

POSTAL RATE COMMISSION

[Docket No. MC2000-1; Order No. 1264]

Mail Classification Case**AGENCY:** Postal Rate Commission.**ACTION:** Notice of initiation of experimental mail classification docket.

SUMMARY: This document provides notice that the Commission has established a new docket to consider a proposed two-year experiment allowing certain Standard class mail to "ride along" in Periodicals class mail for a flat charge of 10 cents. It also addresses related procedural matters, such as expedition, waiver of certain filing requirements, and settlement discussions. This notice and the related directives will allow the Service's proposal to be considered expeditiously.

DATES: The deadline for intervention is October 25, 1999. Certain responses are due October 25, 1999. A prehearing conference is scheduled for October 28, 1999.

ADDRESSES: Send communications regarding this document to the attention of Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268-0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 202-789-6820.

SUPPLEMENTARY INFORMATION: On September 27, 1999, the United States Postal Service filed, pursuant to section 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*, a request with the Postal Rate Commission for a recommended decision on a proposed two-year experimental classification change affecting all subclasses of Periodicals mail. The request includes a corresponding rate change. Request of the United States Postal Service for a Recommended Decision on an Experimental "Ride-Along" Classification and Rate for Periodicals Mail ("Request").

Contents of the Filing

The Service's request includes five attachments. Attachments A and B, respectively, consist of proposed changes to Domestic Mail Classification Schedule (DMCS) section 443 and proposed changes to Periodicals rate schedules. Attachment C is the certification required by Commission rule 54(p). Attachment D is an index of testimony, exhibits and workpapers (indicating there are no workpapers). Attachment E is a detailed statement regarding compliance with Commission rules 54, 64 and 67.

The request is supported by the testimony of witness Taufique of the Postal Service (USPS-T-1) and industry witness Schwartz (USPS-T-2). Witness Taufique explains the current treatment accorded Standard (A) attachments or enclosures in Periodicals mail. He also describes how the instant proposal would change the traditional treatment. Taufique also estimates the impact of the proposal on postal revenues and costs; addresses the consistency of the proposal with relevant statutory criteria; and presents the data collection plan. See USPS-T-1.

Witness Schwartz describes advertisers' generally negative reaction to proposals that include payment of Standard (A) postage for "Ride-Along"-type advertisements. USPS-T-2 at 1-2. He also testifies that his experience leads him to believe that the proposed experimental rates could produce substantial new volume. *Id.* at 3.

Related Documents

Along with its request, the Service filed a contemporaneous motion seeking expedition of the proceeding and waiver of certain filing requirements. It also filed a proposed stipulation and agreement. Motion of the United States Postal Service for Expedition and for Waiver of Certain Provisions of Rule 64(h) ("Procedural Motion"); [Proposed] Stipulation and Agreement ("Proposed Agreement").

The Service's request and related documents are on file in the Commission's docket room and are available for inspection during the Commission's regular business hours. They also have been posted on the Commission's website (www.prc.gov).

Description of the Request

The Postal Service proposes to test charging a flat, or uniform, rate of 10 cents when a qualifying Standard (A) piece "rides along" in Periodicals mail. This rate would be assessed in addition to postage on the host Periodicals piece. Neither the weight nor the content of the "ride-along" piece would affect the rate of the Periodicals host copy. USPS-T-1 at 3.

The filing indicates that the proposed charge is expected to be lower than the rate that would be charged for the Standard (A) piece if it traveled on a separate or "standalone" basis. Revenues and costs associated with the "ride-along" would be reported with Periodicals revenues and costs. *Id.*

Restrictions

The proposed change is limited to one Standard (A) enclosure or attachment per periodical. The Service indicates

that this limitation is to ensure that the unique characteristics of Periodicals are maintained while providing an effective medium for targeted advertising. The enclosure also must meet physical criteria ensuring that neither the shape nor the machinability of the host piece would be altered. For example, the weight of the "ride-along" piece cannot exceed the weight of the host piece, nor exceed 3.3 ounces on its own. *Id.* at 4.

