

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

Postal Rate and Fee Changes, 2005)

Docket No. R2005-1

ANSWER OF OFFICE OF THE CONSUMER ADVOCATE
IN SUPPORT OF MOTION OF VALPAK DIRECT MARKETING SYSTEMS, INC.
AND VALPAK DEALERS' ASSOCIATION, INC.
FOR EXTENSION OF TIME TO FILE DIRECT TESTIMONY
(July 8, 2005)

The Office of the Consumer Advocate ("OCA") hereby responds in support of the motion of Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. ("Valpak") for an extension of time to file its direct testimony.¹ The cases-in-chief of the participants including rebuttal to the Postal Service are due to be filed July 14, pursuant to ruling of the Presiding Officer in this proceeding.² ValPak requested an extension of time until July 19, three business days after the dates established by the Presiding Officer for the filing of testimony. OCA supports that extension and requests that the extension be granted to all participants filing a case-in-chief.

The reasons cited by Valpak in support of its motion for extension are also applicable to OCA. Various recently filed errata to testimony, exhibits and library references and the need for motions to compel responses to interrogatories have delayed completion of discovery from the Postal Service and consequently delayed

¹ The Presiding Officer directed from the bench on July 6 that responses to Valpak's motion are to be filed by July 11, 2005. See P.O. Ruling 2005-1/41, July 7, 2005.

² "Presiding Officer's Ruling Establishing Procedural Schedule," Ruling No. R2005-1/11, May 19, 2005.

preparation of OCA's direct case. Also, practical considerations related to the short period of time between the end of the scheduled hearings on the Postal Service's direct case on July 8, 2005 (Friday) and the deadline for filing cases-in-chief necessitate a brief extension from July 14 (Thursday) until July 19 (Tuesday) to complete preparation and filing of OCA's direct case. Finally, the initial reasons provided by the Presiding Officer for expediting the procedural dates have not materialized.

The Presiding Officer's ruling establishing the procedural schedule noted the order provided less time for procedural dates "than has been the norm in past Commission cases."³ The expedited schedule was selected, in part, because the Postal Service was confident settlement is a real possibility and the schedule assumed a narrowing of issues would reduce the need for cross-examination. Consequently, the period between the filing of the omnibus rate application and the filing of the participants' direct case was significantly shortened. Generally, in recent rate cases, the period between the filing of a rate request and the filing of the cases-in-chief of each participant has been scheduled at approximately 130 days.⁴ In this case, that period was reduced to 97 days.⁵ Moreover, the time period in the last two rate cases from the last day of scheduled cross-examination until the due date for cases-in-chief has been 17 and 15 days, respectively. This contrasts with the 6 days provided for in this case.

³ P.O. Ruling No. R2005-1/11 at 1-2.

⁴ Docket No. R2000-1 from January 12, 2000 until May 22, 2000 or 131 days. See P. O. Ruling No. R2000-1/4, February 25, 2000. Docket No. R2001-1 from September 24 2001 until January 30, 2002 or 128 days. See P.O. Ruling R2001-1/6, November 5, 2001.

⁵ April 8, 2005 until to July 14, 2005.

After including the normal time to receive the transcript for the last day of hearings, no more than 3 days following the end of cross-examination will be available to complete preparation and filing of OCA's case-in-chief. Because of this expedited time schedule established in large part pursuant to the Postal Service's motion for expedition, timely responses to interrogatories and other information requests have been particularly important.

The Postal Service has responded in a timely manner to many of the many OCA interrogatories. However, the Postal Service filed several errata to its direct testimony only days before scheduled cross-examination on the Postal Service's case. That not only required further interrogatories but delayed the preparation of OCA's direct case. Also, the Postal Service raised several objections to OCA's interrogatories, and not always within the time period to object to interrogatories.

Several motions to compel have been filed by OCA and most are still unresolved. For instance, there is outstanding an OCA motion to compel responses to significant interrogatories regarding an important information data system known as DOIS.⁶ This information would be of valuable assistance to the OCA in the preparation of its direct case. Several other motions to compel responses to interrogatories are also outstanding.⁷ Additionally, the Postal Service has not yet responded to, nor objected to,

⁶ "Office of the Consumer Advocate Motion to Compel Response to Interrogatories OCA/USPS-74,76-77,100(a), and 101, filed June 15, 2005."

⁷ See OCA Motions to Compel dated June 9 regarding OCA/USPS-43-54 and OCA/USPS-T6-14; dated June 15 regarding OCA/USPS-60 and 118; and dated July 5 regarding OCA/USPS-147a and d and 148a.

several institutional interrogatories submitted well over two weeks ago.⁸ In any case, the responses to these interrogatories remain unavailable to OCA to assist in the preparation of the OCA's case-in-chief.

Initially, it was hoped by many of the parties that a settlement would obviate the need to file a responsive direct case. However, a settlement has not materialized at this time and, barring agreement in the next few days, the need to file a direct case is becoming apparent. Taken together, these factors require OCA to favor the request for an extension of time to file a direct case.

It must be borne in mind that the evidence adduced by OCA over the course of the discovery period reinforces the view we expressed in our Opposition to the Postal Service's Request for Expedition⁹ that there is no urgency in bringing this case to an early conclusion. Evidence provided by the Postal Service demonstrates that, even without any rate increase in the test year, it will end the year in a near break-even position. A Commission decision issued in the statutory 10-month time frame would still provide to the Postal Service revenues far in excess of those needed to break even.

⁸ See OCA/USPS-151-161, 166, 171,172 filed June 10, 2005. See also OCA/USPS-176 filed June 10, 2005 and OCA/USPS-133 filed June 6, 2005.

⁹ "Office of the Consumer Advocate Opposition to United States Postal Service Request for Expedition and Early Consideration of Procedures Facilitating Settlement Efforts," filed April 29, 2005.

Wherefore, the OCA joins in support of Valpak's motion for extension of time. If the Presiding Officer grants the Valpak motion for an extension of time, because the reasons cited by Valpak for an extension apply equally to other participants as well, OCA requests that the time, likewise, be extended for all participants to file a case-in-chief.

Respectfully submitted,

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