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BEFORE THE
POSTAL RATE COMMISSION

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In the Matter of: :
BULK PARCEL RETURN SERVICE : Docket No. MC99-4
EXPEDITED MAIL CLASSIFICATION CASE :
- - - - - X

Third Floor Hearing Room
Postal Rate Commission
1333 H Street, N.W.
Washington, D.C. 20268

Thursday, June 24, 1999

The above matter came on for hearing, pursuant to
notice, at 9:30 a.m.

BEFORE: EDWARD J. GLEIMAN, Chairman
W. H. "TREY" LeBLANC, III, Commissioner
DANA COVINGTON, Commissioner
GEORGE OMAS, Commissioner
RUTH GOLDWAY, Commissioner

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1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
(202) 842-0034

1 APPEARANCES:

2

3 ON BEHALF OF THE OFFICE OF THE CONSUMER ADVOCATE:

4

5 KENNETH E. RICHARDSON, Esq.

6 TED P. GERARDEN, Esq.

7 Office of the Consumer Advocate

8 U.S. Postal Rate Commission

9 1333 H Street, N.W.

10 Washington, DC 20268

11 (202) 789-6859

12

13 ON BEHALF OF ADVERTISING MAIL MARKETING ASSOCIATION (AMMA):

14

15 FRANK WIGGINS, Esq.

16 Venable, Bartzer, Howard & Civiletti

17 1201 New York Avenue, N.W.

18 Washington, DC 20005

19 (202) 962-8400

20 (202) 902-8300 (fax)

21

22

23

24

25

ANN RILEY & ASSOCIATES, LTD.
Court Reporters
1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
(202) 842-0034

1 APPEARANCES (Continued):

2

3 ON BEHALF OF THE ASSOCIATION OF AMERICAN PUBLISHERS:

4

5 JOHN PRZYPYSZNY, Esq.

6 Drinker Biddle & Reath, L.L.P.

7 1500 K Street, N.W.

8 Suite 1100

9 Washington, D.C. 20005

10 (202) 842-8858

11 (202) 842-8465 (fax)

12

13 ON BEHALF OF THE CONTINUITY SHIPPERS ASSOCIATION:

14

15 AARON HOROWITZ, Esq.

16 Continuity Shippers Association

17 200 Corporate Woods Parkway

18 Vernon Hills, Illinois 60061

19 (847) 913-3360

20 (847) 913-9496 (fax)

21

22

23

24

25

ANN RILEY & ASSOCIATES, LTD.
Court Reporters
1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
(202) 842-0034

1 APPEARANCES (Continued):

2

3 ON BEHALF OF CTC DISTRIBUTION SERVICES:

4

5 JOHN MILES, Esq.

6 William J. Olson, P.C.

7 8180 Greensboro Drive

8 Suite 1070

9 McLean, Virginia 22102

10 (703) 356-5070

11 (703) 356-5085

12

13 ON BEHALF OF THE DIRECT MARKETING ASSOCIATION

14

15 DANA T. ACKERLY, Esq.

16 Covington & Burling

17 1201 Pennsylvania Avenue, N.W.

18 Washington, DC 20004

19 (202) 662-5296

20 (202) 778-5296 (fax)

21

22

23

24

25

ANN RILEY & ASSOCIATES, LTD.
Court Reporters
1025 Connecticut Avenue, NW, Suite 1014
Washington, D.C. 20036
(202) 842-0034

1 APPEARANCES (Continued):

2

3 ON BEHALF OF THE UNITED PARCEL SERVICE:

4

5 JOHN E. MCKEEVER, Esq.

6 KENNETH G. STARLING, Esq.

7 Piper & Marbury, L.L.P.

8 1200 19th Street, N.W.

9 Washington, D.C. 20036

10 (202) 861-3900

11 (202) 223-2085 (fax)

12

13 ON BEHALF OF THE UNITED STATES POSTAL SERVICE:

14

15 SCOTT L. REITER, Esq.

16 United States Postal Service

17 475 L'Enfant Plaza West, S.W., Room 6535

18 Washington, DC 20260-1137

19

20

21

22

23

24

25

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P R O C E E D I N G S

[9:30 a.m.]

