

ORIGINAL

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

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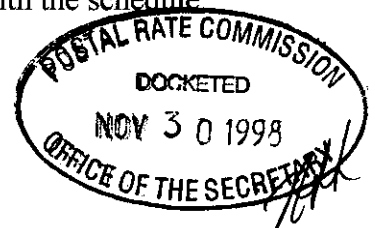
MAILING ONLINE SERVICE

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Docket No. MC98-1

COMMENTS OF
MAIL ADVERTISING SERVICE ASSOCIATION INTERNATIONAL
ON PROCEDURAL SCHEDULE
(November 30, 1998)

In POIR MC98-1/15, the Presiding Officer suspended the date for intervenors to file cases-in-chief, and requested comments from the Postal Service and from intervenors on changes to the procedural schedule that may be necessitated by Postal Service modifications to the system configuration for the experimental phase of the proposed Mailing Online Service ("MOL"). On November 24, 1998, the Postal Service filed suggestions for modifications to the procedural schedule ("USPS Suggestions"). The Mail Advertising Service Association International ("MASA") files these comments to propose a procedural schedule that would, if adopted, would make these proceedings more efficient without causing any harm to the timely implementation of the experimental phase of MOL (should the Commission ultimately authorize such a service). MASA's proposed schedule is attached as Exhibit A. Counsel for Pitney Bowes has authorized undersigned counsel to inform the Commission that Pitney Bowes agrees with the schedule attached as Exhibit A and supports its adoption by the Commission.¹



¹ MASA is informed that the OCA position is that the schedule should be suspended until the Postal Service has filed testimony that fully describes the MOL service it intends to offer and makes available the market test data the Service argued so strenuously was necessary for the Commission to reach a decision on the experimental request. MASA sees much merit in this position and would find it an acceptable alternative to its own proposal. Indeed, MASA's proposal in effect would set a deadline of January 14, 1999, for the Postal Service to complete its filing for the experimental service and set dates thereafter for intervenors to file direct testimony and for further proceedings.

The Postal Service's suggestions would make relatively minor changes in the schedule, while requiring intervenors to file testimony before their witnesses know either the architecture of the hardware and software of the nationwide system proposed for the experimental phase or the results of the market test commenced (late) on October 22, 1998. It would do this in service of an expedited schedule that no longer has any rationale. The Postal Service acknowledges that one of the principal reasons it gave for wishing to initiate the experimental service at the beginning of 1999 is no longer valid because MOL "is not yet ripe to take advantage of the marketing opportunity presented by the release of new Microsoft software in early 1999." USPS Suggestions at 2. It has likewise acknowledged that new system software "to support features desirable for the experiment" will not be available until June of 1999. *Id.* at 3. And it has suggested that the approval of the market test has taken the pressure off because the market test will run longer than originally anticipated and may be expanded beyond its current geographic limits. *Id.* at 2-3, n. 4. Accordingly, the urgency that was the primary reason for the procedural contortions of the current schedule is no longer a paramount consideration.

In contrast, MASA's proposed schedule would eliminate the proliferation of filing dates for testimony and hearings addressing specific subjects, and thereby make the process more orderly and efficient. It would do this without creating any harmful delay in the proceedings.

Under MASA's schedule, the Postal Service would file supplemental testimony on January 14, 1999. This testimony would address all issues related to the change in the system architecture and any issues the Postal Service wishes to address based on the market test data reported by that time. Parties could continue to engage in discovery of the Postal Service with respect to market test data that is reported in the meantime, and to obtain information needed for their direct cases. After January 14th, intervenors would have two weeks to engage in written

discovery of the Postal Service supplemental testimony and the Postal Service would be required to respond to interrogatories within seven days during this two-week period.

Importantly, under MASA's proposed schedule, intervenors would not be forced to file their direct cases until February 5, 1999. This would avoid the problems of the Postal Service's proposed schedule, which requires intervenors' testimony to be filed before the Service has defined the product it will actually offer to the public and before even preliminary results of the market test are available. It would also avoid having separate tracks of discovery for market test results, information system costs and data, and separate testimony from intervenors addressing these issues. And it would save the resources of the parties who would not be forced to incur the increased costs associated with the multiple threads of testimony and discovery contemplated by the Postal Service's schedule.