Effect on Other Attachments and Enclosures in the Host Piece

As indicated, only one "ride-along" piece would be allowed per each copy of a Periodical under the Service's proposal. However, mailers could continue to pay Standard (A) rates for other eligible Standard (A) attachments or enclosures in a periodical. *Id.* at 3.

Duration of the Experiment

The Postal Service proposes a two-year experimental period, starting as of an effective date established by the Governors of the Postal Service.

Rationale for the Proposal and Experimental Objectives

The Service expects the experimental classification change to provide a cost-effective method to mail what are now Standard (A) supplements, including very small product samples, to targeted markets. *Id.* at 4. Also, the Service notes that the current arrangement for Standard (A) enclosures in a periodical assumes two separate mailings, whereas only one is actually processed and delivered. *Id.* The Service contends that as long as the shape and automation compatibility of the host piece are not affected by the inclusion of the "ride-along" piece, presumably any additional cost would be caused only by the additional weight of the "ride-along" piece. *Id.*

With respect to the 10-cent charge, the Service notes, among other things, that the physical requirements for the "ride-along" piece have been drafted to attempt to ensure that the inclusion of the piece does not result in any additional mail processing or delivery costs. It therefore asserts that the proposed rate "should comfortably cover any additional cost due to incremental weight, and also provide contribution that comfortably exceeds the contribution deemed reasonable for the Periodicals subclass." *Id.* at 5.

The Service says one objective of the experiment is to gauge the reaction of advertisers and publishers to the classification change. *Id.* at 9. It says another is to determine the impact of "ride-along" pieces on Periodicals costs. *Id.* at 10.

Revenue and Cost Impact

Based on several assumptions, the Service estimates net additional revenue resulting from the proposed change of about \$4.8 million. *Id.* at 9. With respect to costs, the Service anticipates "minimal" impact. In support of this assessment, it notes that the cost (if any) of a current Standard (A) enclosure or attachment (estimated at about 25 million pieces) is already captured with Periodicals costs. *Id.* It also says that the only potential additional cost would be caused by the additional weight, as piece-related costs, either in mail processing or delivery, are not expected to change due to the physical requirements.

Relationship to Postal Policies

The Service asserts that the requested classification change will further the general policies of efficient postal operations and reasonable rates and fees enunciated in the Postal Reorganization Act. Request at 2. The Service also says the change conforms with the criteria of 39 U.S.C. 3623(c) and section 3622(b). *Id.*

Data Collection Plan

The proposed data collection plan is described in Attachment A to USPS-T-1. Among other things, it includes use of an alternate mailing statement for mailers intending to mail "ride-along" pieces during the experiment. USPS-T-1 at 12. Participating mailers also will be required to provide a sample of the mailpiece, an additional copy of the mailing statement, and a response to a questionnaire. *Id.* at 12-13.

The Service indicates that it expects diversion from other mail classes to be minimal, given that "ride-along" pieces historically have been designed to be included in Periodicals. *Id.* at 13. However, the Service says it is planning to conduct a survey of advertisers to estimate any such diversion.

Rationale for Seeking Expedition

In support of its motion seeking expedition and waiver of filing requirements, the Service notes that the minor, experimental change it is requesting is fully explained in witness Taufique's testimony. It also states that Taufique's testimony indicates that the proposed change will have an insignificant effect on the Postal Service's overall volumes, revenues and costs. Moreover, based on discussions with the Periodicals industry, the Service says it expects industry support and believes there is a "concrete potential" for settlement. The Service asserts that there should not be any

significant adverse effect on competitors.

With respect to expedition, the Service does not request specific dates, but proposes adoption of several procedural steps. One is a relatively short intervention period, based on the assumption that many interested parties already are aware of the proposal. Another is that participants be required, in their notices of intervention, to indicate whether they request a hearing and, if so, to delineate those issues which they believe to be of sufficient, material import to warrant a hearing. (If there is no request for a hearing, or if the Commission determines that there are no genuine issues of material fact, the Service suggests that the Commission can dispense with discovery and hearings, as contemplated by rule 67a.)

