

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

Rate and Service Changes to Implement )  
Baseline Negotiated Service Agreement ) Docket No. MC2005-3  
with Bookspan )

OFFICE OF CONSUMER ADVOCATE  
NOTICE OF DECISION NOT TO FILE A DIRECT CASE  
(October 24, 2005)

The OCA has decided not to file a direct case. The record as it stands is sufficient for OCA to brief its issues. The OCA is not aware of any other direct case. Accordingly, in the interest of expedition (and minimization of transactions costs), the OCA moves to close the record (with four limited exceptions noted below) and proceed to briefing. The OCA suggests November 10 as the date for filing initial briefs and November 21 for the filing of reply briefs. It should be noted, however, that four limited evidentiary matters are still outstanding.

The first concerns OCA's "Motion Requesting Presiding Officer to Direct Bookspan to Furnish a Complete Answer to Question 4.a. of POIR No. 1," October 18, 2005. Bookspan's response to the motion is due on October 25, 2005.

The second concerns a request made by the Presiding Officer, of witness Yorgey, during her appearance for oral cross-examination:

CHAIRMAN OMAS: Mr. Reiter, before we begin, there was something that was sort of left hanging during the Cross-Examination and I'd like to ask Witness Yorgey, in your discussions with Ms. Dreifuss earlier today, you said you wanted to compare the example she presented to you with the spreadsheets used to examine Bookspan's forecasted volumes.

Would you please inform the Commission of the results of that comparison and if OCA's examples are inaccurate, please provide the correct

information with an explanation of how it was developed. Could you do that, please?

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MR. REITER: Mr. Chairman, when do you want that by?

CHAIRMAN OMAS: Well, as soon as we can get it.

The third outstanding matter is a response awaited from witness Yorgey to interrogatory OCA/USPS-T2-21, filed October 19, 2005. The answer is due on November 2, 2005

The fourth outstanding matter concerns an offer made by Bookspan's counsel to provide Bookspan's original telemarketing budget in 2004 (the year that the Do Not Call Law went into effect). This offer was made during the closed session of oral cross-examination of witness Epp: "[W]e will see whether we can provide that information under seal for the record if it exists anymore." Tr. 4/476.

Of course, OCA defers to the Presiding Officer on how to handle these four outstanding evidentiary matters. It appears to OCA, however, that the briefing dates suggested above – November 10 and November 21 – are reasonable in light of the minimal amount of evidentiary material that is encompassed by the four outstanding requests.

Respectfully submitted,

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