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UNITED STATES OF AMERICA
POSTAL RATE COMMISSION

11/11/02

Before:

Chairman Omas,
Vice Chairman Goldway and Commissioner Covington

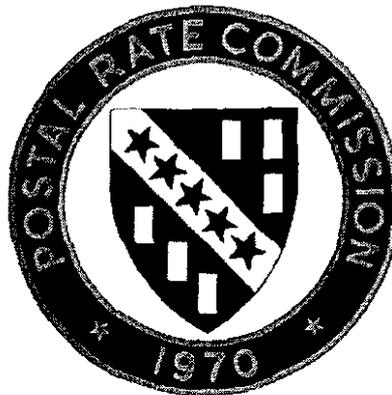
Ride-Along Experiment Extension

Docket No. MC2001-3

OPINION AND RECOMMENDED DECISION

APPROVING

STIPULATION AND AGREEMENT



Washington, DC 20268-0001
January 11, 2002

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RECOMMENDED DECISION

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I. INTRODUCTION AND SUMMARY

The Commission adopts an unopposed stipulation and agreement as the basis for an opinion and recommended decision approving the Postal Service's request for a limited extension of the Ride-Along experiment, which allows one qualifying Standard Mail piece to be included in a Periodicals publication for a flat fee of 10 cents. This experiment was scheduled to expire February 26, 2002, pursuant to a two-year authorization. However, the pending omnibus rate case (Docket No. R2001-1) includes a related request for permanent Ride-Along authority (at a fee of 12.4 cents), and consideration of that proposal will necessarily extend beyond the experiment's original deadline. To accommodate the decision-making timetable in the omnibus case, the experiment's expiration is revised to coincide with implementation of Docket No. R2001-1 Periodicals rates.

The Service has presented a convincing case that the experiment is going well, with no adverse economic or operational effects; that the extension is only for a limited time; and that adherence to the original expiration date would cause needless disruption for mailers, advertisers and the Postal Service. The Commission acknowledges the Postal Service's efforts in devising an effective solution to the legal and practical problems posed by the inclusion of its request for permanent Ride-Along authority in the omnibus rate case. It also appreciates the cooperation the OCA and other participants have exhibited in reaching a prompt settlement.

II. PROCEDURAL HISTORY

This case has its origins in Docket No. MC2000-1, Experimental “Ride-Along” Classification Change for Periodicals. In that proceeding, the Postal Service requested authority to conduct a two-year experiment testing the market appeal and economic impact of charging a flat 10-cent fee — instead of generally higher Standard mail rates — for certain qualifying advertising supplements or attachments included with Periodicals publications. “Ride-Along” pieces were expected to include not only traditional supplements, but also product samples, fabric or plastic sheets, computer disks and CD-ROMs. Classification criteria, in addition to the one-piece limit, included specifications designed to maintain the host publication’s original shape and machinability. See 64 FR 54693.

The original experimental filing was accompanied by a proposed stipulation and agreement, which formed the basis of Commission-authorized settlement negotiations. The Commission subsequently adopted the terms of this agreement, as amended by participants to include more extensive data collection requirements, as the basis for a favorable opinion and recommended decision on the Service’s experimental request. The Governors of the Postal Service approved the Commission’s recommended decision, and the Board of Governors set February 26, 2000 as the start of the two-year experimental period. See Notice of the United States Postal Service Concerning Decision of the Governors, February 14, 2000; Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Experimental Ride-Along Classification Change for Periodicals, Docket No. MC2000-1, February 8, 2000; and Resolution [No. 00-4] of the Board of Governors of the United States Postal Service [on] Effective Date of New Classification.

During the second year of the Ride-Along experiment, the Service filed Docket No. R2001-1, Postal Rate and Fee Changes. This omnibus filing included a request to establish the Ride-Along classification on a permanent basis. As described in the Docket No. R2001-1 testimony of witness Koroma (USPS-T-44), the Service’s

permanent request proposes retaining the limitation to one Ride-Along piece per publication and the current physical criteria, but seeks to increase the fee by 2.4 cents (from 10 cents to 12.4 cents).

As it was clear that consideration of the request for permanent authority would extend past the experiment's original expiration date, the Postal Service filed a companion request (on September 28, 2001) for an extension of the Ride-Along experiment. In lieu of a date certain, the Service proposed that the experiment be extended until the effective date established for Periodical rates resulting from Docket No. R2001-1.

The Service's extension request was accompanied by an attachment containing a proposed revision of Domestic Mail Classification Schedule (DMCS) § 443.1a; the prepared direct testimony of Postal Service witness Koroma (USPS-T-1), which incorporates by reference his related (and more extensive) Docket No. 2001-1 testimony; a motion seeking waiver of certain Commission rules of practice; and settlement-related documents. The latter include a proposed stipulation and agreement, a related notice, and a signature page executed by the Postal Service.

