

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

POSTAL RATE AND FEE CHANGES,     )  
2006   )                     Docket No. R2006-1

**REPLY OF ALLIANCE OF NONPROFIT MAILERS, AMERICAN  
BANKERS ASSOCIATION, DIRECT MARKETING ASSOCIATION,  
DISCOVER FINANCIAL SERVICES, LLC, MAGAZINE PUBLISHERS  
OF AMERICA, INC., MORGAN STANLEY INC., NATIONAL  
ASSOCIATION OF PRESORT MAILERS AND NATIONAL POSTAL  
POLICY COUNCIL TO MOTION OF OFFICE OF CONSUMER  
ADVOCATE FOR EXTENDED PERIOD FOR DISCOVERY  
(June 22, 2006)**

Pursuant to the oral ruling of the Presiding Officer at the prehearing conference on June 16, 2006, the undersigned parties hereby reply to the Motion for Extended Period For Discovery filed by the Office of Consumer Advocate on June 15, 2006. We oppose the 90-day period for initial discovery proposed by the OCA, but support a shorter extension of the usual discovery period until Friday, July 21, 2006—i.e., 79 days after the filing of the Postal Service's request for rate and classification changes.

The undersigned parties sympathize with the OCA's concerns. The changes in rate design and classifications proposed by the Postal Service make this a complex case. In addition, initial analysis of several aspects of the proposals has been hindered by missing items in the workpapers and late discovery responses. These problems, although hardly uncommon in a case of this complexity, increase the already difficult challenge of adequately scrutinizing the evidentiary bases for the proposed rate and classification changes within the customary deadlines for initial discovery.

The ten-month deadline for a recommended decision imposed by 39 U.S.C.

§ 3624(c)(1), however, forces difficult tradeoffs. Lengthening the initial discovery period will require shortening one or more of the later procedural intervals (including the time for the Commission to write its recommended decision) by an offsetting amount.

This is a particularly acute concern here. Many of the specific changes proposed by the Postal Service—and its general movement toward rate deaveraging—represent welcome progress toward a more rational rate and classification structure. The undersigned parties therefore expect to defend one or more aspects of those proposals against challenges from other participants. A meaningful opportunity to prepare such defenses, however, requires an adequate period to conduct discovery after the filing of the intervenors' direct testimony, and an adequate period to digest the discovery responses and incorporate them into rebuttal testimony.

It was suggested during the prehearing conference that the problems created by extending the initial discovery period could be minimized by doing so selectively, on a witness-by-witness basis. It is hard to imagine how this process could work. The participants would need to specify for the Commission the witnesses for which extended discovery was sought. If, as is likely, a substantial number of USPS witnesses were nominated as candidates for extended discovery, the Commission would need to choose among these witnesses. This determination would require a preliminary assessment of the function and importance of the testimony of each witness—all at an early stage of the case.

Moreover, even a selective extension of discovery for the Postal Service's initial witnesses is unlikely to avoid the need for an across-the-board extension of time for the second round of testimony. The individual components of the Postal Service's direct testimony are highly interconnected. The direct testimony of most intervenors and the OCA thus is likely to respond to the direct testimony of multiple USPS witnesses. Extensions of discovery, even for a small subset of the Postal Service's case-in-chief, are likely to have a domino effect on the entire schedule.

For these reasons, the undersigned parties support extending the initial period of discovery until July 21, 2006, but not beyond that date. A discovery cutoff on July 21 would result in an initial discovery period eight days longer than the 71-day period allowed in Docket No. R2000-1.

Respectfully submitted,

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