

**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001**

POSTAL RATE AND FEE CHANGES

Docket No. R2005-1

**Comments Of Major Mailers Association On Procedures
For Expediting The Case And Facilitating Settlement**

Pursuant to Ordering Paragraph 8 of Order No. 1436,¹ Major Mailers Association (MMA) submits the following comments on the need for expedition and procedures for facilitating settlement.

1. In view of the single purpose of the Postal Service's revenue increase proposal, MMA is favorably disposed to consider settling this case. Further, the Postal Service's concept of a uniform, across-the-board increase in postal rates and fees that preserves existing rate relationships seems to make sense under the exceptional conditions presented here.

2. MMA urges the Commission to facilitate settlement by adopting procedures aimed at identifying, ***at the earliest possible time***, opposition to ***any*** aspect of a settlement based on the uniform across-the-board rate and fee increases proposed in the Postal Service's filing. The Postal Service suggests that, in view of what the Service sees as broad support for a settlement along the lines proposed in its filing, the May 5 prehearing conference can serve as a forum for parties to express support for or opposition to a settlement.² MMA agrees. Moreover, since a settlement conference will be held immediately following the May 5 prehearing conference, the Commission should require that, by May 12, any party that intends to challenge a settlement along the lines proposed in the Postal Service's filing formally announce its intentions in a filing

¹ *Postal Rate and Fee Changes*, Docket No. R2005-1, Notice And Order On Postal Service Request For Changes In Domestic Postage Rates And Fees, Issued April 12, 2005 (Order No. 1436).

² See, United States Postal Service Request For Expedition And Early Consideration Of Procedures Facilitating Settlement Efforts, dated April 8, 2005 at 9 (Request For Expedition).

that should also include a statement setting forth the genuine issues of material fact, if any, to be raised at a hearing.

3. Indications of support for, or opposition to, a settlement will aid the Commission in formulating a procedural schedule to suit the circumstances of this case. However, until the parties have been polled and the extent and nature of any opposition is known, it would be premature for the Commission to adopt the procedural schedule suggested by the Postal Service in its Request For Expedition. MMA has particular reservations about the Postal Service's suggestion that May 27 be the cut off date for discovery. Depending on the extent and nature of any opposition to a settlement, imposing such an early end to discovery on the Service's case-in-chief could deprive parties of their due process rights.

4. MMA's concern on this score is not hypothetical. In R2001-1, the parties worked diligently to reach a settlement only to find out late in the game that one party opposed aspects of the settlement that were crucial to MMA and certain other settling parties. As a result, MMA and others were forced to litigate very important issues they had thought were settled under tight time constraints. MMA hopes that history will not repeat itself in this case. However, MMA cannot waive important due process rights based on hope. Adoption of MMA's suggestion that May 12 be the date for any party to announce its intention to oppose a settlement and the basis of such opposition should lessen MMA's due process concerns and enable the Commission to make an informed decision on an appropriate procedural schedule.

CONCLUSION

For all the foregoing reasons, MMA urges the Commission to:

1. get an early “read” on settlement prospects by polling parties at the May 5 prehearing conference;
2. set May 12 as the date for parties to formally state their positions on settlement, the need for a hearing, and the issues they will raise; and
3. delay establishment of other procedural dates until after May 12.

Respectfully submitted,

Major Mailers Association

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