

ORDER NO. 1378

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

Experimental Parcel Return Services

Docket No. MC2003-2

ORDER ESTABLISHING PROCEDURAL SCHEDULE

(June 27, 2003)

In Order No. 1373, the Commission authorized settlement negotiations based on the Postal Service's representations that its proposed experimental Parcel Return Services were widely supported and should not adversely affect competitors. PRC Order No. 1373, June 3, 2003 at 8-9. Pursuant to that order, a settlement conference, open to all participants, was held June 24, 2003. In addition, in Order No. 1373, the Commission directed participants to indicate in their notices of intervention whether they request a hearing in this proceeding. *Id.* at 8. No participant requested a hearing, although some reserved the right to do so pending completion of discovery.¹

At the prehearing conference held June 25, 2003, counsel for the Postal Service reported that participants made substantial progress towards settlement. Tr. 1 at 8.

¹ See, e.g., Notice of Intervention as a Full Participant by the Association for Postal Commerce, June 17, 2003 at 1; and Notice of Intervention as a Full Participant by Association of American Publishers, June 18, 2003 at 1.

While a formal settlement agreement has not yet been achieved, counsel for the Postal Service indicated that, based on discussions at the initial settlement conference, none of the ten participants attending intend to oppose the potential settlement.² Finally, counsel indicated on behalf of all participants that settlement is likely. Tr. 1 at 8.

Counsel for the Postal Service also suggested, based on discussions among participants at the settlement conference, a procedural schedule in anticipation of filing a stipulation and agreement. Specifically, it was suggested that discovery end July 3, 2003 and that a stipulation and agreement be filed by July 28, 2003. *Id.* at 8-9.

Settlements are to be encouraged because, among other things, where unanimous or at least unopposed, they reflect the collective position of participants based on a frank exchange of views and, usually, on compromise. Settlements also enable participants to avoid the time and expense of administrative proceedings, and may enable proposals to be implemented sooner than otherwise possible.

The procedural dates suggested by the Postal Service will be adopted, supplemented by additional dates to round out the procedural schedule. No participant has requested an evidentiary hearing and, based on representations to date, it would appear none will be required. As a procedural safeguard, however, given the deadline established for discovery by this order, participants will be given until July 16, 2003 to request a hearing. Any such request must identify all issues of material fact that may warrant such a hearing.

The dates established herein provide participants ample time to negotiate a settlement and to draft and file a stipulation and agreement. The Postal Service has indicated that it wishes to implement the proposed experiment in time for the 2003 holiday mailing season, suggesting an early October effective date would be necessary.³ Assuming there is an uncontested settlement, the dates adopted herein

² At the prehearing conference, the Chairman asked the participants if any thought that evidentiary hearings were necessary in this proceeding. Tr. 1 at 9. No participant answered affirmatively.

³ Request of the United States Postal Service for a Recommended Decision on Experimental Parcel Return Services, Docket No. MC2003-2, May 28, 2003, at 4-5.

should enable the Postal Service to implement its experiment in a timely fashion.⁴ Nonetheless, should a stipulation and agreement be filed in advance of the due date established herein, the Commission will, if requested, consider adjusting the remaining procedural dates.

It is ordered:

1. Discovery of the Postal Service's direct case ends July 3, 2003.
2. The due date for requesting an evidentiary hearing is July 16, 2003. Any participant requesting a hearing must identify all issues of material fact supporting its request.
3. The due date for submitting a stipulation and agreement is July 28, 2003.
4. The due date for designating direct testimony and written cross-examination is July 30, 2003.
5. The due date for submitting declarations supporting designated direct testimony and interrogatory responses is August 1, 2003.
6. The due date for filing signature pages to the stipulation and agreement with the Commission is August 4, 2003.
7. Comments in support or opposition to the stipulation and agreement are due no later than August 4, 2003.

⁴ Implicitly, this statement assumes that the Commission finds that the settlement satisfies the requirements of the Postal Reorganization Act, based on its review of the stipulation and agreement, including the record supporting it.

8. Reply comments are due no later than August 8, 2003.

By the Commission.

(SEAL)

Steven W. Williams
Secretary