

PRESIDING OFFICER'S  
RULING NO. MC2004-1/1

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

Experimental Periodicals  
Co-Palletization Dropship Discounts  
For High Editorial Publications

Docket No. MC2004-1

PRESIDING OFFICER'S RULING  
ON MISCELLANEOUS PROCEDURAL ISSUES

(Issued March 29, 2004)

The Postal Service requests that the Commission apply the Commission's rules for requests predicated on experimental changes in this docket.<sup>1</sup> See 39 C.F.R. §§ 3001.67-67d (rules 67-67d). No party objects to the application of these rules. After examination of the novelty, magnitude, ability to gather data, and the duration of the experiment proposed by the Postal Service, it appears appropriate to employ rules 67-67d applicable to proposals predicated on experimental changes in this case.

Rule 67d requires the establishment of a procedural schedule to allow for a decision to be issued "not more than 150 days from the determination of any issue as to the propriety of experimental treatment under § 3001.67(b) and (c) in a sense favorable to such treatment, or from the date of the filing of the request, whichever occurs later." American Business Media (ABM) suggests that the 150-day scheduling period required by rule 67d not begin to run until after the close of discovery. Given the issues identified to date and the limited scope of this Request, I see no need to adopt this suggestion.

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<sup>1</sup> Request of the United States Postal Service for a Recommended Decision on Experimental Periodicals Co-Palletization Dropship Discounts for High-Editorial, Heavy-Weight, Small-Circulation Publications, February 25, 2004 (Request) at 4.

The procedural schedule will be established to allow for a decision to be issued not more than 150 days from the date of this ruling, as required by rule 67d.

The Postal Service has filed a motion to fully or partially waive certain filing requirements in regard to rules 54(b)(1)-(4), 54(c), 54(d), 54(e), 54(f)(2)-(3), 54(h)(1)-(12), 54(l), 54(j)(1)-(7), 64(b)(1)-(4), 64(c)(1)-(3), 64(d), and 64(h).<sup>2</sup> No party objects to the waiver of these requirements. Given the limited nature of the Postal Service's Request, this motion is granted.

The Postal Service's Request has incorporated certain reference material from Docket No. R2001-1. The American Postal Workers Union, AFL-CIO (APWU) opposes the incorporation of Docket No. R2001-1 material, but supports the Postal Service's motion to waive the rule 54 and 64 filing requirements discussed above.<sup>3</sup> APWU notes that "given the circumstances of this experimental offering judgments about impact will be highly speculative, but in every scenario impacts should be minor." The Presiding Officer shall allow incorporation of Docket No. R2001-1 material within the limited context of this Request. Where the Docket No. R2001-1 material overlaps the rule 54 and 64 filing requirements waived above, the issue is moot. Otherwise, given the limited impact of this experimental proposal, the use of Docket No. R2001-1 material appears non-prejudicial at this time.

During the March 25, 2004, prehearing conference, the Postal Service's settlement coordinator reported that a settlement conference was held on March 22, 2004. At the prehearing conference parties exhibited some interest in settlement discussions, but there was no indication that future settlement conferences were scheduled. The settlement coordinator should inform the Commission on the scheduling of future settlement conferences and periodically report on any progress towards settlement.

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<sup>2</sup> Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, February, 25, 2004.

<sup>3</sup> Notice of Intervention by the American Postal Workers Union, AFL-CIO, March 17, 2004.

National Newspaper Association (NNA) filed Motion of National Newspaper Association to Intervene Out of Time, March 25, 2004. NNA requests late intervention, agrees to be bound by all previous rulings and orders in this docket, and has previously notified the Postal Service of its intent to participate. This motion is granted.

The March 25, 2004, prehearing conference established the following dates: Discovery on the Postal Service's direct case is allowed through May 24, 2004. The Postal Service has agreed to provide response to discovery requests within 10 days. Tentatively, the hearing on the Postal Service's direct case is scheduled to be held during the June 14 through 25, 2004 time frame. The Postal Service shall indicate the availability of its witnesses for this hearing by April 1, 2004. Testimony in opposition to the Postal Service's direct case, if any, shall be due no later than July 1, 2004.

Ruling

1. The rules for experimental changes, 39 C.F.R. §§ 3001.67-67d, shall be applied in this docket. The docket shall be scheduled such that a decision may be issued not more than 150 days from the date of this ruling.
2. The Postal Service's motion to fully or partially waive certain filing requirements in regard to rules 54(b)(1)-(4), 54(c), 54(d), 54(e), 54(f)(2)-(3), 54(h)(1)-(12), 54(i), 54(j)(1)-(7), 64(b)(1)-(4), 64(c)(1)-(3), 64(d), and 64(h), is granted.
3. The settlement coordinator is to inform the Commission on the scheduling of future settlement conferences and periodically report on any progress towards settlement.
4. The Motion of National Newspaper Association to Intervene Out of Time, March 25, 2004, is granted.

Dana B. Covington, Sr.  
Presiding Officer