1
2
3 CHAIRMAN GLEIMAN: Good morning, ladies and
4 gentlemen.

5 Welcome to our first hearing conference --
6 prehearing conference -- I think it's time to put my
7 bifocals back on. I keep hoping that my eyes are going to
8 get better with age but it doesn't seem to work that way.
9 Welcome to the first prehearing conference in Docket Number
10 MC 99-4, considering the Postal Service request for a
11 decision on a classification change expanding the terms of
12 its bulk parcel return service. The Commission has been
13 asked to give expedited consideration to these changes.

14 I am Ed Gleiman and I am going to be serving as
15 the Presiding Officer in this case. With me today are Vice
16 Chairman Trey LeBlanc and Commissioners Danny Covington and
17 Ruth Goldway.

18 Before proceeding on substantive matters, I would
19 like to ask counsel present to identify themselves for the
20 record. First, the Postal Service.

21 MR. REITER: Yes. Good morning, Mr. Chairman. I
22 am Scott Reiter on behalf of the Postal Service.

23 CHAIRMAN GLEIMAN: AMMA.

24 MR. WIGGINS: Frank Wiggins, Mr. Chairman, for the
25 Advertising Mail Marketing Association.

1 CHAIRMAN GLEIMAN: The Association of American
2 Publishers.

3 MR. PRZYPYSZNY: I am John Przepyszny for the
4 Association of American Publishers.

5 CHAIRMAN GLEIMAN: Douglas Carlson?

6 [No response.]

7 CHAIRMAN GLEIMAN: Continuity Shippers
8 Association.

9 MR. HOROWITZ: Aaron Horowitz on behalf of the
10 Continuity Shippers Association.

11 CHAIRMAN GLEIMAN: CTC Distribution Services.

12 MR. MILES: Good morning, Mr. Chairman. John
13 Miles on behalf of CTC Distribution Services.

14 CHAIRMAN GLEIMAN: DMA -- whoops. Look at that.
15 I didn't --

16 MR. ACKERLY: Good morning, Mr. Chairman. Todd
17 Ackerly on behalf of DMA.

18 CHAIRMAN GLEIMAN: I apologize, Mr. Ackerly. I
19 didn't see you sitting back there.

20 Office of the Consumer Advocate.

21 MR. RICHARDSON: Kenneth E. Richardson and Ted P.
22 Gerarden, Director of the Office of the Consumer Advocate.

23 CHAIRMAN GLEIMAN: Parcel Shippers Association.
24 David Popkin?

25 [No response.]

1 CHAIRMAN GLEIMAN: Time Warner.

2 [No response.]

3 CHAIRMAN GLEIMAN: United Parcel Service.

4 MR. MCKEEVER: Good morning, Mr. Chairman. John
5 McKeever for United Parcel Service.

6 CHAIRMAN GLEIMAN: Is there any Intervenor that I
7 have not mentioned?

8 [No response.]

9 CHAIRMAN GLEIMAN: For those of you who have not
10 already done so, if you would please fill out an appearance
11 form and hand it to the Reporter before you leave today.
12 They are available from the Reporter and on the side table
13 behind the Postal Service counsel.

14 Anyone interested in obtaining a transcript of
15 today's prehearing conference or of any other on-the-record
16 conference or hearing in this case should make arrangements
17 with the reporting company, Ann Riley & Associates, Ltd. An
18 order form is available on the bottom half of the appearance
19 form.

20 Transcripts are also available on computer
21 diskettes. Please fill out an order form if you would like
22 to have either the transcript in hard copy or diskette form,
23 and anyone needing to make additional arrangements that
24 cannot be dealt with today can contact the reporting company
25 at (202) 842-0034.

