

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

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Docket No. R2000-1

**MOTION OF MAGAZINE PUBLISHERS OF AMERICA, INC.
FOR THE RESCHEDULING OF USPS WITNESSES
BARON (USPS-T-12) AND RAYMOND (USPS-T-13)
AND FOR A DELAY IN FILING REBUTTAL TESTIMONY**

(APRIL 25, 2000)

Pursuant to the Commission's Rules of Practice, Magazine Publishers of America (MPA) hereby moves for an order rescheduling the appearances of USPS witnesses Baron (USPS-T12) and Raymond (USPS-T13) and the date for filing rebuttal testimony to these witnesses. Witnesses Raymond and Baron are currently scheduled to appear on Tuesday, May 2, 2000. P.O. Ruling R2000-1/19. MPA requests that their appearances and that the date for filing rebuttal testimony related to their testimony (currently due on May 22, 2000, see P.O. Ruling R2000-1/4) each be delayed by one week.

MPA previously has indicated that it may object both to the introduction into evidence of data collected for the Engineered

Standards/Delivery Redesign (ES) project referenced in the testimony of witness Raymond (USPS-T-13 at 3) and to all testimony offered by witnesses Raymond and Baron relating to the ES project. See Magazine Publishers of America, Inc. Notice of Intention to Object to the Introduction of Evidence, filed April 18, 2000 ("Notice"). That Notice referred to numerous outstanding and propounded to witness Raymond, including:

<u>Interrogatories</u>	<u>Date Filed</u>	<u>Days Overdue</u>
ADVO/USPS-T13-24-37, 39, 41-59	March 15	27
ADVO/USPS-T13-60-73	March 16	26
ADVO/USPS-T13-101-110	March 23	20
ADVO/USPS-T13-111-136	March 30	14
MPA/USPS-T13-110,111,117, 119, 121, 123-124, 126-127	March 30	14

Id. at 2. To date, all of these interrogatories remain unanswered.

MPA's Notice also referred to a 46-page response to P.O. Information Request No. 8, which was not filed until April 17 – just one week ago.

Additionally, on April 24, MPA filed follow-up interrogatories to witness Raymond in response to POIR 8; and, concurrent with the filing of this Motion, MPA is filing a detailed library reference regarding those interrogatories.

Witness Raymond's responses to these and the other outstanding interrogatories noted above most likely will not be available in time (if at all) to permit MPA and other parties to prepare for oral cross-examination of witnesses Raymond and Baron by May 2. As a result, unless a delay is ordered, MPA and other intervenors will be substantively – and substantially – impaired in their ability to prepare thoroughly for cross-examination of these witnesses, to the detriment of their due process rights.

If the testimony of witnesses Baron and Raymond were to be delayed as requested, MPA believes it also would be appropriate to extend by one week the time for filing of rebuttal testimony related to the Baron and Raymond testimony. The 10-month statutory time limit for this case already requires extraordinary expedition, and permits, under the existing procedural schedule, just 20 days following the scheduled appearances of these witnesses for participants to prepare rebuttal testimony. If the appearances of these witnesses are delayed by one week but rebuttal testimony remains due May 22, the time for preparation would be reduced to just 13 calendar days -- and the testimony offered by witnesses Baron and Raymond is complex, and of considerable significance to many intervenors in this proceeding.

The state of the record at this point and the volumes of outstanding and unanswered discovery requests directed to witness Raymond make

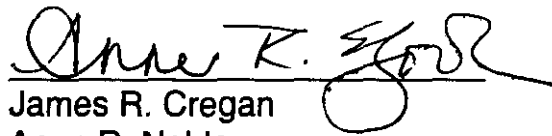
preparation for cross-examination of this witness and witness Baron by May 2 problematic, at best. Among the most important of the Commission's mandates during a rate proceeding is "to conduct its proceedings with procedural fairness to the parties" 39 U.S.C. 3624(b). Thus, "[h]earing rights include the right to test evidence . . . and discovery rights extend to that which is reasonably calculated to test evidence." Docket No. R94-1, PRC Order No. 1025 (August 17, 1994) at 5-6. MPA believes that its right to test evidence presented by witnesses Baron and Raymond will be impaired if a delay in the appearances of these witnesses and of the date for the filing of its rebuttal testimony is not granted.

Counsel for the Postal Service has been notified of MPA's decision to make this request.

CONCLUSION

Accordingly, MPA respectfully moves for a one-week postponement of the scheduled appearances of witnesses Raymond and Baron, from May 2 to May 9, and of the date for the filing of its rebuttal to the testimony of witnesses Raymond and Baron, from May 22 to May 29.

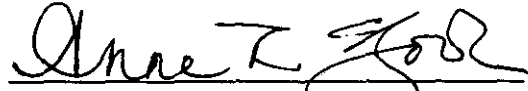
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with the Commission's Rules of Practice.


Anne R. Noble

Washington DC
April 25, 2000