

001197

ORIGINAL

RECEIVED

JUL 15 2 51 PM '98

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

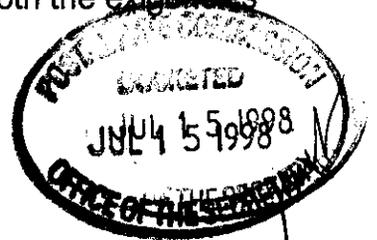
BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

MAILING ONLINE SERVICE

Docket No. MC98-1

**MOTION OF THE UNITED STATES POSTAL SERVICE FOR EXPEDITION,
AND FOR WAIVER OF CERTAIN PROVISIONS OF RULE 161 AND CERTAIN
PROVISIONS OF RULE 64(h)
(July 15, 1998)**

The United States Postal Service hereby requests that the Commission expedite this proceeding and waive certain aspects of its procedural rules, as described below. The Postal Service finds itself in relatively unusual circumstances with regard to the requested Mailing Online service. The service is proposed in the context of a rapidly emerging technological and economic environment, in which product development and marketplace reactions must keep pace. While the Commission's specialized procedures for market tests and classification experiments are designed to accommodate the need for expedition, the circumstances surrounding the proposals here, as explained below and in Postal Service testimony, require additional flexibility. Accordingly, the Postal Service is seeking the Commission's cooperation in administering its existing rules in a flexible manner to accommodate both the exigencies underlying this request, as well as the requirements of due process.



Need for Expedition

The Postal Service's preferred objective for this experiment is to have it recommended by the Commission by the end of November, 1998. This would allow the

Postal Service to explore the possibility that major software developers could integrate Mailing Online into impending updates of software in order to make the service widely and easily available to individual, small-office, and home-office mailers. A recommendation later than November could leave the fate of Mailing Online too uncertain to meet software development deadlines. In addition, the Postal Service's planned deployment schedule for Mailing Online calls for nationwide customer access in January, 1999. The Postal Service believes that the Commission's rules for experimental services allow for a time frame that would accommodate both concerns, since the interval between today and late November is approximately 4½ months, slightly less than the 150 days contemplated by the rules.

Rule 161 Waiver

In addition, the Postal Service is requesting that the Commission apply the procedures allowed by the market test rules, whereby an initial test is held near the beginning of a longer proceeding for purposes of gathering information and refining the service. Section 161 of the market test rules states, in pertinent part, "This section and §§ 3001.162 through 3001.166 apply in cases in which the Postal Service requests a recommended decision pursuant to section 3623 preceded by testing in the market in order to develop information necessary to support a *permanent change*." (Emphasis added). This section permits market tests in the context of a request for a permanent classification change. To the extent this section could be read to *require* a request for a permanent change as a prerequisite for a market test, the Postal Service requests a waiver of such requirement, in order to allow a market test in the context of a request for an experimental classification. Moreover, should experimental Mailing Online service prove successful, the anticipated subsequent request for permanent Mailing

Online classification language would mean that market test Mailing Online service would ultimately precede and support a permanent change.

As described in the testimony of witness Garvey (USPS-T-1), the Postal Service is planning to implement a contract in September, 1998 with a commercial printer to process and mail documents originated by customers participating in an expanded operations test of Mailing Online. Given the anticipated scale and scope of these expanded operations, the Postal Service believes that the ability to impose fees to compensate for increased expense would create a more realistic test, and would provide an equitable matching of costs and revenues.^{1/} The Postal Service is therefore requesting that the Commission recommend interim fees as a market test, consistent with the functional purpose of the existing market test procedures. These fees would remain in effect only until a recommended decision on the experimental service was issued and, if recommended, implemented by the Postal Service.^{2/} This schedule requires expedition of the market test procedures, as well as expedition of the overall experiment.

The use of market tests to gain "real world" experience and to gather data is as relevant to a request for an experimental classification as to a request for a permanent

^{1/} The Postal Service is currently testing Mailing Online service in an operations test; this phase of operations will end in September 1998.