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1 I also want to remind counsel it would help the
2 Reporter greatly if you identify yourself for the record the
3 first time that you speak on any given day.

4 The Postal Service requested that the Commission
5 expedite this proceeding and Commission Order Number 1247
6 asked participants to provide comments on the Postal Service
7 request for expedition, and also on the need for evidentiary
8 hearings in this docket. No participant opposed the request
9 for expedition in this case and originally PSA requested
10 that a hearing be held but subsequently clarified its
11 position. PSA, as I understand it, does not seek
12 evidentiary hearings if a settlement, generally along the
13 lines suggested by the Postal Service when it submitted its
14 request, can be reached. Mr. May is not here, so we will
15 just assume for the time being that my understanding of
16 PSA's position is on target.

17 At the time it filed its request the Postal
18 Service filed a proposed stipulation and settlement --
19 stipulation and agreement. Last Friday afternoon, the
20 Postal Service asked that we recess this prehearing
21 conference early in the proceeding and convene later today
22 to allow some opportunity for a settlement conference among
23 the interested participants. OCA responded that it had a
24 scheduling conflict and asked whether the settlement
25 discussions could either be held before or after the

1 conference. AMMA also filed comments and suggested that a
2 settlement conference would be most useful if it preceded
3 the prehearing conference.

4 As far as I know, there has not yet been a
5 settlement conference that all the participants have been
6 involved in. Is that correct, Mr. Reiter?

7 MR. REITER: Yes. Scott Reiter for the Postal
8 Service. Yes, that is correct, Mr. Chairman, and we are
9 planning on holding a settlement conference this afternoon
10 at 1:30 here.

11 CHAIRMAN GLEIMAN: Okay.

12 MR. REITER: And I have notified all the parties
13 of that. I hope they all got the notice.

14 CHAIRMAN GLEIMAN: Does any participant object to
15 us recessing the prehearing conference until 3:00 p.m. today
16 to give Mr. Reiter and others an opportunity to participate
17 in a settlement discussion -- at 1:30, is that correct, Mr.
18 Reiter? 1:30?

19 MR. REITER: That's correct.

20 CHAIRMAN GLEIMAN: Okay.

21 MR. WIGGINS: The AMMA certainly supports that
22 idea, Mr. Chairman.

23 CHAIRMAN GLEIMAN: Okay, and is the OCA
24 comfortable with that arrangement?

25 MR. RICHARDSON: Yes, we are.

1 CHAIRMAN GLEIMAN: Well, hearing no objection, I
2 am going to recess the conference until 3:00 p.m. this
3 afternoon and at that time I will request that Mr. Reiter
4 provide a detailed statement of the progress of settlement
5 discussions and this afternoon I will also give participants
6 an opportunity to indicate whether they feel the need to
7 cross-examine one or both Postal Service witnesses or to
8 present any direct evidence opposing the Postal Service
9 request, either in whole or part.

10 Having said that, we will adjourn until 3:00 this
11 afternoon, and I wish you a good settlement discussion.
12 Thank you.

13 [Whereupon, at 9:37 a.m., the hearing was
14 recessed, to reconvene at 3:00 p.m., this same day.]

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AFTERNOON SESSION

[3:00 p.m.]

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3 CHAIRMAN GLEIMAN: The conference will come to
4 order. This afternoon we are continuing the prehearing
5 conference on MC 99-4. The first order of business is to
6 receive what I expect to be a glowing report on the status
7 of settlement discussions. Mr. Reiter, do you have some
8 information you would like to share with us?

9 MR. REITER: Yes, I do, Mr. Chairman.

10 I think all but two of the participants who
11 intervened were present at the settlement conference and I
12 think that we are very close to reaching an agreement that
13 we could all sign and get to the Commission. I need to
14 check back with my clients on one suggestion that was made
15 by the group and I think there's a couple of the other
16 parties who need to go back to their members, but we expect
17 to be able to do that within a week or so and hopefully, if
18 that all works out as we hope, that I would think within the
19 next couple of weeks we could have something all signed and
20 delivered to you.

