the rebuttal cases shall be on March 8, 2000.

The filing of initial briefs shall be due on March 15, 2000 and the filing of reply briefs shall be due on March 22, 2000. Both dates for filing of briefs will be advanced if there is no rebuttal to the participant cases.

This schedule is consistent with the Commission deadline of April 14, 2000 for issuing a decision on the Mailing Online experiment. Revisions to the schedule will be made as necessary.

*Limitation of Issues.* Order No. 1272 established a deadline of December 16, 1999, for filing statements of issues that the participants perceive to be involved in the case in conformance with § 67a(b) of the Rules of Practice. The statements of issues are reviewed to identify genuine issues of material fact and to determine if it is possible to limit the scope of trial-type hearings.

The Pitney Bowes Inc. Statement of Issues was filed on December 16, 1999. Pitney Bowes raises two issues that it would like to litigate in this case: (1) whether

competitors will be entitled to the same exemptions (as to minimum volume) that are extended to the Postal Service during the Mailing Online experiment, and (2) how should offerings that are competitive with Mailing Online be defined.

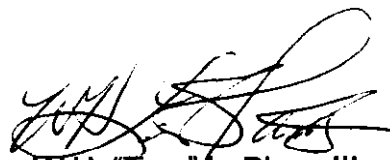
The Office of the Consumer Advocate Statement of Issues pursuant to Rule 67a(b) was filed on December 16, 1999. The OCA raises a broad spectrum of issues in this case. Generally, the issues involve the Postal Service volume estimates, the postage rate discrimination issue similar to both Pitney Bowes issues, advertising costs, information technology fees, cost coverage, and revenue projections. The OCA intends to address some of the issues through written discovery prior to the start of hearings.

The Presiding Officer's Information Request No. 1, issued December 16, 1999, raises two additional issues. The issues concern (1) the definition of attributable costs, and (2) the definition of the duration of the experiment proposed in the DMCS.

At this time, the possible issues to be heard are broad and not well defined. Thus is not possible, in this ruling, to limit the issues to be presented in the hearing. The participants are encouraged to continue attempts, such as in the settlement conference held December 20, 1999, to narrow the issues and streamline the procedure to bring this proceeding to a rapid conclusion.

**RULING**

1. The procedural schedule for consideration of the Postal Service Request for authority to conduct a Mailing Online experiment is set out as Attachment A.
2. The Postal Service shall have witnesses Garvey, Poellnitz, and Lim available for oral cross-examination starting on January 12, 2000. The Postal Service shall have witnesses Takis and Plunkett available for oral cross-examination starting on January 13, 2000.



W.H. "Trey" LeBlanc III  
Presiding Officer

HEARING SCHEDULE  
MAILING ONLINE EXPERIMENT  
Docket No. MC2000-2

December 29, 1999	Complete discovery on direct case of Postal Service
January 7, 2000	Participant's indicate expectation of oral cross-examination of Postal Service witnesses.
January 12-13, 2000	Hearings for cross-examination of the Postal Service's case-in-chief
January 26, 2000	Filing of case-in-chief of each participant, including rebuttal to the Postal Service
February 10, 2000	Complete discovery on participants' cases
February 24-25, 2000	Hearings for cross-examination of participants' cases
March 3, 2000 (noon)	Filing of rebuttal to participants' cases (if necessary)
March 8, 2000	Hearings for cross-examination of rebuttal cases
March 15, 2000*	Filing of initial briefs
March 22, 2000*	Filing of reply briefs

\*Dates will be advanced if no rebuttal to participant cases