

DOCKET SECTION
BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

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SEP 26 1 03 PM '97

Postal Rate and Fee Changes, 1997

Docket No. ~~R97-1~~ RATE COMMISSION
OFFICE OF THE SECRETARY

**NEWSPAPER ASSOCIATION OF AMERICA
MOTION TO RESCHEDULE HEARING APPEARANCE OF
UNITED STATES POSTAL SERVICE WITNESS JOSEPH D. MOELLER
September 26, 1997**

The Newspaper Association of America ("NAA") hereby moves to reschedule the appearance of Postal Service witness Joseph D. Moeller until after the Commission rules on Notice of Inquiry No. 1 and NAA's Motion To Strike Portions of Mr. Moeller's testimony filed concurrently with this motion.

Mr. Moeller currently is scheduled to appear on October 10, 1997. NAA is moving to strike portions of witness Moeller's testimony due to his improper reliance on an unsponsored, non-record cost study identified as Library Reference LR-H-182. The issues raised by the NAA motion to strike are also at issue in Notice of Inquiry No. 1, which solicits comment on the use of unsponsored cost studies contained in unsponsored library references.

Comments in response to NOI No. 1 are due by October 3, 1997. Mr. Moeller's appearance is, as noted, one week later. Unless the Commission acts on NOI No. 1 before October 10, NAA will face an unfair dilemma in conducting oral cross-examination that could be avoided by rescheduling.

If the Commission were to strike the testimony in question, then there would be no need to cross-examine Mr. Moeller regarding LR-H-182. Conversely, if the

Commission did not strike the disputed testimony, then NAA could conduct cross-examination accordingly.

However, if the Commission has not acted on the motion to strike before Mr. Moeller takes the witness stand, then NAA runs a risk of either (1) not cross-examining the witness on a subject which, if the motion subsequently is denied, is admitted into testimony or (2) developing, through cross-examination, a discussion of the library reference which might not otherwise exist, and which the Postal Service could then try to bootstrap as record evidence and as a justification for denying the motion to strike. It would be manifestly unfair to allow the Postal Service to create in this manner a basis for otherwise inadmissible testimony.

Postponing Mr. Moeller's appearance until after the Commission has acted in response to NOI No. 1 would allow time for clarification of the status of LF-H-182 and Mr. Moeller's testimony relating to that document. The current hearing schedule leaves room for hearings on October 23 and 24 if the Commission were to act on NOI No. 1 by that time.

NAA recognizes that the Commission has directed the the Postal Service to provide a witness regarding LR-H-112, a different library reference which suffers from similar procedural defects. NAA respectfully submits resource-strained intervenors are placed at a significant and unfair disadvantage if the Postal Service is given repeated opportunities to rectify fundamental procedural defects in its direct case after the fact.

For the foregoing reasons, the Newspaper Association of America respectfully moves to reschedule the testimony of witness Moeller as described herein.

Respectfully submitted,

NEWSPAPER ASSOCIATION OF AMERICA

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

September 26, 1997

William B. Baker
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