

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

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2001)

Docket No. R2001-1

VAL-PAK DIRECT MARKETING SYSTEMS, INC.
AND VAL-PAK DEALERS' ASSOCIATION, INC.
COMMENTS ON PROPOSED PROCEDURAL SCHEDULE
(October 24, 2001)

Val-Pak Direct Marketing Systems, Inc. and Val-Pak Dealers' Association, Inc. offer the following comments regarding the procedural schedule proposed in Presiding Officer's Ruling No. R2001-1/1, issued September 27, 2001.

Although reasonable, the procedural schedule proposed in Presiding Officer's Ruling No. R2001-1/1 would be challenging to the parties insofar as it would shorten certain portions of the regular time frame for omnibus rate cases. For example, it would cut important days from the already short period between conclusion of hearings on the Postal Service's direct case and the due date for filing of cases-in-chief by participants other than the Postal Service compared with the procedural schedule in Docket No. R2000-1.¹ This would also make it more difficult to include complete references to the transcript, especially for institutional responses of the Postal Service.

Nevertheless, the proposed schedule appears to go as far as the Commission could to expedite the case despite the Postal Service's rather unreasonable request for expedition.²

¹ Presiding Officer's Ruling No. R2000-1/4, Establishing the Procedural Schedule, February 25, 2000.

² United States Postal Service Request for Expedition, Docket No. R2001-1, September 24, 2001.

These intervenors oppose any contraction in the procedural schedule proposed in Presiding Officer's Ruling No. R2001-1/1, such as has been requested recently by the Postal Service.³ Intervenor other than the Postal Service who do not decide when a rate case is filed must have reasonable amounts of time for discovery and oral cross-examination on the Postal Service's direct case, preparation of their cases-in-chief, and preparation of initial and reply briefs, in view of the scope and complexity of the Postal Service's Request for a Recommended Decision in this docket and in accordance with 39 U.S.C. section 3624(b). For example, in this case, the Postal Service again proposed its own definition of attributable costs relying on volume variability instead of adopting the Commission's treatment of attributable costs. Each time the Postal Service's position has previously been advanced on this issue, its consideration was highly contentious, consuming discovery and hearing time, and invariably producing the same result. Further, the Postal Service has again sought to make significant reductions in the ECR pound rate, while rejecting the Commission's guidance in its last two Opinion and Recommended Decisions. This again will require significant litigation efforts on the part of intervenors to rebut. Advancing these time-consuming positions seems at odds with the Postal Service's push for expedition in this case.

The Postal Service alone determined the date of the filing of its Request for a Recommended Decision to be September 24, 2001. Rather than advocating curtailment of the

³ Comments of the United States Postal Service and Proposed Alternative Procedural Schedule, Docket No. R2001-1, October 22, 2001.

necessary time for litigating and considering an important rate case, the Service could simply have filed the case at an earlier date.⁴

Other than calling for at least a “one-month advance,” the Postal Service did not provide any details regarding a suggested schedule for the case in the Request for Expedition which was filed along with its Request for a Recommended Decision on September 24, 2001. Almost a month later, the Postal Service has now filed a completely revised alternative procedural schedule on October 22, 2001, two days prior to the close of the comment period established in Presiding Officer’s Ruling No. R2001-1/1. The most significant reductions proposed by the Postal Service appear to reduce the intervenors’ discovery of the Postal Service’s case.

The Postal Service appears to have advanced only two reasons for expedition of this docket, which are set forth in its Request for Expedition at page 2: (i) “accelerating the Commission’s Recommended Decision would help avoid disadvantages associated with certain implementation options and give the Board more practical flexibility in setting the effective date for the changes”; and (ii) “[a]n early Recommended Decision would also facilitate an orderly transition to the new rates and classifications, especially if the Postal Service were not forced to sacrifice implementation time in order to avoid losing revenue.” Without trying to parse the exact meaning of these two reasons, it appears obvious that an earlier Recommended Decision would allow the Postal Service to implement new rate and classification changes earlier than a later Recommended Decision. However, this gets one back to the question of

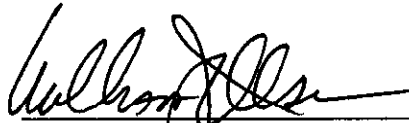
⁴ At the open meeting of the Board on April 3, 2001, for example, Governor Ernesta Ballard, while presenting the Audit and Finance Committee report as chairperson, made reference to “the rate case to be filed in July.”

why the Postal Service did not file the present case at an earlier date in July or August or earlier in September.

The Postal Service's Request for Expedition states at pages 2-3, "two months is commonly regarded as the bare minimum time needed to prepare for global replacement of postal rate schedules, as well as the introduction of significant classification changes." This may be commonly believed, but the Postal Service does not appear to act on this belief. The Postal Service implemented the rates and classification changes in Docket No. R2000-1 on January 7, 2001, which was less than two months from November 13, 2000, the date that the Commission issued its Opinion and Recommended Decision. Also, the Postal Service implemented a modified rate schedule on July 1, 2001, again in less than a two-month period after it was announced on May 8, 2001 that the Governors had voted to modify the April 10, 2001 decision of the Commission.

The recently-filed Comments of the United States Postal Service and Proposed Alternative Procedural Schedule does not appear to offer any persuasive reasons why the case should be expedited. Furthermore, that new 12-page filing offers no explanation whatsoever as to why the Postal Service delayed the filing of its Request for a Recommended Decision. The Commission should not jeopardize the due process rights of the intervenors to develop a complete record and have a full and fair hearing to make up for any self-imposed delay in the Postal Service's own filing.

Respectfully submitted,



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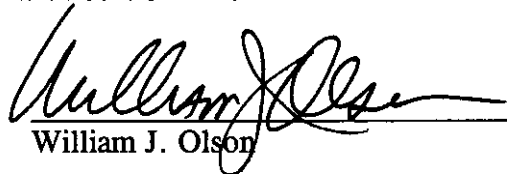
Counsel for:

Val-Pak Direct Marketing Systems, Inc. and

Val-Pak Dealers' Association, Inc.

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

October 24, 2001