

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

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Station and Branch Optimization and  
Consolidation Initiative, 2009

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Docket No. N2009-1

**MOTION OF AMERICAN POSTAL WORKERS UNION, AFL-CIO, TO  
EXTEND DISCOVERY ON UNITED STATES POSTAL  
SERVICE'S DIRECT CASE  
(September 10, 2009)**

The American Postal Workers Union, AFL-CIO (APWU), hereby respectfully requests that the Postal Regulatory Commission extend discovery on the United States Postal Service's direct case beyond the original September 11, 2009 deadline by at least one month and adjust the remainder of the procedural schedule accordingly.

On August 14, 2009, the Presiding Officer issued Ruling No. N2009-1/1 establishing the procedural schedule in this docket. Pursuant to that schedule, discovery on the Postal Service's direct case is set to end tomorrow, September 11, 2009. To date, the Postal Service has filed 22 Motions for Late Acceptance related to discovery requests. The most recent motion was filed two days ago, on September 8, 2009. In that Motion the Postal Service acknowledged that some of the responses covered by the Motion were "as many as 19 days late." Considering that discovery on the Postal Service was to last roughly two months, this is not an inconsequential amount of time and the participants in this docket have been prejudiced.

The prejudice suffered by the parties is not alleviated by the provision in the Commission's Rules permitting follow-up discovery. Answers to written discovery necessarily affect whether oral cross-examination will be required, the scope of any oral cross-examination and the determination of a party to submit rebuttal testimony. Currently, parties are required to file their notice of intent to conduct oral examination of Postal Service witnesses by September 16, 2009 and the parties are required to provide notice of intent to file rebuttal testimony by October 2, 2009.

Lack of timely filed responses to interrogatories has severely impacted the ability to determine whether oral examination or rebuttal testimony will be required. Had the rules of procedure regarding timely responses been strictly adhered to by the Postal Service, the parties would still be working under a tight timeline, but it would be possible to make reasoned and informed decisions about how to proceed. Unfortunately, the Postal Service was unable to meet those obligations for the majority of discovery and the parties opportunity to fully investigate the proposed SBOC Initiative and offer rebuttal testimony should not be compromised as a result.

In addition, at least one discovery dispute remains unresolved. On July 28, 2009, the APWU filed its first set of discovery requests (See Interrogatories APWU/USPS-T2-1-9 and Document Requests APWU/USPS-DR-1-3). To date, much of the requested information has not been provided. The Postal Service objected to APWU/USPS-T2-3(a-c), 8 and APWU/USPS-DR-1-3 on August 7, 2009. On August 21, 2009, APWU timely filed a Motion to Compel the Postal Service to respond to these discovery requests. As of today, resolution of this dispute has not been reached.

At this point, to hold the parties to the current schedule given the tremendous delay in Postal Service responses to a majority of interrogatories and with discovery disputes outstanding would severely prejudice their interests and ability to effectively participate in this docket. In order to ensure that no party be unduly prejudiced, the APWU respectfully requests that deadline for discovery on the Postal Service's direct case be extended by at least one month and that all other deadlines be adjusted accordingly.

Respectfully submitted,

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