

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

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

**MOTION OF ALLIANCE OF NONPROFIT MAILERS
AND NATIONAL POSTAL POLICY COUNCIL
FOR LEAVE TO FILE REPLY TO
OPPOSITION OF GREETING CARD ASSOCIATION
TO USPS MOTION TO STRIKE
(September 22, 2006)**

The Alliance of Nonprofit Mailers ("ANM") and the National Postal Policy Council ("NPPC") respectfully request leave to file a reply to the September 20 opposition of the Greeting Card Association ("GCA") to the September 13 motion of the USPS to strike the "Declaration" of Harry Kelejian attached to the testimony of GCA witness James A. Clifton (GCA-T-1), and the portions of Dr. Clifton's testimony that rely on Dr. Kelejian's Declaration. Although the Commission's rules do not authorize a reply to an opposition as a matter of right, Rule 21(b) allows the Commission or presiding officer to accept such a pleading as a matter of discretion in appropriate cases.¹ Good cause exists for allowing the filing of such a reply here.

The USPS motion to strike raises an important issue of first impression: whether an intervenor may avoid discovery and cross-examination of opinion testimony created

¹ See, e.g., Presiding Officer's Ruling No. MC2004-3/2 at 5 n. 7 (granting Bank One motion for leave to file reply to reply); Presiding Officer's Ruling No. R2001-1/20 at 6 n. 9 (granting OCA motion for leave to file reply to reply); Presiding Officer's Ruling No. R97-1/20 at 10 ¶ 6 (granting motion of Nashua Photo Inc. *et al.* for leave to file reply to reply); Presiding Officer's Ruling No. MC96-3/13 at 6 n. 3 (same).

for filing in a rate case merely by submitting the testimony in the form of a “Declaration” attached to the testimony of another witness, rather than as free-standing testimony. Allowing parties to bypass discovery and cross-examination through this device could transform Commission practice and drastically curtail the scope of due process now authorized by Rule 30(e). The importance of this issue warrants allowing interested parties to respond to the arguments advanced by GCA in its September 20 Opposition.

For the foregoing reasons, ANM and NPPC respectfully request that the Commission allow them to reply to the September 20 Opposition of GCA.

Respectfully submitted,

/s/

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