

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

Six-Day to Five-Day Street Delivery  
and Related Service Changes

Docket No. N2010-1

PRESIDING OFFICER'S RULING GRANTING MEDCO  
MOTION TO WITHDRAW TESTIMONY OF THOMAS MORIARTY

(Issued August 23, 2010)

On August 13, 2010, Medco Health Solutions (Medco) filed a motion to withdraw the testimony of its sole witness, Thomas Moriarty.<sup>1</sup> Medco originally filed the testimony on August 3, 2010.<sup>2</sup>

Medco states that it filed the testimony to “clear up any confusion that may have arisen from the remarks in this docket of USPS witness Sam Pulcrano: Specifically, ...that he did not think Medco opposed five-day delivery.” Motion at 1. Medco asserts that although much of the discovery may be objectionable and overly burdensome, it cannot justify the expense and effort to answer the Postal Service’s 22 interrogatory and document requests for testimony that is duplicative of testimony entered by Thomas Underkoffler (Medco’s Director of Logistics) at the Commission’s Las Vegas field hearing. *Id.*

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<sup>1</sup> Motion of Medco Health Solutions to Withdraw Testimony of Thomas Moriarty (T-1), August 13, 2010 (Motion).

<sup>2</sup> Revised Rebuttal Testimony of Thomas M. Moriarty, August 4, 2010.

Medco's Motion is unopposed, and will be granted, as Medco's testimony at the Las Vegas field hearing contains essentially the same information. Duplicative testimony does not benefit the evidentiary record, and Medco properly recognizes the Commission's determination to treat testimony received at field hearings as part of the evidentiary record in this docket.<sup>3</sup>

A primary goal of this proceeding is to develop a full and accurate record of the public's views about the proposed change in the nature of postal services, so that the Commission can provide the Postal Service with the best possible advice. The Presiding Officer is sympathetic to Medco's assertion that much of the Postal Service's discovery seems overly burdensome and of only attenuated relevance. Imposing needless litigation costs on interested mailers is inappropriate, as it is likely to discourage, rather than encourage, the development of a balanced record.

#### RULING

The Motion of Medco Health Solutions to Withdraw Testimony of Thomas Moriarty (T-1), filed August 13, 2010, is granted.

Ruth Y. Goldway  
Presiding Officer

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<sup>3</sup> Parties in this case have been consistently reminded that testimony received during field hearings may be rebutted, clarified, or commented on during the rebuttal phase of the case. See, e.g., Tr. 1/39; see *also* Transcript of Chicago, IL Field Hearing, June 21, 2010 at 27.