

ORDER NO. 16

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Dan G. Blair, Chairman;
Dawn A. Tisdale, Vice Chairman;
Mark Acton; Ruth Y. Goldway; and
Tony L. Hammond

Repositionable Notes
Minor Classification Change

Docket No. MC2007-2

FURTHER ORDER ON PROCEEDINGS

(Issued May 23, 2007)

The Postal Service, in a status report on settlement negotiations and related notice filed in response to Order No. 14, advises the Commission that reaching a settlement in this case is not likely. This conclusion is based on participants' representations in response to recent Postal Service inquiries and on the experience in two predecessor cases, where settlements were not reached, despite lack of opposition thereto.¹

The Commission appreciates the Service's efforts to facilitate settlement, its timely report, and its frank assessment of the situation.² With the prospect of settlement

¹ Status Report of the United States Postal Service Regarding Potential for a Settlement Agreement and Notice that Settlement Does Not Appear Likely, May 18, 2007 (Status Report).

² The Status Report indicates that David B. Popkin and the Commission's Office of the Consumer Advocate have told the Service they will remain neutral in this case, neither supporting the Postal Service's proposal nor opposing a settlement. The other participant — the National Newspaper Association — has withdrawn active opposition. Status Report and Notice at 1. The two predecessor cases are Docket Nos. MC2004-5 and MC2006-2.

nil, the Commission believes it is preferable to proceed to build a record to support prompt issuance of an opinion and recommended decision in this case, rather than to suspend action.

First, the Postal Service should, by motion, submit witness Parr's testimony for admission by designation into the evidentiary record, along with a declaration attesting to the accuracy and authenticity of that testimony no later than May 31, 2007.

Second, the Commission designates two portions of witness Kaneer's testimony from Docket No. MC2004-5. One portion addresses consistency with statutory classification criteria; the other briefly addresses costs. This action is being taken to ensure the completeness of the record, given witness Parr's statement that Kaneer's testimony on the statutory classification remains applicable and the citation to Kaneer's comments on the application of revenue to institutional costs.

Witness Parr cites Docket No. MC2004-5, USPS-T-2 at 5-7 and 11 (classification criteria) and USPS-T-2 at 8-9 (application of revenue to institutional costs). The Commission therefore designates the following material: Docket No. MC2004-5, Tr. 2/83, line 10 through Tr. 2/85, line 3 and Tr. 2/89, lines 10 through 19 (on the classification criteria) and Tr. 2/87, line 1 (beginning with "In") through line 46 (on the application of revenue).

Third, given the underlying nature of this case, the limited number of participants, the absence of any interrogatories to date, and the apparent lack of disagreement on the fundamental question of extending authority to offer Repositionable Notes service, it may be possible to dispense with several of the procedural stages that typically ensue, such as filing rebuttal testimony or briefs. At the same time, the Commission does not want to preclude participants from exercising their due process rights. Accordingly, any participant that wishes to submit testimony or file a brief (or formal statement in lieu of a brief) is directed to file notice of that interest, along with an indication of suggested filing dates, no later than May 31, 2007.

The Commission will take prompt action on any such notices. If no participant files a notice, the Commission anticipates issuing an order entering designated

testimony, along with all other pertinent material, into the evidentiary record, and closing the record. Issuance of a decision could be expected shortly thereafter.

It is ordered:

1. The Postal Service is to offer witness Parr's testimony, by motion, for designation into the evidentiary record, and file two hard copies of such testimony, along with a declaration of accuracy, no later than May 31, 2007.
2. Any participant wishing to file testimony, a brief, or a formal statement, is directed to file notice of such interest, along with suggested dates for such filings, no later than May 31, 2007.
3. Any participant opposing the Commission's stated intention, in the absence of notices responding to ordering paragraph 2, to enter witness Parr's testimony into the evidentiary record, along with other pertinent material, and to close the evidentiary record forthwith, shall file notice of such opposition, along with supporting reasons, no later than May 31, 2007.

By the Commission.

Steven W. Williams
Secretary