

ORDER NO. 1377

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

Before Commissioners:

George Omas, Chairman;
Dana B. Covington, Sr., Vice Chairman;
Ruth Y. Goldway; and Tony Hammond

Periodic Reporting

Docket No. RM2003-3

ORDER DENYING POSTAL SERVICE MOTION FOR FURTHER EXTENSION

(Issued June 25, 2003)

On January 8, 2003, the Commission issued Order No. 1358 proposing amendments to its periodic reporting rules [39 U.S.C. § 3001.102]. Among other things, these amendments ask the Postal Service each year to provide the Commission and the public with documentation of its routine financial reports at a moderate level of detail similar to the documentation that accompanies its requests for changes in rates. This would enable the Commission and the public to monitor and evaluate trends in the Postal Service's finances between major rate filings.

On June 6, 2003, the Commission received the Motion of United States Postal Service for Further Extension of Time to File Comments in this docket. In its motion, the Postal Service asks for its fourth extension of the deadline for filing its substantive comments. The Postal Service reiterates its concerns that to provide some supporting detail for its financial reports between rate cases has major ramifications for the statutory roles of the Postal Service and the Commission, its prerogatives as a litigant in rate cases, and the confidentiality of its commercially sensitive information. It

emphasizes that these ramifications require dialogue between staff, management, and the Board of Governors. Motion at 2-3.

The Postal Service cited these same concerns in three previous requests for extensions of time. What is new in this fourth request is the Postal Service's assertion that the pending report by the President's Commission on Postal Service provides grounds for several months of additional delay. The Postal Service notes that the report of the President's Commission is due by the end of July. It argues that the report might change the "context" of the debate within the Postal Service over how to respond to the Commission's proposals, and "is likely to stimulate, and perhaps reorient the internal debate over the [proposed] amendments." Motion at 2, 3. Consequently, the Postal Service asks that it not be required to file substantive comments on those proposals until "the end of August or the beginning of September," well after the report of the President's Commission is due. Motion at 4.

The Association of Priority Mail Users, Inc. (APMU), the Office of the Consumer Advocate (OCA), and United Parcel Service (UPS), oppose the Postal Service's motion.¹ They argue that the Postal Service has known of the Commission's proposals since the beginning of the year, and by now should have had ample time to conduct its internal debate. They also observe that the Postal Service has known since December of last year that the report of the President's Commission is due at the end of July, and question why it waited until now to cite it as a ground for suspending consideration of the proposed amendments.

Those opposing the Postal Service's motion argue that the Postal Service's views of the desirability of the proposed changes to the periodic reporting rule should be independent of the views of the President's Commission. They argue that if the President's Commission were to make recommendations that relate to the proposed

¹ Opposition of the Association of Priority Mail Users, Inc. to the June 6, 2003 Motion of United States Postal Service for Further Extension of Time to File Comments (APMU Answer) June 20, 2003; Office of the Consumer Advocate Answer in Opposition to Postal Service Motion for Further Delay (OCA Answer) June 13, 2003; Answer of United Parcel Service for Further Extension of Time to File Comments (UPS Answer) June 20, 2003.

rule changes, the Rate Commission can take such recommendations, and any supplemental views that the Postal Service might offer, into account. OCA Answer at 3; UPS Answer at 2. They consider it unlikely that the report of the President's Commission will make recommendations that will bear directly on the Rate Commission's proposals, since the Rate Commission's proposals are detailed and technical. They argue that any relevant recommendations could take Congress years to act upon, if they are acted upon at all. They consider the potential impact of the report of the President's Commission on the Rate Commission's proposals to be too remote and speculative to suspend consideration of the proposed rule. APMU Answer at 3; UPS Answer at 2.

The parties opposing the motion note the considerable delay that the Commission has already allowed, and object to the further extensive delay that could be encountered waiting for any relevant recommendations of the President's Commission to be evaluated. They urge the Commission to proceed with its rulemaking in order to optimize reporting requirements under the current statutory scheme. APMU Answer at 4; OCA Answer at 2; UPS Answer at 2. APMU notes, in addition, that the Government Accounting Office has concluded that there is a need for the Postal Service to improve its financial transparency under the current statutory scheme, and argues that a discussion of this issue should help the President's Commission in its deliberations. APMU Answer at 4.

The Postal Service's motion will be denied. The extensive additional delay that the Postal Service proposes serves only one goal that the Commission can ascertain, i.e., economy of effort. The Postal Service believes that the report of the President's Commission might "reorient" its internal debate over the Rate Commission's proposals. If this possibility were borne out, the Postal Service implies, it would be spared the need to reformulate or supplement its views on the Rate Commission's proposals.

Under different circumstances, this might be a reasonable position to take. If it were known that the President's Commission is preparing to recommend radical reform of the current regulatory scheme, and Congress were poised to quickly enact its

recommendations, it would be reasonable to expect that its recommendations would substantially affect the kind and quality of financial reports that are appropriate to require of the Postal Service. Under that circumstance, the Postal Service could economize on its deliberations fashioning comments that assume adoption of the proposed new regulatory scheme.

As the parties opposing the Postal Service's motion point out, the current circumstance is very different. It is not known whether the President's Commission is preparing to recommend radical reform of the regulatory scheme or merely to fine tune the current scheme. Similarly, the reaction of Congress to its recommendations might be positive or negative, and might take years to work through. The near-term impact of the work of the President's Commission on the Rate Commission's proposals, if any, remains highly speculative. Consideration of the Rate Commission's proposals should therefore proceed on a separate track, so that prospect of improved financial reporting by the Postal Service in the near term will not be forfeited.

In Order No. 1375, the Commission noted that the Postal Service has had an extraordinarily long term to formulate its substantive views on the Commission's proposals, and therefore should be ready to submit those views within a week of a Commission order to proceed. Accordingly, the Postal Service will be given until July 2, 2003, to submit its substantive comments. Reply comments will be due on July 16, 2003.

It is ordered:

1. Substantive comments by the Postal Service on the proposals in this rulemaking are due on or before July 2, 2003.
2. Reply comments are due on or before July 16, 2003.

By the Commission
(SEAL)

Steven W. Williams
Secretary