

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

)
Hacker Valley Post Office)
Hacker Valley, WV 26222)
(Retha Casto, Petitioner))
_____)

Docket No. A2009-1

**STATEMENT OF POSITION
BY THE PUBLIC REPRESENTATIVE**

(August 5, 2009)

In Order No. 238, the Commission adopted a procedural schedule establishing August 4, 2009, as the deadline for filing “supplemental information or facts and/or initial briefs in support of petition”¹ Because of technical problems with the Commission’s website, the Public Representative is submitting this Statement of Position one day out-of-time.²

Statement of Position

At the time the Commission issued Order 238, it anticipated the filing by the Postal Service of an administrative record provided for in 39 C.F.R Section 241.3.³ In its motion to dismiss, the Postal Service stated that it did not have an administrative record available for filing.⁴ On July 22, 2009, the Public Representative (PR) responded in opposition to the Motion to Dismiss.⁵ The PR also filed a motion to hold this proceeding in abeyance pending the development of additional information.⁶ The Postal Service has responded in opposition to the Motion to Hold in Abeyance.⁷

¹ PRC Order No.238, July 6, 2009 (Order 238) at 3 and attached Procedural Schedule.

² To the extent the Commission deems it necessary, the Public Representative hereby expressly requests that this Statement of Position be accepted for filing. In support thereof, the Public Representative submits that good cause exists for granting this request and that no party will be prejudiced thereby.

³ *Id.*

⁴ United States Postal Service Motion to Dismiss Proceeding, July 15, 2009 (Motion to Dismiss).

⁵ Response of the Public Representative in Opposition to United States Postal Service Motion to Dismiss Proceeding, July 22, 2009 (Response in Opposition) at 1.

⁶ Motion of the Public Representative to Hold Proceeding in Abeyance, July 22, 2009 (Motion to Hold in Abeyance).

⁷ United States Postal Service Answer in Opposition to Motion of the Public Representative to Hold Proceeding in Abeyance, July 29, 2009 (Answer in Opposition).

Subsequent to the filing of the Postal Service's Motion to Dismiss, the Commission issued an information request.⁸ In CIR No.1, the Commission has requested information of the type identified by the Public Representative in its Response in Opposition to the Motion to Dismiss, which the Public Representative asserted was necessary in order to determine whether a grant of the Motion to Dismiss was appropriate. Response in Opposition at 3-5. The deadline for providing that information is August 14, 2009.

Until the information requested by CIR No.1 is presented by the Postal Service, the Commission will lack important facts needed to resolve the issues presented by the Motion to Dismiss and the Response in Opposition. Moreover, in the meantime, without either an administrative record or the information requested by CIR No.1, there appears to be little, if any, value to the filing of legal briefs. From the standpoint of administrative efficiency, the Public Representative submits that the Commission should first act on the Motion to Dismiss. If the motion is granted, there will be no need for legal briefs. If the motion is denied, legal briefs can be filed upon the basis of more complete information.⁹

Respectfully submitted,

/s/ Richard A. Oliver

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⁸ Commission Information Request No.1, July 31, 2009 (CIR No.1).

⁹ In that connection, if the Motion to Dismiss is denied, the Postal Service should be afforded the opportunity to prepare and file an administrative record to support its position.