

OFFICIAL TRANSCRIPT OF PROCEEDINGS BEFORE THE POSTAL RATE COMMISSION

In the Matter of:)
)
CUSTOMIZED MARKET MAIL) Docket No.. MC2003-1
MINOR CLASSIFICATION CHANGES)

RECEIVED
Apr 10 7 03 AM '03
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Volume 1

Pages: 1 through 12/
Place: Washington, D.C.
Date: April 9, 2003

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005-4018
(202) 628-4888
hrc@concentric.net

ORIGINAL

RECEIVED

1

APR 28 10 38 AM '03 POSTAL RATE COMMISSION

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY
In the Matter of:)

CUSTOMIZED MARKET MAIL) Docket No. MC2003-1
MINOR CLASSIFICATION CHANGES)

Room No. 300
Postal Rate Commission
1333 H Street, N.W.
Washington, D.C.

Volume 1
Wednesday, April 9, 2003

The above-entitled matter came on for prehearing
conference, pursuant to notice, at 10:05 a.m.

BEFORE:

HON. GEORGE A. OMAS, CHAIRMAN
HON. DANA B. "DANNY" COVINGTON, VICE-CHAIRMAN
HON. RUTH Y. GOLDWAY, COMMISSIONER
HON. TONY HAMMOND, COMMISSIONER

APPEARANCES:

On behalf of the United States Postal Service:

ANTHONY ALVERNO, Esquire
KEN HOLLIES, Esquire
United States Postal Service
Law Department
475 L'Enfant Plaza, S.W., Room 6604
Washington, D.C. 20260-1137
(202) 268-2997 Fax: (202) 268-6187

Heritage Reporting Corporation
(202) 628-4888

POSTAL RATE COMMISSION

In the Matter of:)
)
 CUSTOMIZED MARKET MAIL) Docket No. MC2003-1
 MINOR CLASSIFICATION CHANGES)

Room No. 300
 Postal Rate Commission
 1333 H Street, N.W.
 Washington, D.C.

Volume 1
 Wednesday, April 9, 2003

The above-entitled matter came on for prehearing conference, pursuant to notice, at 10:05 a.m.

BEFORE:

HON. GEORGE A. OMAS, CHAIRMAN
 HON. RUTH Y. GOLDWAY, VICE-CHAIRMAN
 HON. DANA B. "DANNY" COVINGTON, COMMISSIONER
 HON. TONY HAMMOND, Commissioner

APPEARANCES:

On behalf of the United States Postal Service:

ANTHONY ALVERNO, Esquire
 KEN HOLLIES, Esquire
 United States Postal Service
 Law Department
 475 L'Enfant Plaza, S.W., Room 6604
 Washington, D.C. 20260-1137
 (202) 268-2997 Fax: (202) 268-6187

APPEARANCES: (cont'd.)

On behalf of Advo, Inc.:

(No Appearance.)

On behalf of Alliance of Non-Profit Mailers:

(No Appearance.)

On behalf of American Postal Workers Union, AFL-CIO:

PHILLIP TABBITA, Esquire
American Postal Workers Union, AFL-CIO
1300 L Street, N.W.
Washington, D.C. 20005-4128
(202) 842-4273 Fax: (202) 371-0992

On behalf of American Spirit Graphics Corp.:

(No Appearance.)

On behalf of AOL-Time Warner, Inc.:

(No Appearance.)

On behalf of Association for Postal Commerce:

FRANK WIGGINS, Esquire
Venable, et al.
1201 New York Avenue, N.W., Suite 1000
Washington, D.C. 20005
(202) 962-4957 Fax: (202) 962-8300

On behalf of Douglas Carlson:

(No Appearance.)

