

PRESIDING OFFICER'S
RULING NO. C2009-1/11

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

Complaint of GameFly, Inc.

Docket No. C2009-1

PRESIDING OFFICER'S RULING CONCERNING
PROCEDURAL SCHEDULE

(Issued November 9, 2009)

On October 30, 2009, GameFly, Inc. (GameFly) filed a motion to extend the procedural schedule.¹ Earlier in this case, the filing date of GameFly's direct case was set nearly a month after the anticipated completion of its discovery phase. Specifically, the earlier ruling that extended the schedule stated that discovery on the Postal Service ends on October 5, 2009, and the due date for GameFly's case-in-chief was November 2, 2009.² Due to certain delays not the fault of either party, GameFly now requests an extension of the filing date for GameFly's direct case until December 2, 2009. The Postal Service does not oppose the requested extension. Motion at 1.

At this time, although the parties have devoted considerable resources to discovery, thereby enhancing the record, there appears to be no definitive end to discovery on the horizon. *Id.* at 2. There are still unresolved matters that indicate that a completion date for discovery remains uncertain.³ *Id.*

¹ Motion of GameFly, Inc., to Extend Procedural Schedule, October 30, 2009 (Motion).

² See P.O. Ruling C2009-1/3 at 2, September 4, 2009.

³ GameFly also has four motions pending to unseal certain documents, which could affect its direct testimony. See, e.g., Motion of GameFly, Inc., for Order Directing Interested Parties to Show Cause Why Certain Documents and Information Designated as Proprietary by the Postal Service Should Not Be Unsealed, September 25, 2009 (Motion to Show Cause).

Accordingly, GameFly's Motion is granted insofar as it seeks an extension of time to file its case-in-chief, but no specific date is set for filing its direct case. The parties are expected to continue to narrow their differences in discovery. This ruling is without any prejudice to any party's further scheduling motion following a ruling on GameFly's Motion to Show Cause.

RULING

The Motion of GameFly, Inc., to Extend Procedural Schedule is granted, in part, in accordance with the discussion in the body of this ruling.

Dan G. Blair
Presiding Officer