

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

Complaint on Stamped Stationery)

Docket No. C2004-3

OFFICE OF CONSUMER ADVOCATE REPLY
IN OPPOSITION TO MOTION OF UNITED STATES POSTAL SERVICE
TO SUSPEND THE PROCEEDING
(May 10, 2006)

The Office of the Consumer Advocate (“OCA”) hereby responds to the motion of the United States Postal Service to suspend this proceeding pending litigation of Docket No. R2006-1.¹ The complainant in this proceeding, Douglas F. Carlson, answered in opposition to the motion on May 5, 2006.

OCA opposes the motion to suspend this proceeding. OCA indicated in the statement as to material facts that it believes there are no remaining issues of material fact and that the service in question is a postal service. As such, the Commission is in a position to decide the issue without further submissions by the participants. The continued sale of this postal stationery at the prices charged without appropriate classification and, more importantly without appropriate pricing, is contrary to the provisions of the PRA and contrary to the interests of the public.

The Postal Service points to additional facts brought to the attention of the Commission by OCA’s pleadings. The Postal Service claims these facts differ from allegations made and admitted on this record. OCA pointed out in its recent statement

¹ “Reply of United States Postal Service to Statements as to Material Facts Filed Pursuant to Order No. 1460 and Motion to Suspend the Proceeding”, May 4, 2006.

regarding material facts that the Postal Service is currently selling two stamped stationery products: “The Art of Disney: Friendship Stationery,” the subject of the Carlson complaint, and the more recently issued “Garden Bouquet Stationery.” The Postal Service states it is not clear whether these allegations of facts have altered the situation. The matters OCA brought to the Commission’s attention are matters relating to the practices of the Postal Service and are readily verified by reference to documents authored and circulated by the Postal Service, i.e., at the USPS’s website and in its Stamp Fulfillment Services catalogue.² In OCA’s view, those facts do not raise new issues of material fact to be explored with further procedures or hearings. If the Postal Service believes there are now issues of material fact to be determined in this proceeding, it may say so. Otherwise, the matter is ripe for decision by this Commission.

The Postal Service has claimed erroneously that participants should benefit from suspending this proceeding. OCA disagrees this conclusion. OCA is concerned that the general public will be harmed by being forced to pay inappropriately high prices for stamped stationery that the Commission may well determine should be priced at a much lower rate.

² The USPS website for the purchase of the Disney stamped stationery is <http://shop.usps.com/webapp/wcs/stores/servlet/ProductDisplay?catalogId=10152&storeId=10001&categoryId=11822&productId=20655&langId=-1> . The USPS website for the purchase of the Garden Bouquet stamped stationery is <http://shop.usps.com/webapp/wcs/stores/servlet/ProductDisplay?catalogId=10152&storeId=10001&categoryId=11822&productId=11527&lang=-1> The USPS publication available from Stamp Fulfillment Services, P.O. Box 219424, Kansas City, Mo. 64121-9424 is the USA Philatelic, issued quarterly, which describes itself on its inside front cover as “the only official source for the complete line of current stamp issues from the United States Postal Service.”

The Postal Service also concludes that no harm will be caused by suspension of the proceedings because no new stamped stationery issues will be released until at least after the proposed First-Class rates are implemented. Deferring briefing of the issue until the Commission issues its recommendations in the rate case will most likely not leave sufficient time for necessary procedures before the proposed rates are implemented and before the possible introduction of newly designed postal stationery. In addition to the time required for briefing the issue, the Commission would need time to decide the complaint, and if the stamped stationery is found to be a postal service, the Governors would need time to review the matter and determine its course of action. Thereafter, a new classification proceeding may be filed by the Postal Service or initiated by the Commission. Further classification proceedings at the Commission would be necessary to determine the appropriate class of service and to establish an appropriate postage rate or fee for this postal stationery. (See Order No. 1460, note 2.)

Under the Postal Service's proposal, all of these procedures are to be accomplished in the time between the litigation phase of the rate case and before the rates proposed in Docket No. 2006-1 are implemented (or possibly, as the Postal Service suggests, even in the shorter time period up to the date of a Governors' decision in the rate case); otherwise, new stamped stationery might be issued, further confusing the matter.³ Therefore, OCA disagrees with the Postal Service's statement that there is "more than sufficient time after the litigation phase of the rate case for the

³ Note that counsel for Postal Service states "no stamped stationery issuances at current First-Class Mail rates are planned." (Motion at 2.) Although no issuances may be planned at the current time, a change in plans is not precluded. Moreover, even if Postal Service counsel asserted that none will be planned, it is well-known that counsel's assertion may effectively bind postal management, but it would not necessarily bind a Governors' decision to issue new postal stationery.

participants to assess the state of facts and submit briefs and reply briefs to aid the Commission in its determination on the instant complaint.” (Motion at 2.)

OCA proposes alternatively that the Commission conclude the matter in time for any new classification and fees to be incorporated into the set of rates and fees recommended by the Commission to the Governors in Docket No. R2006-1. A Commission decision finding that postal stationery is a postal service would permit the initiation of a classification proceeding and the establishment of appropriate rates or fees for the postal stationery in the newly filed rate case.

For these reasons, the Commission should deny the motion of the Postal Service to suspend these proceedings. Inasmuch as no material facts remain to be determined in this case, OCA believes the matter is ripe for Commission decision on the basis of the facts before it. Further, in order to reduce the burden on the Postal Service during the pendency of the rate proceedings, OCA suggests the Commission consider deciding the merits of the complaint on the basis of the pleadings submitted without the filing of briefs. If the Commission determines the postal stationery is a postal service, in the interests of administrative economy, the Commission should consolidate further proceedings with Docket No. R2006-1 to resolve classification and rate issues.

Respectfully submitted,

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