The Service also requests that the Commission authorize scheduling of a settlement conference as quickly as possible following the deadline for intervention. It notes that promptly reaching a settlement will obviate the need for most, if not all, subsequent procedural steps. Procedural Motion at 4. However, the Service asks that if discovery is found necessary, the time allotted for such be abbreviated. In support of this approach, it notes that with only two pieces of testimony, no library references, and no workpapers, "abridged and expedited discovery should not be an issue." *Id.* Finally, the Service notes that other procedures, such as briefs and oral argument, may be able to be eliminated. *Id.*

Rationale for Seeking Waiver of Filing Requirements

In support of waiver, the Service notes that Attachment E to its request demonstrates compliance with a number of the requirements of rules 54 and 64. For other requirements, however, the Service seeks waiver under rule 64(h)(3), which provides that the Commission may waive certain filing requirements if it determines that the proposed change does not significantly change the rates and fees and cost-revenue relationships referred to in rule 64(h)(1). Rule 64(h)(1) states that the Postal Service, when requesting a change in the classification schedule, must provide certain rule 54 information concerning requests for changes in postal rates and fees if the proposed classification change would result in either changes in the rates or fees for any existing class or subclass of mail and service; the establishment of a new class, subclass or service for which rates are to be established; a change in the relationship of costs to revenues for any class or subclass; or a change in the

relationship of total Postal Service costs to total revenues.

Addressing these points, the Service asserts that the proposed change does not alter the existing rates and fees for Periodicals; one enclosure per Periodical will be allowed to travel at a different rate than previously; those enclosures currently travel at Standard (A) rates; and under the proposal will pay a uniform ten cents per piece.

The Service also states that the proposed change does not create a new subclass or service, but simply adds a new part to section 443 of the DMCS and Periodicals rate schedules that will specify the proposed flat charge for enclosures. The Service notes that Periodicals subclasses will exist as they did before and enclosures will be allowed, as they are now. However, it says that enclosures meeting certain physical requirements will be able to travel at a different postage charge.

Further, the Service says the effects of the proposed changes on the relationships between costs and revenues for postal classes, subclasses and services, or the postal system as a whole will not be altered in a significant way. Under the proposal, revenues from the experimental enclosures will be credited to Periodicals, rather than to Standard A (as they are when the enclosures travel at the Standard (A) rate). *Id.* at 5. The Service says: "It is hoped that this will boost the cost coverage for Periodicals, but it should not make a major change due both to the experimental nature of the proposal, and due to the physical criteria and limit of one enclosure per Periodical proposed." *Id.* at 6. Also, the Service says that any diminution in the Standard (A) cost coverage as a result of the revenues for the experimental enclosures being credited to Periodicals will be insignificant. *Id.* The Service acknowledges that it anticipates that there may be some revenue loss for the postal system as a whole because the applicable Standard (A) rate for an enclosure normally would be more than ten cents, but this loss should be minimal. The Service says it anticipates that the lower rate will attract new volumes, generating new revenue which could more than offset any loss. It estimates the maximum revenue loss resulting from the proposed experimental change at approximately \$5.5 million, and the new revenues generated at approximately \$10.2 million, for a net gain of \$4.8 million. *Id.*

Proposed DMCS Changes

The proposed DMCS changes entail the addition of a new provision

(proposed § 443.1a) captioned "Ride-Along Attachments and Enclosures." It reads:

"Ride-Along" Attachments and Enclosures. A limit of one Standard Mail piece, not exceeding the weight of the host copy and weighing a maximum of 3.3 ounces, from any of the subclasses listed in section 321 (Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed with an individual copy of Periodicals Mail for an additional postage payment of ten cents. Periodicals containing "Ride-Along" attachments or enclosures must maintain uniform thickness as specified by the Postal Service. The Periodicals piece with the "Ride-Along" must maintain the same shape and automation compatibility as it had before addition of the "Ride-Along" attachment or enclosure and meet other preparation requirements as specified by the Postal Service.

This provision expires [insert date corresponding to two years after its effective date.]

Corresponding changes to Periodicals rate schedule 421, 423.3, 423.4, 423.2 are effected through the addition of a new note stating: "For a Ride-Along item enclosed with or attached to a periodical, add \$0.10 per copy (experimental)."

