

RECEIVED

APR 27 2 53 PM '00

PRESIDING OFFICER'S
RULING NO. R2000-1/54

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

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

Postal Rate and Fee Changes

Docket No. R2000-1

PRESIDING OFFICER RULING RESCHEDULING THE APPEARANCE
OF POSTAL SERVICE WITNESSES BARON AND RAYMOND

(Issued April 27, 2000)

Postal Service witnesses Baron and Raymond currently are scheduled for oral cross-examination on May 2, 2000. Rebuttal to their testimony is currently due on May 22, 2000. On April 26, 2000, the Magazine Publishers of America, Inc. (MPA) filed a motion to delay their appearances by one week, and to extend the time for filing rebuttal to their testimony, also by one week. ADVO, Inc. supports the MPA motion.¹

The ES project, which witness Raymond directed, collected large amounts of data on city delivery carrier street activities for the purpose of developing approved methods and time standards for those activities. MPA observes that the validity of the use of data collected by the ES project to estimate attributable street-time costs is a complex issue. It argues that the failure of witness Raymond to respond in a timely fashion to a long list of interrogatories designed to test that validity makes it unable to prepare adequately to cross examine these witnesses on May 2, 2000.² MPA includes

¹ Motion of Magazine Publishers of America, Inc. for the Rescheduling of USPS Witnesses Baron (USPS-T12) and Raymond (USPS-T13) and for a Delay in filing Rebuttal Testimony, filed April 25, 2000 (motion); Response of ADVO, Inc. in Support of Motion of Magazine Publishers of America, Inc. for the Rescheduling of USPS Witnesses Baron and Raymond and Delay in Filing Testimony, filed April 25, 2000,

² Motion at 2. MPA had previously indicated that it may object to the introduction into evidence of those portions of the testimony of witnesses Baron and Raymond that rely on data collected for the

a recently filed set of follow-up interrogatories responding to POIR No. 8 in the list of interrogatory answers it says it needs to adequately cross-examine witness Raymond.³ MPA argues that it is unlikely to receive answers to these interrogatories in time to prepare effective cross-examination of these witnesses. As a result, it concludes, its due process rights to test and rebut cost estimates that rely on data collected by the ES project are at risk. Motion at 3-4.

The Postal Service does not oppose the MPA motion. Because of the large number of interrogatories directed to witness Raymond, it observes, it has not been able to provide timely responses to many of them, and that many are still outstanding. It requests that if the requested delays are granted, that it be given additional time to conduct discovery on any evidence filed in rebuttal of Postal Service testimony that is based on data collected by the ES project.⁴

The state of the record warrants the relief requested by MPA and ADVO, Inc. As the Postal Service concedes, its decision to make ES project data the basis of its estimates of attributable city-delivery carrier street-time costs was a belated one. As a result, the massive ES database was not fully catalogued until well into the discovery period, delaying the ability of the Postal Service to adequately describe it, and the ability of the participants to formulate focused discovery. See P.O. Ruling No. R2000-1/27 at 5, P. O. Ruling No. R2000-1/35 at 2. The Presiding Officer has directed that indices be prepared, technical conferences be conducted, and an Information Request be answered in an effort to flesh out the record concerning the foundation of witness Raymond's testimony.

Engineered Standards/Delivery Redesign (ES) project, in part, because of the Postal Service's failure to provide timely responses to many of the same interrogatories. Magazine Publishers of America, Inc. Notice of Intention to Object to the Introduction of Evidence, filed April 18, 2000.

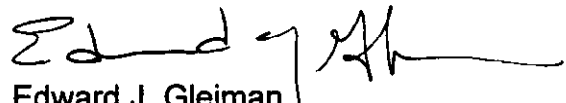
³ Revisions to Fourth Set of Interrogatories (Follow Up) of Magazine Publishers of America, Inc. to USPS witness Raymond Pursuant to Presiding Officer's Ruling No. R2000-1/35 (MPA/UPS-T13-112-116, 118, 120, 123, 125) – Second Errata, filed April 24, 2000.

⁴ Response of United States Postal Service to MPA Motion to Reschedule the Appearances of Witnesses Baron and Raymond and for a Delay in Filing Rebuttal Testimony, filed April 27, 2000.

Whether it is valid to base attributable street-time costs on ES data is a novel and complex issue. It appears that a large number of interrogatories essential to resolving this issue are unlikely to be answered in time for the scheduled appearances of witnesses Baron and Raymond. Preserving the due process rights of MPA and other interested parties requires that the appearance of these witnesses be delayed and the due date for rebuttal be extended. Accordingly, the appearances of witnesses Baron and Raymond for oral cross-examination will be rescheduled for May 9, 2000, and the due date for rebuttal of the portions of their testimony that rely on data collected by the ES project be will extended to May 30, 2000. The amount of additional time needed to conduct discovery on such rebuttal testimony will be determined later.

RULING

1. The Motion of Magazine Publishers of America, Inc. for the Rescheduling of USPS Witnesses Baron (USPS-T12) and Raymond (USPS-T-3) and for a Delay in Filing Rebuttal Testimony, filed April 25, 2000, is granted.
2. The appearance of Postal Service witnesses Baron and Raymond for oral cross-examination is rescheduled for May 9, 2000.
3. The due date for rebuttal evidence to those portions of the testimony of witnesses Baron and Raymond that rely on data collected by the ES project is extended to May 30, 2000.


Edward J. Gleiman
Presiding Officer