

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

COMPLAINT OF GAMEFLY, INC.

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Docket No. C2009-1

**MOTION OF GAMEFLY, INC.,
FOR LEAVE TO REPLY TO RESPONSE OF THE
UNITED STATES POSTAL SERVICE
TO MOTION FOR SCHEDULING CONFERENCE
(April 26, 2010)**

Pursuant to Rule 3001.21(b), GameFly, Inc. (“GameFly”) respectfully requests leave to file its Reply to the April 21 response of the Postal Service to GameFly’s April 14 motion for a scheduling conference. GameFly has separately lodged the Reply with the Commission. Although the Commission’s rules do not authorize a response to a reply as a matter of right, Rule 21(b) allows the Commission or presiding officer to accept such a pleading as a matter of discretion in appropriate cases. Good cause exists for allowing GameFly to file such a response here.

While not opposing a scheduling conference, the Postal Service response advances the extraordinary request that the conference agenda be limited to exclude any discussion of the Postal Service’s continuing delay in searching its centralized email databases for emails responsive to GameFly’s very first discovery requests (filed on July 31, 2009). This proposal is utterly without legal or equitable basis. Moreover, the Postal Service’s recital of the facts—and the Postal Service’s suggestion that no one was responsible for the delay—is inaccurate and misleading.

Fairness to GameFly, and the Commission's interests in a complete record, warrant allowing GameFly to respond.

Respectfully submitted,

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April 26, 2010