On behalf of Magazine Publishers of America, Inc.:

JAMES PIERCE MYERS, Esquire
James Pierce Myers, Attorney-at-Law
1211 Connecticut Avenue, N.W., Suite 610
Washington, D.C. 20036
(202) 331-8315 Fax: (202) 331-8318

On behalf of Mailing and Fulfillment Services Association:

FRANK WIGGINS, Esquire

Heritage Reporting Corporation
(202) 628-4888

APPEARANCES: (cont'd.)

On behalf of the Mail Order Association of America:

DAVID C. TODD, Esquire
Patton Boggs, et al.
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457-6410 Fax: (202) 457-6315

On behalf of the Office of the Consumer Advocate:

KENNETH E. RICHARDSON, Esquire
SHELLEY S. DREIFUSS
Postal Rate Commission
Office of the Consumer Advocate
1333 H Street, N.W.
Washington, D.C.
(202) 789-6859

On behalf of the Parcel Shippers Association:

TIMOTHY J. MAY, Esquire
Patton Boggs, et al.
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457-6050 Fax: (202) 457-6315

On behalf of David B. Popkens:

(No Appearance.)

On behalf of Val-Pak Dealers Association, Inc. and
Val-Pak Direct Marketing Systems, Inc.:

JOHN S. MILES, Esquire
William J. Olson, P.C.
8180 Greensboro Drive, Suite 1070
McLean, Virginia 22102
(703) 356-5070 Fax: (703) 356-5085

P R O C E E D I N G S

(10:05 a.m.)

1
2
3 CHAIRMAN OMAS: Good morning. This is a
4 prehearing conference in Docket No. MC2003-1 considering the
5 request of the Postal Service for authority to offer a new
6 product known as customized market mail. The Postal Service
7 seeks that its request be considered under Commission rules
8 applicable to minor classification changes.

9 I am George Omas, and I am chairman of the Postal
10 Rate Commission. I will be serving as the presiding officer
11 in this case. With me this morning are Commissioners Ruth
12 Goldway, Tony Hammond, and Danny Covington will be with us
13 shortly. The reporter in this case is Heritage Reporting
14 Company. There are forms for noting appearances available
15 on the table as you enter the hearing room. If you wish to
16 purchase transcripts, you should see the reporter after
17 today's conference or call (202) 628-4888.

18 At this point, I would like to ask counsel to
19 identify themselves for the record. Advo, Inc.?

20 (No response.)

21 CHAIRMAN OMAS: Alliance of Nonprofit Mailers?

22 (No response.)

23 CHAIRMAN OMAS: American Postal Workers Union,
24 AFL-CIO?

25 MR. TABBITA: Phillip Tabbita for the American

Heritage Reporting Corporation
(202) 628-4888

1 Postal Workers Union.

2 CHAIRMAN OMAS: Thank you. American Spirit
3 Graphics Corp.?

4 (No response.)

5 CHAIRMAN OMAS: AOL-Time Warner, Inc.?

6 (No response.)

7 CHAIRMAN OMAS: The Association for Postal
8 Commerce?

9 MR. WIGGINS: Frank Wiggins, Mr. Chairman, for
10 PostCom. I'm also representing MFSA in the case.

11 CHAIRMAN OMAS: Douglas Carlson?

12 (No response.)

13 CHAIRMAN OMAS: The Magazine Publishers of
14 America, Inc.?

15 MR. MYERS: Pierce Myers, Mr. Chairman, for MPA.

16 CHAIRMAN OMAS: Thank you. And as Mr. Wiggins
17 stated earlier, Mailing and Fulfillment Services
18 Association, Frank Wiggins.

19 Mail Order Association of America?

20 MR. TODD: David Todd representing MOAA.

21 CHAIRMAN OMAS: Thank you. Office of the Consumer
22 Advocate?

23 MR. RICHARDSON: I am Kenneth E. Richardson, and
24 with me is Shelly S. Dreifuss, the director of the Office of
25 the Consumer Advocate.