^{2/} In the absence of interim fees, the potential for increased costs would militate in favor of scaling back the expanded test considerably, such as by limiting participation or volume in some way to keep the printing costs at an acceptable level for developmental purposes. Such a scaled-back test, however, would necessarily compromise one or more of the three objectives -- to minimize accumulated pre-mailing costs, provide customers access to discounted postage rates, and develop demand based upon payment for pre-mail services rather than by providing them free (see USPS-T-1, section III(B)) -- that underlie the request for market test fees as an interim step to experimental fees.

classification change. As explained in the testimony of witness Garvey (USPS-T-1), the market test would also enable the Postal Service to conduct further tests of the technology and to define the relationships needed to be established and maintained with printers for the experimental service. In fact, market testing, followed by an experiment, and then possibly followed by a request for permanent change would constitute a more logical evolution of the service, given the rapidly emerging market and technological environment, than market testing in the context of a request for permanent change. There would thus be two stages—the market test and the experiment—at which the Postal Service might decide to end or modify various aspects of the new service, rather than finding itself committed to a permanent service needing further adjustment. This approach would also permit the Commission to track product development more closely. It would permit more detailed monitoring of the proposed service's costs, operational feasibility, and reception by mailers, as well as the effects of the new service on the overall postal system and on competitors.

The Postal Service also requests waiver of aspects of the market test rules which contemplate suspension of a request for a permanent (here, experimental) classification change pending completion of the market test. Instead, the Postal Service proposes that the market test be a contemporaneous prelude to recommendation of the experimental service.

The Postal Service believes that its proposals are consistent with the logic underlying the existing rules. In the circumstances of this case, these rules can easily be adapted to meet the special requirements presented by the emerging developmental situation. Exercise of this inherent flexibility, moreover, would be consistent with the Commission's cooperation in the past to enable the Postal Service to meet its obligation

“to bind the Nation together through the personal ... and business correspondence of the people” in the evolving communications structures of the 21st century.

Rule 64(h) Waiver

As specified in the Commission's specialized procedures, neither Rule 67 governing experiments nor Rule 161 governing market tests overrides the obligation to comply with the general rules applicable to requests, including Rules 54 and 64. Attachment F to the Request in this docket demonstrates compliance with a number of the requirements of those rules; however, for certain other of the requirements, the Postal Service requests a waiver pursuant to Rule 64(h)(3).

Background

Rule 64(h) 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 (1) changes in the rates or fees for any existing class or subclass of mail and service, (2) the establishment of a new class or subclass or service for which rates are to be established, (3) a change in the relationship of costs to revenues for any class or subclass, or (4) a change in the relationship of total Postal Service costs to total revenues. The Postal Service submits that the requested changes in the classification schedule would not change any existing rates or fees, or have a significant impact upon the cost-revenue relationships of existing postal services. In fact, particular subsections of the rule do not apply to the Postal Service's proposal.

First, the proposed change is not a change in rates or fees for either First-Class or Standard Mail or for any other class, subclass or existing special service. Existing rates

and fees would remain in effect and are available to all mailers. Mailers will simply be given the additional option of using electronic means to enter documents into the postal system, in which case they would be able to qualify more easily for the automation and destination BMC rate categories. Second, the proposed change does not request the creation of a new class or subclass for which rates must be established. Rather, the proposed change would create an additional method of entry for First-Class and Standard Mail with attendant existing postage charges, as well as a fee based on a set markup over actual document preparation and printing costs.^{3/}

Moreover, the effects of the proposed change with respect to the Rule 64(h) criteria that arguably do apply, are not significant. The relationships between costs and revenues for other postal classes, subclasses and services or the postal system as a whole will not be altered in any meaningful way, as indicated by the relatively small dollar amounts involved. See testimony of witness Plunkett, USPS-T-5. The existing rates of postage for both First-Class and Standard Mail have been determined to be in conformance with 39 U.S.C. § 3622(b). The proposed fees will cover costs for the Mailing Online service and make a reasonable contribution to other costs of the Postal Service. In addition, witness Plunkett estimates revenues reflecting shifting of volume between First-Class and Standard Mail rate categories.

