

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

REPOSITIONABLE NOTES MINOR CLASSIFICATION CHANGE

Docket No. MC2007-2

STATUS REPORT OF THE UNITED STATES POSTAL SERVICE
REGARDING POTENTIAL FOR A SETTLEMENT AGREEMENT
AND NOTICE THAT SETTLEMENT DOES NOT APPEAR LIKELY

This docket was initiated by the filing of the Request on April 2, 2007. Two participants (National Newspaper Association (NNA) and David Popkin) have intervened, while Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, was designated to represent the interests of the general public.¹ The undersigned counsel for the Postal Service, authorized by Order No. 14 (at 2) to act as settlement coordinator, and having contacted each of the three participants, hereby provides this status report.

Two participants (Mr. Popkin and Ms. Dreifuss) responded to an inquiry seeking a position on settlement by stating that each will "remain neutral on this one, neither supporting the Postal Service's proposal nor opposing a settlement of the case." Counsel's most recent inquiry with counsel for NNA, Ms. Rush, did not elicit a response, but she may be on vacation out of the country. However, based on previous discussions with Ms. Rush that led to withdrawal of NNA's active opposition,² undersigned counsel expects NNA's position to be one of neutrality similar to other participants or of support for the Postal Service Request.

Also worth noting is that neither of the two previous dockets involving repositionable notes³ concluded on the basis of settlement agreements. In the latter instance, the Commission noted:

¹ Order No. 9, at 4 (April 5, 2007).

² See Order No. 14 at 1 and n.1 (May 11, 2007).

³ Docket Nos. MC2004-5 and MC2006-2.

Order No. 1452 granted the Postal Service's request that the Commission establish settlement procedures. The Postal Service, however, ultimately abandoned its attempt to settle this docket. In its motion to expedite issuance of a recommended decision, which it filed March 8, 2006, the Postal Service explained that it did not draft a Stipulation and Agreement to submit to the participants because its settlement discussions led it to expect that the participants would neither sign a settlement agreement nor oppose one.

Opinion and Recommended Decision, Docket No. MC2006-2, at 3 (March 20, 2006)(footnote omitted). Undersigned counsel accordingly concludes that the circumstances of this docket are sufficiently parallel to those in Docket No. MC2006-2 that further effort on a settlement agreement is not warranted. However, no participant actively opposes the Postal Service Request.

The Postal Service accordingly hereby provides the Postal Regulatory Commission the requested notice that settlement does not appear likely.⁴ Order No. 14 does not specify what procedural consequences would follow this notice, although it touches on two possibilities. First, the Commission could take no action at all or more formally place this proceeding in a state of suspension.⁵ Second, an evidentiary record could be established as the foundation for Commission action. The Commission could issue an order establishing procedures for entering evidentiary material, including witness Parr's testimony, into the record; in the alternative, the Postal Service could file

⁴ Order No. 14 at 2.

⁵ "[T]he Commission concludes that authorization of settlement proceedings is preferable to suspension." *Id.* Order No. 14 does not specify a procedural preference that flows from a notice that settlement appears unlikely.

a motion to place witness Parr's testimony into the evidentiary record, accompanied by two hard copies and a declaration attesting to the accuracy and authenticity of the testimony.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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