

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

REPOSITIONABLE NOTES MARKET TEST

Docket No. MC2004-5

STATEMENT OF THE UNITED STATES POSTAL SERVICE
CONCERNING COMPLIANCE WITH FILING REQUIREMENTS
AND CONDITIONAL MOTION FOR WAIVER
(July 16, 2004)

In the Compliance Statement (Attachment E) to the Request, the Postal Service has identified information contained in its testimony and supporting documentation intended to satisfy the filing requirements in pertinent provisions of the Commission's Rules of Practice and Procedure (Rules 54, 64 and 162). The Postal Service has supplemented materials developed specifically for this filing by incorporating documentation that was submitted by the Postal Service in the most recently concluded omnibus rate proceeding, Docket No. R2001-1, as well as material filed periodically with the Commission. In light of several considerations, the Postal Service believes that most of the specific requirements pertaining to classes of mail and special services are met by incorporating these materials.

The proposed market test of Repositionable Notes would not materially alter the rates, fees, and classifications established by that docket. Rather, the proposal would create new DMCS subsections and rates that establish an option for mailers, with no impact on overall postal costs, and only limited impact on volumes and revenues.

As outlined in the testimony filed with the Request, the market test of Repositionable Notes would constitute a relatively minor change to the array of mail classes and special services comprehensively considered in Docket No. R2001-1. As a consequence, there is substantial overlap between the information necessitated by the general filing requirements and the materials provided in Docket No. R2001-1.¹ For example, certain filing requirements call for information pertaining to the full spectrum of postal products: e.g., Rule 54(b)(3) (economic substitutability between classes and subclasses); Rule 54(d) (physical attributes of mail by class and subclass); Rules 54(f)-(h) (total historical and projected costs separated by postal and nonpostal services and distributed to classes, subclasses, and special services); Rule 54(j) (revenues and volumes projected for classes, subclasses, and special services); and Rule 54(l) (billing determinants for classes, subclasses, and special services). These requirements are

¹ The Postal Service fully acknowledges that the Commission's recommended decision and the Governors' decision in Docket No. R2001-1 were founded on a settlement agreement, and that many issues that might have been raised by the materials submitted in that case were not litigated. Furthermore, the Postal Service appreciates the non-precedential status of the Commission's and the Governors' findings and conclusions in the rate case, as specified in the Stipulation and Agreement. In this regard, we must emphasize that our position on compliance in the instant docket is not based on the status of the rate case documentation as adjudicated fact, but rather on its character as material submitted that addresses the elements of the Commission's general filing requirements. In most instances, the rate case materials satisfying the general filing requirements pertain to matters that simply are not relevant to the issues raised by the market test of Repositionable Notes, and that would not be affected if the market test were recommended and approved. The actual relationships between the market test and existing rates, fees and classifications are fully explained in the testimony and supporting documentation provided with this filing. We further emphasize strongly that the Postal Service's filing here is not intended to create an opportunity for parties to raise issues avoided by settlement in the rate case, when they are essentially irrelevant to the instant proposal.

adequately addressed through reference to information provided in the most recent omnibus rate proceeding, especially where, as here, the proposal is for an market test of limited duration.

In assessing compliance in this regard, substantial weight should be given to the nature of the proposed market test and its operations, and the expectation of no impact on costs, with only minimal impact on volumes and revenues, in total and for particular mail categories and services. For example, the proposed market test of Repositionable Notes rate will supplement the existing First-Class Mail, Standard Mail, and Periodicals rate schedules; no existing rate will be altered. Moreover, the proposal does not include any expectation that significant mail volume will migrate from one subclass to another. The concept of economic substitutability among classes and subclasses therefore generally does not pertain to the market test, and is adequately addressed in the previously received rate case testimony that was developed before the experiment was proposed.

In the Compliance Statement, we address each filing requirement and indicate which parts of the Postal Service's filing satisfy each rule. Docket No. R2001-1 materials are also incorporated by reference. Specific direction to that docket's testimony can be found in the Compliance Statement filed with the Postal Service's Request in Docket No. R2001-1.² The Compliance Statement filed in this docket provides additional elaboration with respect to Rules 54, 64, and 162.

² Request of the United States Postal Service for a Recommended Decision on Changes in Rates of Postage and Fees for Postal Services and Request for Expedition, Docket No. R2001-1, Attachment G (Sept. 24, 2001).

A similar approach to compliance with the filing requirements was employed in the recent cases. See Docket Nos. MC2002-3, MC2004-1, MC2004-2.³ A similar motion was recently granted. See Presiding Officer's Ruling No. MC2004-1/1.

The Commission has stated that in assessing compliance with the filing rules, substantial weight should be given to the nature of the proposed experiments and their limited impact on costs. See Order Addressing Outstanding Motions And Closing The Record, Docket No. MC2002-3 (December 20, 2002) (Order No. 1356). It also noted that there was a substantial overlap between the material provided in Docket No. R2001-1 and the information sought in the general filing rules. *Id.* Accordingly, the Commission concluded that all pertinent filing requirements had been satisfied. *Id.*

If the Commission concludes that the materials imported from Docket No. R2001-1 to satisfy general filing requirements are not sufficient, and that strict construction of the rules regarding information pertaining to other mail and special services would require testimony that was developed specifically with reference to the proposed experimental flat rate, the Postal Service respectfully moves that those requirements be waived, pursuant to 39 C.F.R. §§ 3001.22, 3001.54(r), 3001.64(h)(3),

³ See Motion Of United States Postal Service For Waiver (September 26, 2002), Statement of the United States Postal Service Concerning Compliance With Filing Requirements and Conditional Motion for Waiver (February 25, 2004), and Statement of the United States Postal Service Concerning Compliance With Filing Requirements and Conditional Motion for Waiver (June 3, 2004), respectively. A similar approach to compliance with the filing requirements was also employed in the recently-concluded Experimental Parcel Return Services proceeding. See Docket No. MC2003-2, Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver (May 28, 2003).

and 3001.67a. For the reasons stated above, the nature of the proposed market test, combined with the expectation that it will have no impact on total costs and only minimal impact on total volumes and revenues means that strict compliance with the filing requirements is not warranted, and they should be waived.⁴

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

Scott L. Reiter

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.

Scott L. Reiter

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2999; Fax -5402
Scott.L.Reiter@usps.gov
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⁴ As reflected in the Compliance Statement, Attachment E to the Request, full or partial waivers may be appropriate for the following rules: 54(b)(3), 54(c), 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).