

PRESIDING OFFICER'S
RULING NO. N2009-1/6

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
DENYING MOTION TO EXTEND DISCOVERY

(Issued September 17, 2009)

A Motion of American Postal Workers Union, AFL-CIO, to Extend Discovery on United States Postal Service's Direct Case (Motion) was filed on September 10, 2009. APWU requests that the original September 11, 2009 discovery deadline be extended by at least one month, and the remainder of the schedule be adjusted accordingly. It cites 22 motions for late acceptance related to discovery filed by the Postal Service and argues that the "[l]ack of timely filed responses to interrogatories has severely impacted the ability to determine whether oral examination or rebuttal testimony will be required." Motion at 2. It contends that prejudice suffered by the parties is not alleviated by allowing follow-up discovery. *Id.* at 1. APWU further notes an unresolved discovery dispute related to interrogatories APWU/USPS-T2-3(a-c) and 8, and document requests APWU/USPS DR-1-3.¹

The Postal Service filed a pleading opposing the APWU Motion on September 14, 2009.² The Postal Service contends that APWU has been "far from the most active" of the participants seeking discovery and "has offered no explanation for why any

¹ This discovery dispute since has been resolved. See P.O. Ruling N2009-1/4.

² Opposition of the United States Postal Service to Motion of American Postal Workers Union to Extend Discovery, September 14, 2009 (Opposition).

shortcoming [on] the part of the Postal Service justifies its request to be granted at least another month to consider discovery that it has thus far made little effort to pursue.” Opposition at 3, n.1 and 5. The Postal Service further notes that the discovery dispute cited by APWU concerns historical information that predates the Station and Branch Optimization and Consolidation Initiative (Initiative) currently under review. *Id.* at 4.

The Motion to extend the discovery deadline is denied. Upon review of the discovery requests propounded by all participants, discovery has been relatively light in this docket with the exception of discovery undertaken by the Public Representative. This lends support to a conclusion that participants have been provided an ample opportunity to pursue written discovery. The number of late filed responses is unfortunate, but does not appear to rise to the level of being prejudicial to any one participant. The discovery dispute referred to by APWU has been resolved. See P.O. Ruling N2009-1/4.

In this case, the Postal Service seeks an advisory opinion to inform its conduct of an ongoing operational program. The Commission opinion will be most useful if it is timely. APWU has indicated it intends to cross-examine Postal Service witnesses, and does not present a persuasive case for extending the current procedural schedule.

RULING

The Motion of American Postal Workers Union, AFL-CIO, to Extend Discovery on United States Postal Service’s Direct Case, filed September 10, 2009, is denied.

Ruth Y. Goldway
Presiding Officer