

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

Postal Regulatory Commission  
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**Rate Adjustment Due to Extraordinary  
or Exceptional Circumstances**

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**Docket No. R2010-4**

**RESPONSE OF THE NATIONAL RURAL LETTER  
CARRIERS' ASSOCIATION TO AFFORDABLE MAIL ALLIANCE'S  
MOTION TO DISMISS**

**(August 2, 2010)**

Intervenor National Rural Letter Carriers' Association ("NRLCA") hereby responds to the motion of the Affordable Mail Alliance ("AMA") to dismiss the Postal Service's exigent request in the above-captioned case, as follows:

NRLCA submits that AMA's motion to dismiss is procedurally improper, premature and contrary to the Postal Accountability and Enhancement Act of 2006 ("PAEA"). Pub. L. 109-435. The Postal Service's exigent request in the instant case was filed pursuant to 39 U.S.C. 3622 (d)(1)(E). The PAEA provides that the Commission's determination as to whether to grant such a request must take place "after notice and opportunity for a public hearing and comment." Consistent with this statutory requirement, the Commission has promulgated a scheduling order setting dates for three days of hearings followed by the submission of initial comments and reply comments. If granted, AMA's motion would derail this process, resulting in the cancellation of these proceedings prior to the scheduled hearing and comment period, in clear violation of PAEA.

In addition, the Commission's Rules for Rate Adjustments in Exigent Circumstances (39 C.F.R 3010.60, *et.seq.*) do not permit a motion to dismiss a case at this stage of the process. Those rules specifically require, *inter alia*, the Commission to

“hold a public hearing on the Postal Service request” (39 C.F.R. 3010.65(b)), and “[f]ollowing the conclusion of the public hearings and submission of any supplementary materials interested persons will be given the opportunity to submit written comments” on the merits of the Postal Service’s request (39 C.F.R. 3010.65(f)). Even if the Postal Service’s initial petition for a rate adjustment is found to have failed to provide sufficient explanation/basis for its request, 39 C.F.R. 3010.65(e) provides that “[i]f the Postal Service is unable to provide adequate explanations during the public hearing, supplementary written or oral responses may be required.” Thus, AMA’s motion is entirely premature.

Finally, aside from its disagreement with the merits of the Postal Service’s request for a rate increase, AMA’s submission points to no defect in the Postal Service’s initial filing, such as a failure to provide certain elements required by 39 C.F.R. 3010.61(a). Rather, at this preliminary stage, AMA asks the Commission to resolve various complex merits issues, based largely on citations to secondary sources which are not part of the record of this case, without allowing anyone else an opportunity to be heard.

Accordingly, AMA’s motion should be denied as premature and improper. At most, the Commission should permit AMA to re-file its submission as an initial comment, to which reply comments may be filed by other interested persons in accordance with the previously issued scheduling order.

Respectfully submitted,

Mark Gisler  
Counsel for the National Rural Letter  
Carrier’s Association  
Peer, Gan & Gisler LLP  
1730 Rhode Island Avenue, NW, Suite 307  
Washington, D.C. 20036  
Telephone: (202) 223-1900