

ORDER NO. 1206

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Before Commissioners:

Edward J. Gleiman, Chairman;
George W. Haley, Vice Chairman;
W.H. "Trey" LeBlanc, III;
and George A. Omas

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POSTAL RATE COMMISSION
WASHINGTON, D.C.

Postal Rate and Fee Changes

Docket No. R97-1

ORDER GRANTING LATE INTERVENTION

(February 6, 1998)

On February 2, 1998, the Commission received a Notice of Intervention as Limited Participants by LabOne, Inc., Osborn Laboratories, Inc. and Clinical Reference Laboratory, Inc. (Notice), requesting limited intervenor status in accordance with Commission Rule of Practice and Procedure 20a. 39 C.F.R. § 3001.20a.

The three laboratories explain that they have substantial interest in the pending Postal Service proposals to establish two new surcharges for hazardous materials that will "clearly and materially affect the interests of these laboratories. . . ." Notice at 1. The Notice also asserts that the imposition of such surcharges would "materially and adversely affect the economic interests of each of the laboratories." Notice at 2.

The laboratories are aware of the fact that their Notice is filed well after the date for intervention as of right, but state that they were unaware of the proposed surcharges until so advised by a representative of the Postal Service in late January. As no current participant has opposed the imposition of these surcharges, these mailers request late intervention and the opportunity to file testimony in rebuttal to the Postal Service.

To the extent possible, the Commission seeks to obtain relevant evidence for all sectors of the mailing public, and late intervention is generally allowed, so long as participants accept the procedural status of the case. The deadline for filing rebuttal to the Postal Service, established in P.O. Ruling R97-1/55, was December 30, 1997. The laboratories request that they be allowed to file their rebuttal on March 9, 1998, when

testimony in response to the cases-in-chief of participants other than the Postal Service is due to be filed. This schedule would severely limit the opportunity of the Service to submit surrebuttal.

The Commission will grant this request for late intervention subject to (a) compliance with rulings and orders already issued and (b) oppositions filed by other participants pursuant to Rule 20a(b). 39 C.F.R. § 3001.20a(b). However, the laboratories must provide their evidence by February 20, 1998 and be prepared to stand cross-examination of their presentation on March 3, 1998.

It is ordered:


(1) The LabOne, Inc., Osborn Laboratories, Inc. and Clinical Reference Laboratory, Inc. Notice of Intervention as a limited participator, filed February 2, 1998, is granted, subject to compliance with rulings and orders already issued and to timely objections.

(2) The above referenced laboratories will participate jointly in the proceedings.

(3) Rebuttal testimony on behalf of these participants is to be filed on or before February 20, 1998, and be subject to cross-examination on March 3, 1998.

By the Commission.

(S E A L)


Margaret P. Crenshaw
Secretary