1 CHAIRMAN OMAS: Thank you. Parcel Shippers
2 Association?

3 MR. MAY: Timothy May, counsel for Parcel
4 Shippers.

5 CHAIRMAN OMAS: David B. Popkins?

6 (No response.)

7 CHAIRMAN OMAS: The United States Postal Service?

8 MR. ALVERNO: Mr. Chairman, Anthony Alverno on
9 behalf of the U.S. Postal Service, and I'm joined by my
10 colleague, Ken Hollies.

11 CHAIRMAN OMAS: Thank you. Val-Pak Dealers
12 Association, Inc.?

13 MR. MILES: Good morning, Mr. Chairman. John
14 Miles on behalf of the Val-Pak Companies. That's both the
15 Dealers Association, Inc., and Val-Pak Direct Marketing
16 Systems, Inc.

17 CHAIRMAN OMAS: Thank you. Is there anyone else
18 who wishes to be identified?

19 (No response.)

20 CHAIRMAN OMAS: The Postal Service indicated that
21 it viewed its proposal as one for which a settlement might
22 be possible. Therefore, the Commission appointed a
23 settlement coordinator and provided an opportunity to
24 convene a settlement conference. Such a conference was
25 scheduled to take place early this morning.

1 As the first order of business, I would like to
2 get a progress report from the settlement coordinator, Mr.
3 Alverno.

4 MR. ALVERNO: Thank you, Mr. Chairman. This
5 morning, a settlement conference was convened at 9 a.m., and
6 I believe all of the participants who have indicated they
7 are present here now were in attendance. During the
8 settlement conference, the parties discussed a draft
9 stipulation and agreement which I had drafted, and we
10 discussed the specific contents of that stipulation. The
11 parties also discussed some alternatives to be incorporated
12 within that agreement, and I would indicate that there were
13 some expressions of support for the agreement, there were
14 other parties that expressed some conditions that might be
15 applied to the agreement, and there are some parties whose
16 views are certainly unknown at this time.

17 So that's the content of the discussion that took
18 place this morning, Mr. Chairman. I anticipate that there
19 will be further settlement discussions in the future, and
20 those, of course, will be scheduled among the parties that
21 are interested in attending. Thank you, Mr. Chairman.

22 CHAIRMAN OMAS: Thank you, Mr. Alverno. Do any of
23 the participants from this morning's conference have
24 anything to add to Mr. Alverno's comments?

25 (No response.)

1 CHAIRMAN OMAS: Thank you. The Postal Service is
2 asked that its request be considered under Rule 69, the
3 Commission's rule for minor classification changes. These
4 rules set certain schedule guidelines for the Commission.
5 Last Thursday, the Office of Consumer Advocate filed its
6 response to a motion accompanying the Postal Service's
7 requests, together with three distinct, additional prayers
8 for relief.

9 OCA requested that the rules applicable to minor-
10 classification cases not be applicable in this case. It
11 requested that this proceeding be suspended pending the
12 submission of additional data by the Postal Service. And,
13 finally, it requested that the date for requesting hearings
14 in this case be deferred pending rulings on these and other
15 outstanding motions. Responses to OCA motions are due by
16 the close of business tomorrow. Is there any participant
17 that will be unable to provide its responses to these
18 motions by 11 a.m. tomorrow?

19 MR. ALVERNO: Mr. Chairman.

20 CHAIRMAN OMAS: Yes, Mr. Alverno?

21 MR. ALVERNO: Mr. Chairman, yes. I believe we
22 would need to have until the end of the day to complete our
23 response to that motion.

24 CHAIRMAN OMAS: All right. I'll grant a 4 p.m.
25 filing. Does that meet with everyone's approval?

1 (No response.)

2 CHAIRMAN OMAS: Hearing no objection, the
3 Commission directs that responses to OCA motion, that they
4 be due by 4 p.m., close of business tomorrow.

