

PRESIDING OFFICER'S  
RULING NO. N2009-1/1

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

Station and Branch Optimization and  
Consolidation Initiative, 2009

Docket No. N2009-1

PRESIDING OFFICER'S RULING  
ESTABLISHING PROCEDURAL SCHEDULE

(Issued August 14, 2009)

At the July 30, 2009 prehearing conference, participants were asked their views concerning the establishment of a procedural schedule, including the length of discovery and the need for a hearing.

*Discovery.* The Public Representative indicated that he has submitted a first round of discovery requests to the Postal Service and will shortly submit a second round of questions. He stated that the amount of time required to complete discovery will depend on the responsiveness of the answers received from the Postal Service. Tr. 1/15. Counsel for the American Postal Workers Union, AFL-CIO (APWU) anticipated the need for two rounds of discovery. He estimated that this will require six months based on experience from Docket No. N2006-1. *Id.* at 1/21. Postal Service counsel commented that two rounds of discovery should require perhaps a month rather than six months, and that Docket No. N2006-1 should not serve as an example. *Id.* at 1/23. He recognized, however, that an opportunity for public comment would be needed. *Id.* Counsel for Valpak Dealers Association and Valpak Direct Marketing Services (Valpak) stated he will be filing at least one round of discovery questions, but indicated that the timeline is somewhat in the Postal Service's control. *Id.* at 1/27.

Upon intervention in proceedings initiated under 39 U.S.C. 3661, parties may engage in discovery. The Commission noticed this proceeding on July 10, 2009. Thus, participants have been able to serve discovery requests since that date. Under the Commission's rules, answers to interrogatories are due within 14 days of their filing with the Commission. Based on the foregoing considerations and allotting time for counsel to review the answers and to develop questions between rounds, initial discovery concerning the Postal Service's direct case will conclude September 11, 2009.

This schedule provides ample time for discovery of the Postal Service's filing, balanced against the need to move this case forward expeditiously. It also will accommodate the Commission's planned field hearings tentatively scheduled for September. The parties are encouraged to engage in informal discovery to clarify testimony and supporting materials as well as to use informal means to clarify questions and to identify overly broad or burdensome discovery requests. See 39 CFR 3001.25(c).

*Hearings.* Counsel for APWU indicated that in all likelihood this proceeding would require oral cross-examination of the Postal Service's witnesses. *Id.* at 1/18. The Postal Service also was placed on notice that members of the Commission may wish to directly question the Postal Service witnesses. *Id.* at 1/32.

A hearing on the Postal Service's direct case is scheduled for September 30, 2009 at 10 a.m. in the Commission's hearing room. All Postal Service witnesses also shall be available for oral cross-examination on the following day should it be necessary to extend the hearing.

Participants requesting oral cross-examination of a Postal Service witness shall file notice with the Commission by September 16, 2009. Notice shall identify the witness and the topics to be covered and estimate the time required for cross-examination.

*Rebuttal testimony.* APWU's counsel requested that the opportunity for participants to file a rebuttal case be incorporated into the procedural schedule. *Id.* at

1/18. He suggested allotting 30 days after conclusion of the Postal Service's direct case for the filing of testimony. *Id.* at 1/33.

Dates for filing notice of intent to file rebuttal testimony and the filing of rebuttal testimony will be added to the schedule at this time. Participants intending to file rebuttal testimony shall file notice of their intent by October 2, 2009. Rebuttal testimony shall be filed no later than October 14, 2009.

Additional procedural dates will be established as necessary in subsequent rulings.

*Unrelated matters.* The following motions for late acceptance have been filed with the Commission:

1. Motion of the United States Postal Service for Late Acceptance of Filing of Responses to Public Representative Interrogatories PR/USPS-T1-7(a-b), July 27, 2009;
2. Motion of the United States Postal Service for Late Acceptance of Filing of Responses to Public Representative Interrogatories PR/USPS-T1-5, 7(c-d) and 8, July 27, 2009;
3. Motion of the United States Postal Service for Late Acceptance of Filing of Responses to Public Representative Interrogatories PR/USPS-T1-6, July 27, 2009;
4. Motion for Late Acceptance of Notice of Intervention by the Direct Marketing Association, July 30, 2009;
5. Association of Priority Mail Users, Inc. Motion for Late Acceptance of Notice of Intervention, July 31, 2009;

6. Motion of the United States Postal Service for Late Acceptance of Filing of Response to David Popkin Interrogatory DBP/USPS-30, August 6, 2009;
7. Association of U.S. Postal Lessors, Inc. Motion for Late Acceptance of Notice of Intervention, August 11, 2009;
8. Motion of the United States Postal Service for Late Acceptance of Filing of Responses to American Postal Workers Union Interrogatories (APWU/USPS-T2-1, 2, 3(d, e), 4-7 and 9), August 12, 2009;
9. Motion of the United States Postal Service for Late Acceptance of the Filing of Institutional Responses to Chairman's Information Request No. 1 (Questions 1, 14, 17 and 19) August 13, 2009;
10. Motion of the United States Postal Service for Late Acceptance of the Filing of the Responses of Witness Matalik to Chairman's Information Request No. 1 (Questions 2-5, 7-13 and 18) August 13, 2009; and
11. Motion of the United States Postal Service for Late Acceptance of the Filing of the Response of Witness VanGorder to Chairman's Information Request No. 1 (Question 6) August 14, 2009.

These motions are granted.

## RULING

1. Initial discovery of the Postal Service's direct case concludes September 11, 2009.
2. As set forth in the body of this Ruling, any participant requesting oral cross-examination of a Postal Service witness shall file notice with the Commission no later than September 16, 2009.
3. Participants intending to file rebuttal testimony shall file notice of their intent no later than October 2, 2009.
4. A hearing on the Postal Service's direct case is scheduled for September 30, 2009 at 10 a.m. in the Commission's hearing room.
5. Rebuttal testimony shall be filed no later than October 14, 2009.
6. The motions for late acceptance listed in the body of this Ruling are granted.

Ruth Y. Goldway  
Presiding Officer