

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

MAIL PROCESSING NETWORK RATIONALIZATION
SERVICE CHANGES, 2011

Docket No. N2012-1

**MOTION FOR RECONSIDERATION OF PRESIDING OFFICER'S RULING NO.
N2012-1/5 ESTABLISHING PROCEDURAL SCHEDULE**
(January 18, 2012)

On January 12, 2012, the Presiding Officer issued Ruling No. N2012-1/5, which established the procedural schedule in this case.¹ According to the schedule provided in P.O. Ruling No. N2012-1/5, final briefs are due on July 9, 2012 if no surrebuttal testimony is filed, and final briefs are due on July 20, 2012 if surrebuttal testimony is filed. As such, under the current schedule, the earliest the Commission can issue its Advisory Opinion is July 10, 2012, one day after the close of the proceedings, assuming no surrebuttal testimony is filed.

Section 3661 of Title 39 of the United States Code establishes that the Postal Service file with the Commission a request for an advisory opinion on a change in service "on a nationwide or substantially nationwide basis . . . within a reasonable time prior to the effective date of such proposal" The Commission's Rules of Practice and Procedure provide that "[s]uch request shall be filed not less than 90 days in advance of the date on which the Postal Service proposes to make effective the change in the nature of postal services involved."² Thus, the Postal Service could reasonably implement service standard changes within the scope of its Request for an Advisory

¹ Presiding Officer's Ruling Establishing the Procedural Schedule (January 12, 2012) (hereinafter "P.O. Ruling No. N2012-1/5").

² 39 C.F.R. § 3001.72

Opinion on Changes in the Nature of Postal Services well before July 2012. As such, the Postal Service files this motion to request reconsideration of P.O. Ruling No. N2012-1/5 in an attempt to secure the Commission's Advisory Opinion prior to the conclusion of its pending rulemaking on changes in service standards³ and prior to May 16, 2012, the date on which the Postal Service would like to begin implementation of the service changes.

Background

On December 5, 2011, the Postal Service filed a Request for an Advisory Opinion on Changes in the Nature of Postal Services ("Request"). The ninety day period following the filing of this Request would thus end on March 5, 2012. However, recognizing the pending rulemaking would not realistically conclude until March 2012, the Postal Service also stated in its Request that "[n]o service changes associated with this Request will be implemented earlier than some time in the first half of April 2012."⁴ Further, witness Williams stated that "[i]nitiation of the service standard changes and operational changes can be expected in the second quarter of fiscal year 2012."⁵ As such, the Postal Service represented that it would wait more than 130 days to initiate implementation after filing the Request.

On December 13, 2011, the Postal Service voluntarily announced a decision to delay the closing or consolidation of any mail processing facility until May 15, 2012. This moratorium reflects a decision by the Postal Service to wait more than two months longer than the time period required by the Commission's Rules prior to implementation

³ See 76 Fed. Reg. 77942 (December 15, 2011). Comments are due by February 13, 2012.

⁴ Request at 14.

⁵ USPS-T-1 at 28; see also *id.* at 15 n.16.

of the service changes, and the moratorium provides that implementation will not take place until more than 160 days after filing the Request.

Pursuant to P.O. Ruling No. N2012-1/5, the Commission will issue its Advisory Opinion no sooner than 217 days after the Postal Service filed its Request, assuming no surrebuttal testimony is filed.⁶

Discussion

The Postal Service has made well known the financial challenges it is currently facing, and it is imperative that the Postal Service be able to address these challenges in a timely manner.⁷ In fact, as the Postal Service explained in its Request, “the Board of Governors of the United States Postal Service has directed postal management to pursue expeditious implementation of the service and operational changes to hasten the time when full savings from the initiative can be realized.”⁸

Given these facts, the Postal Service must implement these changes as expeditiously as possible. Further, the pending rulemaking may culminate in a final rule being published in the Federal Register even sooner. As such, a procedural schedule that guarantees that the Commission will not issue its Advisory Opinion until July 10, 2012, at the earliest is impractical.

If the Commission issues its Advisory Opinion in mid-April, the Opinion will still be provided more than 130 days after the filing of the Request. This is adequate time for the Commission to review the proposal and would ensure that the advisory opinion process works in an efficient and effective manner.

⁶ The 217 day calculation assumes that the Commission issues its Advisory Opinion on July 10, 2012, one day after the earliest date that the proceedings will close in this case.

⁷ See, e.g., Request at 3-4.

⁸ *Id.* at 4.

Request

Given this timeline, the Postal Service respectfully requests that the Commission reconsider the current procedural schedule and establish a new procedural schedule that will ensure issuance of its Advisory Opinion by mid-April, 2012.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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