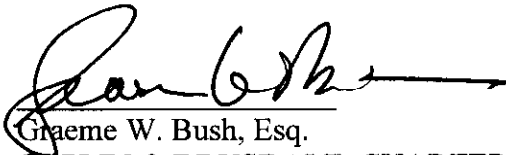
MASA's proposed schedule would result in reply briefs being filed on April 16, 1999, little more than one month later than the date proposed by the Postal Service.² This should not work any hardship on the Postal Service. There does not appear to be any urgent deadline for implementation of the experimental service. The Postal Service has acknowledged that "intervening events have attenuated somewhat the need for expedition," and that it cannot take advantage of the anticipated release of new Windows software so that the early 1999 commencement date is no longer so important. USPS Suggestion at 2. It has offered no alternative date by which it must implement the experiment, and has conceded that the system software to be used during the experiment will not be ready until June.

² The Postal Service's implementation needs could apparently accommodate some further extension of this schedule if it is necessary to enable the Postal Service to file testimony incorporating or based upon market test data. Assuming such data will not be available in time to permit a January 14, 1999, filing of supplemental testimony by the Postal Service, the schedule could be moved back several weeks in order to get the market test data without threatening the implementation of an experimental nationwide program by mid-1999.

The Postal Service's other arguments for adhering to a schedule as currently structured with only minor modifications as to timing are not compelling. The Service's assurance that the new system software will not significantly affect costs does not mean that the new system information data is irrelevant to other non-cost considerations. One such consideration is especially critical to the parties and the deliberations of the Commission -- what "functional equivalency" will be for purposes of determining whether postal rates charged for MOL should be made available to private parties. It is difficult to see how testimony can sensibly be formulated by intervenors without knowing what the "equivalent" service will be. Given the ever-changing aspect of MOL, one could, moreover, be forgiven a degree of skepticism about the Postal Service's assurances that the system changes will be "completely transparent to the user." USPS Suggestion at 2.

Accordingly, for the reasons discussed above, MASA suggests that the Commission modify the existing procedural schedule and adopt the schedule proposed by MASA and attached as Exhibit A.

Respectfully submitted,



Graeme W. Bush, Esq.
CAPLIN & DRYSDALE, CHARTERED
One Thomas Circle, NW
Washington, D.C. 20005

Counsel for Mail Advertising Service
Association International

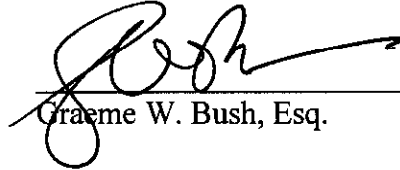
MASA's PROPOSED
HEARING SCHEDULE
MAILING ONLINE SERVICE
Docket No. MC98-1

January 14, 1999	Filing of supplemental information systems costs testimony and evidence based on market test data by the Postal Service
January 28, 1999	Completion of discovery directed to the Postal Service (w/ seven day response time for interrogatories served after January 14, 1999)
February 5, 1999	Filing of case-in-chief of participants, including rebuttal to Postal Service
February 26, 1999	Completion of discovery directed to intervenors and the OCA
March 2, 1999	Identify expected amount of oral cross-examination. Report on availability of witnesses.
March 9-11, 1999	Evidentiary hearings on cases-in-chief of intervenors and the OCA
March 22, 1999	Filing of evidence by Postal Service in rebuttal to cases-in-chief of participants and the OCA
March 29-31, 1999	Hearings on Postal Service evidence filed January 14, 1999 and March 22, 1999
April 9, 1999	Initial Briefs
April 16, 1999	Reply Briefs

EXHIBIT A

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing interrogatories were served in accordance with Rule 12 of the Rules of Practice and POR No. MC98-1/4 this 30th day of November 1998.



Graeme W. Bush, Esq.