21 CHAIRMAN GLEIMAN: Well, that's pretty good news.

22 Does any participant have anything that they would
23 like to add or would anyone care to comment on the need for
24 evidentiary hearings? I suspect from what Mr. Reiter said
25 that it doesn't appear as though there is going to be such a

1 need.

2 MR. RICHARDSON: Mr. Presiding Officer, I would
3 like to make just a brief comment.

4 It appears that we will have a settlement, barring
5 any unforeseen problems, and happily all the parties did
6 seem in agreement with even the proposed language that we
7 were discussing.

8 We have one housekeeping matter. The OCA had
9 tendered four interrogatories to the Postal Service which
10 are due today, and we have had some informal discussions
11 from the Postal Service and even informal responses, so we
12 are aware of their thinking on some of these subjects, but
13 because of the need for another week or so to consider the
14 settlement, we would be happy to allow the Postal Service an
15 extension of time to respond to those interrogatories and we
16 may be able to either withdraw them or reduce them at the
17 appropriate time.

18 CHAIRMAN GLEIMAN: I was having thoughts along the
19 lines of your last comment. We will grant the Postal
20 Service an extension of time, of course but if on further
21 reflection OCA wishes to withdraw the interrogatories I am
22 sure the Postal Service would be pleased, and perhaps less
23 is more. Sometimes when you get answers, it just makes you
24 think a little bit more, and I would hate to think that a
25 really close settlement proposal might fall apart as a

1 consequence of an interrogatory answer that you weren't sure
2 you really needed after all, but we will look forward to
3 whatever arrangements you make with the Postal Service in
4 that regard.

5 MR. RICHARDSON: In the meantime, we would be very
6 amenable to holding in abeyance any determination on the
7 procedures to be followed in the event there is no
8 settlement.

9 CHAIRMAN GLEIMAN: Okay. With that in mind, Mr.
10 Reiter, you talked in terms of two weeks. There's a Fourth
11 of July weekend that comes in the middle of that, so do you
12 think perhaps by the end of that week that we have the
13 Fourth of July weekend, perhaps by the 12th of July that you
14 will be able to develop -- complete and develop a proposal?

15 MR. REITER: Yes, I do.

16 CHAIRMAN GLEIMAN: If that is the case, then I
17 will direct that on or perhaps before, if you are able to,
18 that you submit either a proposed settlement agreement or a
19 statement explaining why such a document could not be
20 prepared by the outside date, the 12th. If the proposed
21 settlement is unanimous or if every participant -- if there
22 isn't a participant who opposes, then briefs will be
23 unnecessary and if there is someone who opposes, then I
24 think that we will have to go to briefs and if that is the
25 case we are looking at probably something on the order of

1 the 19th of July for briefs and the 26th for reply briefs.

2 Of course, if there is a settlement agreement by
3 the 12th, that will make it much more likely that the
4 Commission can complete its business in the 90-day time that
5 the Postal Service requested, and we always like to
6 accommodate the Postal Service whenever we can, which is
7 occasionally.

8 Does any participant have anything else that they
9 would like to mention at this point?

10 [No response.]

11 CHAIRMAN GLEIMAN: If not, then I am inclined to
12 adjourn. I just wanted to mention something that has become
13 somewhat standards. As I am sure you are aware, the
14 Commission's home page on the Web provides access to all
15 documents issued by the Commission and to most documents
16 submitted by participants, and we'll continue the practice
17 of providing both a complete daily list of all the documents
18 filed with the Commission as well as all files provided
19 electronically, and for those of you who don't remember,
20 it's www.prc.gov.

21 If there is nothing further, I want to thank you
22 all for your efforts today, both in juggling your schedule
23 and in coming close on a settlement agreement, and if
24 there's nothing further, we will adjourn the prehearing
25 conference and look forward to hearing from all of you.

1 Thank you.

2 [Whereupon, at 3:05 p.m., the hearing was
3 concluded.]

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