

Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Complaint on Electronic Postmark®

Docket No. C2004-2

MOTION TO NOTIFY THE POSTAL RATE COMMISSION
OF A RECENT EXAMPLE WHERE THE USE OF USPS EPM
REPLACES TRADITIONAL MAIL SERVICE
(November 12, 2004)

DigiStamp, Inc. ("DigiStamp") hereby requests to supplement its complaint in this proceeding with a recent example of the Postal Service's efforts to market the "Electronic Postmark®" (EPM).¹ The purpose of this supplement is to provide information that was not available at the time of the original complaint. The DigiStamp complaint requests an order of the Commission declaring that the Postal Service's document delivery service called "Electronic Postmark®" (EPM) is a "postal service" subject to the jurisdiction of the Postal Rate Commission and the rate and classification procedures of the Postal Reorganization Act. I request such other relief as may be appropriate in view of the fact that the Postal Service's offering of EPM is unauthorized, unlawful, and not in accordance with the policies and factors set forth in the Postal Reorganization Act. (Complaint at 9).

The recent marketing efforts of the Postal Service have resulted in a press release of Jul 22, 2004 (Exhibit A): "... the technical provider of the United States Postal

¹ DigiStamp, Inc. filed a complaint, "Complaint of DigiStamp," with the Commission pursuant to 39 U.S.C. §3662 of the Postal Reorganization Act on February 25, 2004.

Service(R) Electronic Postmark(R) (USPS EPM(R)), announced today that e-mail using the USPS EPM service has been added to South Carolina's recently adopted Uniform Electronic Transactions Act (UETA), as an alternative to Certified or Registered U.S. Mail for certain types of electronic communications, and will carry the same force of law and legal effect as those physical mail services.” The South Carolina legislation H* 4720 Uniform Electronic Transaction Act available at www.scstatehouse.net

The marketing activities of the Postal Service have demonstrated their public position that the USPS EPM is equivalent to and is to be used in the replacement of Certified and Registered mail. The Postal Service offers as part of their electronic products the backing and authority of the Federal Government as being equivalent to their traditional, monopoly-based products.

This specific application of UETA in South Carolina excludes any service provider other than the Postal Service. This effectively extends, by law, the monopoly position of the Postal Service into the important business of electronic document delivery for this early adopter state, South Carolina. The Commission should consider with significant forethought the economic impact of extending a government-managed monopoly into the growing and internationally competitive digital services industry. Is it the federal government' s purpose to compete with its private industry?

The Postal Service further demonstrates, with their marketing efforts in South Carolina, that their EPM software and service includes what has been historically marketed as the Electronic Courier Service. As background, here is a brief time-line of the Electronic Courier Service complaint that was brought before the Commission (Docket C99-1):

1. The complaint was filed in 1998 titled "Complaint of United Parcel Service on Post Electronic Courier Service".

2. November 2002 the Postal Service discontinues the service. The proceedings of the complaint had consumed years, reams of paper and the significant efforts of all parties. The case was dismissed only after the Postal Service ceased to offer the service. Thus, a ruling by the Commission was avoided by the Postal Service.

3. July 2004 the Postal Service re-enters this line of business.

Only a year and a half after the complaint was dismissed, the Postal Service has now announced that its efforts have successfully expanded their business to include significant elements of the Electronic Courier Service (Post ECS). The service no longer has the same name but the function is equivalent to what had been described by the Postal Service as an "electronic courier service".

There should be some recognition by the Commission that bringing a case to its attention is a significant effort by all parties. The dismissal of Docket C-99-1 was premature if it were not for the testimony of the Postal Service that they had discontinued the service – testifying that the Electronic Courier Service complaint should be dismissed because the Postal Service has ceased to pursue this business. Since the Electronic Courier Service has reemerged in a relatively short period of time, the original complaint should be reopened. At the very least, my pending complaint should be broadened to include the additional contention that EPM is now being combined with other communications functions to operate as Electronic Courier Service under a new name.

Respectfully submitted,

Rick Borgers
Lead Technologist, CEO
DigiStamp, Inc.
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South Carolina is First State to Make E-Mail with United States Postal Service Electronic Postmark Equivalent to Certified or Registered Mail

SCHENECTADY, N.Y., Jul 22, 2004 (BUSINESS WIRE) -- AuthentiDate, Inc., a subsidiary of AuthentiDate Holding Corp. (NASDAQ: ADAT), and the technical provider of the United States Postal Service(R) Electronic Postmark(R) (USPS EPM(R)), announced today that e-mail using the USPS EPM service has been added to South Carolina's recently adopted Uniform Electronic Transactions Act (UETA), as an alternative to Certified or Registered U.S. Mail for certain types of electronic communications, and will carry the same force of law and legal effect as those physical mail services.

UETA is a model code that states may adopt to provide a legal framework for electronic transactions, and gives electronic signatures and records the same validity and enforceability as manual signatures and paper-based transactions. Incorporated within South Carolina's version of the UETA statute, the USPS EPM service provides a compelling value to further trusted electronic communications.

The South Carolina legislation (H* 4720 Uniform Electronic Transaction Act available at www.scstatehouse.net) states that the "United States Postal Service Electronic Postmark means an electronic service provided by the United States Postal Service that provides evidentiary proof that an electronic document existed in a certain form at a certain time and the electronic document was opened or the contents of the electronic document were displayed at a time and date documented by the United States Post Office." The legislation also states that the "South Carolina Budget and Control Board shall devise policies and procedures for the use of the United States Postal Service Electronic Postmark in respect to state agencies and operations."

An example of a strategic benefit that the USPS EPM provides within this new legislation is that it allows individuals or corporations to serve process for law suits electronically on corporations, partnerships or other unincorporated associations whose e-mail addresses are registered with the secretary of state. This new electronic means of serving process using the USPS EPM will help to eliminate paper and improve communication between the courts, state agencies and businesses, streamline the judicial process and better serve the South Carolina community.

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Exhibit A