Proposed Stipulation and Agreement

The proposed agreement the Service filed along with its request consists of two parts. Part I, captioned Background, notes the date of filing of the Service's request, its designation as Docket No. MC2000-1, and related matters. Part II, Terms and Conditions, consists of ten numbered paragraphs. The matters covered therein address issues such as the evidentiary record and the extent to which signatories are bound by the agreement. Interested participants are referred to the full text of the agreement for further details.

Intervention

Those wishing to be heard in this matter are directed to file a written notice of intervention with Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street NW, Suite 300, Washington, DC 20268-0001, on or before October 25, 1999. Notices should indicate whether participation will be on a full or limited basis. See 39 CFR 3001.20 and 3001.20a.

Appropriateness of Proceeding Under Experimental Rules

The Service has requested that the Commission handle this case under Commission rules 67-67d. In determining whether these procedures are appropriate, the Commission will consider: (1) The novelty of the

proposed change; (2) the magnitude of the proposed change; (3) the ease or difficulty of collecting data on the proposed change; and (4) the duration of the proposed change.

Participants are invited to comment on whether the Postal Service's request should be evaluated under rules 67-67d. Comments are due on or before October 25, 1999. Pending the Commission's determination on this matter, participants should adopt the working assumption that the Service's motion seeking application of the experimental rules will be granted.

Rule 67a provides a procedure for limiting issues in experimental cases. To enable participants to evaluate whether genuine issues of fact exist, the Postal Service shall respond to discovery requests within 10 days. Written discovery pursuant to rules 25-28 may be undertaken immediately upon intervention.

A decision on whether there is a need for evidentiary hearings, and the scope of any such hearings has not been made yet. Participants wishing to comment on this question should include in their notices of intervention a statement of issues raised by the Service's request. Participants should also designate therein those issues involving questions of material fact which they believe require trial-type hearings. The Postal Service and any interested participant should be prepared to discuss these statements and designations at the prehearing conference.

Representation of the General Public

In conformance with section 3624(a) of title 39, the Commission designates Ted P. Gerarden, director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Mr. Gerarden will direct the activities of Commission personnel assigned to assist him and, upon request, will supply their names for the record. Neither Mr. Gerarden nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and at the same time as, service on the Commission of the 24 copies required by Commission rule 10(c) (39 CFR 3001.10(c)).

Prehearing Conference

A prehearing conference will be held on Thursday, October 28, at 11 a.m. in the Commission's hearing room.

Authorization of Settlement Proceedings

The Commission is authorizing settlement proceedings. It appoints Ted P. Gerarden, the director of the OCA, as settlement coordinator. Formal discussions may begin immediately after the close of the intervention period and, preferably, should be held prior to the prehearing conference on October 28, 1999.

It is ordered:

1. The Commission establishes docket no. MC2000-1, Experimental "Ride-Along" Classification Change for Periodicals, to consider the request referred to in the body of this order.

2. The Commission will sit en banc in this proceeding.

3. Notices of intervention are to be filed no later than October 25, 1999.

4. Participants are directed to include in their notices of intervention statements of issues and designations of issues requiring trial-type proceedings. Those intending to respond to such statements or designations should be prepared to do so at the prehearing conference.

5. Answers to the Postal Service's motion to expedite the proceeding and for waiver of certain filing requirements are due no later than October 25, 1999.

6. Ted P. Gerarden, director of the Commission's office of the consumer advocate, is designated to represent the interests of the general public.

7. The Commission will hold a prehearing conference on Thursday, October 28, 1999, at 11 a.m. The conference will be held in the Commission's hearing room.

8. The Commission authorizes settlement negotiations, and encourages that these begin at the earliest opportunity following the deadline for intervention and, preferably, prior to the prehearing conference.

9. Mr. Gerarden is appointed to serve as settlement coordinator in this proceeding.

10. The Secretary of the Commission shall cause this notice and order to be published in the **Federal Register**, in accordance with applicable requirements.

(Authority: 39 U.S.C. 3622)

Dated: October 1, 1999.

Cyril J. Pittack,

Acting Secretary.

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