Further, the requirements of Rule 64(h) should be interpreted in harmony with Rule 67 governing experiments and Rule 161 governing market tests. As the Commission has recognized in discussing Rule 67, "[o]ne of the primary purposes of these rules is to

^{3/} The Request does seek creation of a new fee for the service, as described more fully in the testimony of witness Plunkett (USPS-T-5). It is anticipated, however, that in most instances, the per-piece fee will be less than the per-piece postage. See Exhibit USPS-5A.

permit experiments despite the absence of data called for by our rules designed for the normal case -- consideration of permanent changes."^{4/} A waiver of certain of the Rule 64(h) requirements furthers the intent of the experimental rules. Moreover, an important consideration in granting a request for waiver is the ability of the Commission and interested parties to appraise the proposal in the absence of particular data.^{5/} Also, the market test rules appear to encompass similar considerations, reflecting an intent to allow market tests when comprehensive data are lacking. As the Commission stated when it proposed the first version of Rule 161, "[i]t would be useful to explore new procedures explicitly designed for limited market tests that would enable the Service to gain 'real world' experience with innovative services, and that would at the same time generate information needed to support recommendation of such services as permanent mail classifications."^{6/}

In light of the logic underlying both the experimental and market test rules, which contemplate that comprehensive data will not be deemed necessary, and in light of the very minor effect that the proposal will have on other postal products and the overall postal system, waiver of all of the Rule 54 requirements would be justified. Nonetheless, the Postal Service has provided some Rule 54 information and only requests waiver of certain of the other Rule 54 requirements, as discussed below.

^{4/} PRC Op., MC86-1, at 9.

^{5/} In granting the Postal Service's request for waiver in Docket No. MC96-1, the Commission stated, "In this docket, the Postal Service requests authority to provide limited service on an experimental basis. Granting the waiver should not prejudice the Commission's ability to evaluate this request." Presiding Officer's Ruling No. MC96-1/1, Docket No. MC96-1, January 22, 1996, at 3.

^{6/} Order No. 1084, Docket No. RM95-4, October 27, 1995, at 4.

Specific Waiver Requests

The Postal Service specifically requests waiver of all or portions of the following rules: 54(b)(3) in part,^{7/} 54(f)(2), 54(f)(3), 54(h), 54(j), and 54(l) in part. Each is addressed in turn.

Rule 54(b)(3). Rule 54(b)(3) requests information on the degree of economic substitutability among various classes and subclasses of mail. To the extent that the Mailing Online service causes minor substitution among users of postal services, the Postal Service has addressed this in the testimonies of witnesses Garvey (USPS-T-1) and Plunkett (USPS-T-5). No other demonstration of economic substitutability should be required. To the extent that Rule 54(b)(3) requests additional information on the cross-elasticity of demand, such information would typically be derived from historical data. Given the extremely limited Mailing Online operational test and the inchoate status of the proposed market test and experiment, data are not available to develop elasticity estimates.

Rules 54(f)(2-3), (h), and (j). Rules 54(f)(2), (f)(3), (h) and (j) basically ask for information concerning the estimated total accrued costs for the fiscal year in which the filing is made and for the test year, the separation and attribution of those costs, and related estimated revenue and volume information.

The proposed Mailing Online service market test and experiment are limited in scope in terms of their effect on other subclasses and services and their duration. The effects on overall postal costs, revenues, and volumes are limited, making unnecessary further analysis of these characteristics beyond that presented by witnesses Plunkett (USPS-T-5) and Seckar (USPS-T-2), either with respect to the present fiscal year or a

^{7/} A waiver of Rule 64(b)(3) also is requested in that it encompasses the same information as Rule 54(b)(3).

“rollforward” analysis for a future test year. The proposed classification and fees are straightforward in their design. Further attempts to separate and project costs, revenues, volumes and billing determinants would be an unnecessary and needlessly complex undertaking for this proposal.

Rule 54(l). Rule 54(l)(1) requests billing determinants for the proposed fees. Rule 54(l)(2) asks for certain volume information for Standard Mail (A) (formerly third-class) bulk mail. Volume and revenue figures for the new Mailing Online service are projected in witness Plunkett's (USPS-T-5) and Rothschild's (USPS-T-4) testimonies, exhibits and library reference from the limited information available. To the extent Rule 54(l) seeks billing determinants for other subclasses or any other information, such information bears no relationship to the matters at issue in this proceeding.

Conclusion

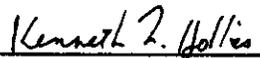
Because of the demonstrated need for expedition and the limited nature of the proposal, and in recognition of the flexibility envisioned by both the market test and the experimental rules, the Postal Service requests that this motion be granted.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking



Kenneth N. Hollies

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



Kenneth N. Hollies

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3083; Fax -5402
July 15, 1998