5 OCA has requested that the date for requesting a
6 hearing be deferred. In the same document, OCA presented
7 its opinion that a hearing would be unlikely to assist the
8 Commission to evaluate the Postal Service's requests in this
9 docket. I gather, it is OCA's position that the Postal
10 Service has failed to provide sufficient evidence to support
11 approval of its requests. Obviously, the Postal Service
12 disagrees with that view. Mr. Richardson, is it still OCA's
13 position that unless the Postal Service supplements its
14 direct case, evidentiary hearings will not be necessary?

15 MR. RICHARDSON: Thank you, Mr. Chairman. That
16 continues to be our position. As our filing indicated, we
17 would hope to defer our decision on that until we saw the
18 Commission's decision on our motions, but at this point we
19 would not ask for a hearing. We would just continue with
20 our interrogatories under the outstanding provisions of the
21 minor-classification case, as requested by the Postal
22 Service.

23 CHAIRMAN OMAS: Thank you. The Commission will
24 promptly review responses to the Postal Service waiver
25 request and to the OCA motion. Requests for an evidentiary

1 hearing will be due seven days after the Commission ruling.
2 Any request for evidentiary hearings shall describe topics
3 to be explored. Absent well-supported requests for
4 extending discovery, it is the Commission's current
5 intention to proceed to receive Postal Service's direct
6 case. If hearings are requested, those hearings will be
7 scheduled for April 28, 29, and 30. Participants with
8 scheduling conflicts on any of these dates should notify the
9 Commission by April 18th.

10 Does any participant have any other substantive or
11 procedural matters they wish to raise at this time?

12 MR. ALVERNO: Those hearing dates coincide with
13 another commission's meeting, and that is the Presidential
14 Commission, which I believe is going to be in Chicago on
15 April 29th, and I know that some other members of this group
16 do attend those sessions. So I wonder if the Commission
17 might want to consider a different date other than the 29th,
18 perhaps the 30th or May 1st as alternatives.

19 CHAIRMAN OMAS: I think what I'll do is we'll take
20 that under advisement. I'm sure that we can work around
21 that with another day. Anyone who has a conflict, please
22 state it in writing to the Commission, Mr. Alverno, and
23 we'll try to work with that and with the participants.

24 MS. DREIFUSS: Chairman Omas, this is probably a
25 good time for me to speak up. The dates that you mentioned

1 were fine with both Mr. Richardson and me. I would be
2 unable, and I would like to attend a hearing if it does take
3 place, I would be unable to attend on April 24th and 25th,
4 so I would ask that you not schedule hearings -- push them
5 up by a couple of days to those dates, please.

6 CHAIRMAN OMAS: Would you put that in writing as
7 well, too, please?

8 MS. DREIFUSS: Sure.

9 CHAIRMAN OMAS: Thank you. At this point, is
10 there anyone else? At this point, do any of my fellow
11 commissioners have anything to add to this morning's
12 prehearing conference?

13 (No response.)

14 CHAIRMAN OMAS: There being none, this concludes
15 today's prehearing conference, and we are now adjourned.
16 Thank you.

17 (Whereupon, at 10:20 a.m. the prehearing
18 conference in the above-entitled matter was concluded.)

19 //

20 //

21 //

22 //

23 //

24 //

25 //

REPORTER'S CERTIFICATE

1

2

3

DOCKET NO.: MC2003-1

4

CASE TITLE: Customized Market Mail Minor Classification
Changes

5

6

HEARING DATE: April 9, 2003

7

LOCATION: Washington, D.C.

8

9

I hereby certify that the proceedings and evidence are
contained fully and accurately on the tapes and notes
reported by me at the hearing in the above case before the
Postal Rate Commission.

10

11

12

13

14

15

Date: April 9, 2003

16

17



Maria Hester

18

Official Reporter

19

Heritage Reporting Corporation

20

Suite 600

21

1220 L Street, N.W.

22

Washington, D C. 20005-4018

23

24

25

Heritage Reporting Corporation
(202) 628-4888