

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Tony L. Hammond, Vice Chairman;
Mark Acton;
Dan G. Blair; and
Nanci E. Langley

Estimating Volume Changes from
Pricing Incentive Programs

Docket No. RM2010-9

ORDER DENYING MOTION
FOR ADJUSTMENT TO PROCEDURAL SCHEDULE

(Issued June 24, 2010)

The Public Representative has filed a motion requesting an extension of the procedural schedule to permit “at least two rounds of discovery” concerning proposals outlined in Order No. 469¹ for estimating short-term volume changes.² According to the Public Representative, “[t]he Postal Service has not provided a concrete, repeatable method for the evaluation of Incremental Volume for Pricing Incentive Programs for more than one mailer.” *Id.* at 2. He also states, “[w]ithout clarity on what methodology the Postal Service proposes to use in the estimation of incremental volume changes

¹ Notice of Proposed Rulemaking Concerning Methods to Estimate Volume Changes Caused by Pricing Incentive Programs, June 8, 2010 (Order No. 469).

² Motion Requesting Adjustment to Procedural Schedule, June 11, 2010, at 3 (Motion).

from future incentive programs, it will be unwieldy and cumbersome for interested parties to offer comments on any and all potential methods.” *Id.* at 3.

The Postal Service opposes the Motion.³ Citing the Commission’s rules, it notes that discovery is not contemplated in rulemaking proceedings. (39 CFR. § 3001.41). The Postal Service also states that “respond[ing] to discovery requests in this rulemaking would be burdensome and not particularly useful.” *Id.* at 2. Expanding on the latter point, the Postal Service indicates that it is investigating which methodology to employ and therefore would be unable to respond meaningfully to discovery requests related to it. *Id.* It suggests that a “more appropriate way to proceed would be to allow the Postal Service to present its proposed methodology during the comment period and then allow the Public Representative to comment on the methodology or request permission to conduct discovery, if necessary.” *Id.*

The Motion is denied. First, the Postal Service makes the reasonable point that it is not in position to respond to inquiries on a methodology it has yet to adopt. Second, the Commission initiated this proceeding to elicit comments from interested parties on specific proposals. Consistent with that, the Postal Service’s suggestion is likewise reasonable—parties advance their own proposals in initial comments. In that regard, the Commission reads the Postal Service’s suggestion as an indication that its proposed methodology will be developed sufficiently to permit appropriate evaluation and comment.

The initial comment period may generate proposals which, on reflection, necessitate modification of the procedural schedule to accommodate meaningful reply comments. For example, convening a technical conference to address the details of specific proposals may be useful. Alternatively, as the Postal Service suggests, discovery could be sought. The request for discovery at this juncture, however, is premature. Accordingly, the Public Representative’s Motion is denied without prejudice.

³ Response of the United States Postal Service in Opposition to Motion of the Public Representative Requesting Adjustment to Procedural Schedule, June 18, 2010, at 1.

It is ordered:

The Motion Requesting Adjustment to Procedural Schedule, filed June 11, 2010, is denied without prejudice.

By the Commission.

Shoshana M. Grove
Secretary