

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Customized Market Mail

Docket No. MC2003-1

PRESIDING OFFICER'S RULING
ON PROCEDURAL SCHEDULE

(Issued April 23, 2003)

This ruling addresses several matters that require consideration, notwithstanding the fact that settlement negotiations are underway. These include a determination on the need for hearings, further development of the procedural schedule, and adoption of procedures for entering testimony and other material into the record.

Hearings. All participants have been asked to indicate whether they seek a hearing, and to identify with particularity any issues they believe require a hearing for a resolution. Order Nos. 1365 (March 19, 2003) and 1368 (April 14, 2003). They also have been asked to address their availability for hearings. Tr. 1/9. A review of responsive filings indicates that no participant has requested a hearing. See, for example, Mail Order Association of America Notice of Intervention (March 27, 2003); Notice of Intervention of Magazine Publishers of America, Inc. As a Full Participant (April 3, 2003); and Office of the Consumer Advocate Statement Regarding Hearing (April 18, 2003). Based on the participants' positions and an independent finding that there are no genuine issues of material fact that require a hearing, formal hearings will not be held in this case.

Related scheduling matters. Commission rules require that minor classification cases be handled with the maximum expedition consistent with procedural fairness. In cases where no hearings are held — which is the situation here — the Commission's decisions, whether based on a Stipulation and Agreement or not, will be issued not more than 90 days after the filing of the Service's request. § 3001.69c. As the

Service's request was filed March 14, 2003, the Commission's deadline is June 12, 2003. The attached procedural schedule has been developed using the rule-mandated deadline; however, if a settlement is submitted in the near future, the Commission would endeavor to issue its decision well before June 12, 2003. Interim dates would be adjusted accordingly.¹

With respect to discovery, participants have now had five weeks — or more than one-third of the time allowed for completion of the entire proceeding — to engage in discovery on the Service's direct case. A review of the record indicates that the Service has either submitted its witnesses' interrogatory responses in a timely fashion or, with respect to a few questions, has filed timely objections. No motions to compel responses have been filed. Based on the nature of this case and the current state of discovery, the discovery stage of this proceeding will conclude as of the date this ruling issues. Participants are directed to designate interrogatory responses for inclusion in the record by April 28, 2003.

Witnesses' attestations. As no hearings are being held in this case, the two witnesses who have provided testimony will not have put in a formal appearance. Accordingly, I find it appropriate to adopt a practice that has been used successfully in the past, which entails having the Postal Service file with the Commission declarations executed by each witness supporting the two pieces of prepared testimony submitted in this case and any designated interrogatory responses. The deadline for submitting this material is May 1, 2003.

Status report. If a Stipulation and Agreement has not been filed by May 1, 2003, the settlement coordinator is directed to file a status report on that date. The report shall address any pertinent considerations, including any developments that may adversely affect the ability of the Commission to meet the June 12, 2003 deadline.

Comments, briefs, and closing of the record. The schedule provides an opportunity for participants to file initial and reply briefs, and to comment on a

¹ The June meeting of the Board of Governors is scheduled for June 2, 2003.

Stipulation and Agreement (assuming one is filed).² The date for submission of initial briefs is May 8, 2003. May 15, 2003 is the date for filing reply briefs.

RULING

1. Having found that there are no issues of genuine material fact that require a hearing for resolution, formal hearings will not be held in this docket.
2. The attached procedural schedule is hereby adopted, subject to adjustment based on the submission date of an anticipated Stipulation and Agreement or on representations in the Status Report.
3. The settlement coordinator is directed to file a status report by May 1, 2003 if a Stipulation and Agreement has not been filed by that date.

George Omas
Presiding Officer

² Briefs and comments are not required.

**Docket No. MC2003-1
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Procedural Schedule**

March 14, 2003	Filing of Postal Service's Request
April 3, 2003	Notices of Intervention; Responses to Request for Expedition; Responses to Motion for Waiver
April 9, 2003	Prehearing Conference
April 21, 2003	Requests for a Hearing
April 23, 2003	Completion of Discovery on the Postal Service's Direct Case
April 28, 2003	Designations of Written Cross-examination
May 1, 2003	Filing of Settlement Coordinator's Status Report (if needed)
May 1, 2003	Filing of Witnesses' Supporting Declarations (Testimony and Designated Cross-examination)
May 8, 2003	Filing of Initial Briefs
May 15, 2003	Filing of Reply Briefs