

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

Evolutionary Network Development)
Service Changes, 2006

Docket No. N2006-1

OFFICE OF THE CONSUMER ADVOCATE
REPLY TO UNITED STATES POSTAL SERVICE
MOTION FOR THE ADOPTION OF PROPOSED PROCEDURAL SCHEDULE
AND SPECIAL RULES OF PRACTICE
March 17, 2006

Pursuant to the Commission's order noticing this proceeding, the OCA hereby responds to the United States Postal Service's motion for adoption of a proposed procedural schedule and special rules of practice.¹

OCA commends the Postal Service for filing its proposal to initiate changes in the mail processing and transportation network that will impact or substantially impact its nationwide service. Such network changes are needed to eliminate excess capacities and to gain other efficiencies in its operations and improve service.

For the various reasons set forth below, the OCA believes the Postal Service's proposed procedural schedule is unduly expeditious. The motion fails to account for numerous complexities and the probable need for extensive interrogatories in this case to obtain a better understanding of the Postal Service's proposal. At best, it appears premature to attempt to specify the precise procedures that will be necessary until further information comes to light about the nature, extent, and potential impact of the

¹ "Notice And Order Concerning Postal Service Request For An Advisory Opinion On Changes In Postal Services," February 17, 2006. The Postal Service filed the motion concurrently with its request on February 14, 2006. Pursuant to the Commission's Notice and Order, answers to the Postal Service's

program upon which the Postal Service is seeking an advisory opinion. For instance, the proposed discovery period of three weeks from the date of filing of the Request does not allow sufficient time for interested participants to intervene and commence meaningful discovery. In view of the broad request and potential for long-term nationwide impact on service, a significantly longer period for discovery is required.

OCA believes a more reasonable discovery period is necessary in this case until at least the end of April, with additional opportunity for follow-up interrogatories. OCA is not prepared at this time to suggest a further procedural schedule pending further developments. Thus, OCA believes discovery should progress pending the outcome of interrogatory responses.

OCA does not request a hearing at this time but wishes to reserve an opportunity to request oral cross-examination at a later date pending further exploration of the processes and procedures underlying the Postal Service's proposal and the timing of the various levels or tiers of its implementation.

Proposed Procedural Schedule

Neither the Postal Service's Request nor the prepared testimony adequately supports the motion to expedite the short time lines proposed for this case. The Postal Service's proposed schedule would have completed discovery on the Postal Service's testimony, had hearings on Postal Service testimony, passed the deadline for all discovery on the Postal Service and the filing of intervenor testimony as of March 24. Moreover, the Postal Service proposed special rules requiring interrogatory responses

in seven days rather than fourteen days. To date, many of the Postal Service's responses have been filed in seven days but others have taken at least fourteen days.

Additional questions in this case relate to the timeliness of the Postal Service's filing which are being explored by OCA interrogatories. The Commission's rules applicable to requests for changes in the nature of postal services require that, "Such request shall be filed not less than 90 days in advance of the date on which the Postal Service proposes to make effective the change in the nature of postal services involved." (Rule 72.) The Postal Service's Request does not indicate a start date for implementation of the changes for which it seeks review. The only references to an implementation period lie in two places in the prepared testimony of witness Williams (USPS-T-2). The testimony is unclear as to the proposed implementation date of changes. In fact, it appears the process is well along for the ten changes in LR-N2006-1/5 for which the Area Mail Processing process was initiated about one year ago. Some interrogatories have explored this issue but further details must be obtained through additional interrogatories.

Although the Commission's Rule 72 provides that proposals must be filed at least 90 days prior to the implementation of the change, it is not clear whether the Postal Service has complied with the Rule in this case. Further, even if the Postal Service is in technical compliance with the Commission's Rule to file no later than 90 days before an implementation date, we submit that nowhere does the Commission, the Rule, or the statute suggest that the Commission should complete its advisory report within the 90 days or before an implementation date determined by the Postal Service. To provide

participants with the opportunity for a full hearing including oral-cross examination and additional testimony, the process may require more than a 90-day period.

In this case, the Postal Service recognizes that its planned significant network changes may impact service standards nationwide for numerous ZIP Code pairs. OCA submits that review of the process will require greater in-depth review over a longer time period than proposed by the Postal Service. The Postal Service's motion notes that "on or about May 15, 2006, the Postal Service presently intends to implement the service changes resulting from the initial wave of operational changes produced by its network realignment review program." Motion at 2. This suggested implementation date does not appear to be cast in stone. For example, witness Williams notes in his testimony that the implementation is "to occur in late spring/early summer -- as early as the middle of May, 2006." (Williams, USPS-T-2 at 12.) Witness Williams makes no representation that the process, so long in the making, *must* commence on May 15. Nor is there any reason why, if the process has continued for so long a period, the Commission should not carefully review the matter and offer cogent advice as Congress intended.

Further complexity arises because the Postal Service's filing is not clear about which programs or changes in postal services the Postal Service is requesting the Commission to advise and issue a report—all or some of the methodology, the process, or the implementation of the results. All or at least a substantial portion of the study and review procedures using END and AMP have already been completed and are apparently being implemented in 10 cases to one degree or another. (Library Reference USPS-LR-N2006-1/5.) These "10 AMP decisions currently are in various stages of implementation and all are expected to be completed by June 2006." (Williams, USPS-

T-2 at 9, lines 16-18.) Thus, expeditious Commission action is not necessary in order for the Postal Service to commence studying these proposed changes or, to commence implementing its plans. In fact, the PRA provides specifically that a proposal “shall” be submitted “within a reasonable time *prior* to the effective date of such proposal” (emphasis added). The process effecting these changes has been ongoing for almost one year, if not more. (Williams, USPS-T-2 at 9, lines 8-18.)

Request for Special Rules of Practice

The Postal Service proposed in its motion to shorten certain response periods that are otherwise provided for in the Commission’s Rules. In the early procedural stages of this proceeding, the burden of the shortened periods appears to fall mainly upon the Postal Service. That is, reducing the time for interrogatory responses from fourteen days to seven days, the time for interrogatory objections from seven days to four business days, and the time for replies to motions from seven days to four business days involve matters most likely to relate to Postal Service filings. We do not object in theory to such time period reductions if the Postal Service is truly able to comply with those self-imposed deadlines, but as already noted, while many responses to interrogatories have been filed within seven days, others have taken at least fourteen days. Moreover, several objections to interrogatories have been raised and some are already the subject of motions to compel. OCA does not believe shortening the time for responses to interrogatories, objections to interrogatories, and replies to motions would provide a meaningful or useful shortening of the time for an advisory report in this proceeding.

Wherefore, OCA suggests an end of April deadline for interrogatories to the Postal Service. Further, OCA does not now anticipate oral-cross-examination but wishes to reserve that opportunity pending further responses to interrogatories in this proceeding. Additionally, OCA requests that the Commission deny the Postal Service's request to establish special rules of practice in this proceeding.

Respectfully submitted,

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Officer of the Commission

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