The Commission issued a comprehensive notice and order informing the public of the Service's request on October 5, 2001. Order No. 1326; 66 FR 52645. The order, among other things, set deadlines for intervention and responses to the waiver motion; authorized settlement negotiations; appointed the Postal Service as settlement coordinator; and designated the director of the Commission's Office of the Consumer Advocate (OCA) as the representative of the general public's interests. In response to this order, the following participants filed notices of intervention: American Business Media (ABM), the Association for Postal Commerce (Postcom),¹ the Magazine Publishers of America, Inc. (MPA), and David B. Popkin (Mr. Popkin). The Postal Service's motion for waiver of applicable parts of rules 64 and 54 was unopposed. The Commission hereby grants that motion.

¹ In Docket No. MC2000-1, PostCom was identified as the Advertising Mail Marketing Association.

In late October, the Postal Service informed the Commission that the OCA and three of the four intervenors had agreed to sign the settlement agreement. It also said that the fourth intervenor had indicated it did not oppose settlement. However, the Service also expressed an interest in assessing the continued appropriateness of the proposed DMCS language regarding expiration, given procedural developments in Docket No. R2001-1. Report of United States Postal Service as Settlement Coordinator, October 26, 2001.

Following an opportunity to make this assessment, the Postal Service filed a motion transmitting executed signature pages and asking the Commission to act upon the proposed stipulation and agreement. Therein, the Service noted that participants had determined that they were satisfied with the original DMCS language. Motion for Consideration of Stipulation and Agreement, December 7, 2001 at 1 (fn. 1). In response, the Commission notified participants of its anticipated course of action with respect to entering witness Koroma's testimony into the record and related matters. Order on Postal Service Motion Concerning Unopposed Stipulation and Agreement in Docket No. MC2001-3 (December 11, 2001). Subsequently, in Order No. 1336, the Commission notified participants that all material stipulated for entry into the evidentiary record of this proceeding had been so entered, and that the record had been closed. Order on Entry of Testimony and Other Stipulated Material into Record, and Closing the Record (January 7, 2002).

III. SUMMARY OF PROPOSAL

A. Testimony of Postal Service Witness Koroma

Witness Koroma testifies that extension of the current experiment will provide a seamless transition from the experiment to a permanent classification, thereby avoiding disruption for Periodicals mailers, advertisers, and the Postal Service. USPS-T-1 at 1. In particular, Koroma notes that interruption would force mailers to adjust their advertising strategies and budgets, and would impose on the Postal Service the additional administrative burden of implementing both a cessation of the experiment and, if approved on a permanent basis, its eventual reinstatement. *Id.* at 2.

Koroma states that the reasons presented in his rate case testimony (USPS-T-44) also support extension of the experiment, and he incorporates this testimony by reference in this case. *Id.* at 2. These reasons include mailers' favorable response to the current experiment; the provision of an additional option for advertisers to reach targeted audiences while maintaining the educational, scientific, cultural and informational (ECSI) value of the host Periodical publication; and the provision of a cost-effective method for advertisers to distribute what would otherwise be classified as Standard Mail supplements, including very small product samples, to targeted markets. USPS-T-44 (Docket No. R2001-1) at 7-8.

Koroma indicates that the Ride-Along's experiment's cost and revenue effects are documented (to the extent available) in his rate case testimony, and notes that these assume uninterrupted continuation of Ride-Along service through the Docket No. R2001-1 test year. USPS-T-1 at 1. His rate case testimony reports that the Service has carefully examined sample pieces mailed during the experiment, has found only a limited number of unexpected deviations from the prescribed requirements for either the host piece or the Ride-Along piece, and that there has been effective cooperation between the Postal Service and Periodicals mailers in addressing and correcting these

deviations. USPS-T-44 (Docket No. R2001-1) at 9-10. (Related operations and quantitative marketing surveys have been filed as USPS-LR-J-101 and USPS-LR-J-116 in Docket No. R2001-1.)

Revenue, cost and volume impact. Koroma's Docket No. R2001-1 testimony indicates that in accordance with the data collection plan for the experiment, the Service captured associated pieces, weight and revenue. Results show total revenue of \$9.9 million for the first four quarters since implementation of the experiment. They also show, for the same period, 99,316,130 ride-along pieces. USPS-T-44 (Docket No. R2001-1) at 14. No specific estimates are provided for the extension period.

B. Domestic Mail Classification Schedule (DMCS) Language

Koroma explains that the wording of the proposed classification change in DMCS § 443.1a links the experiment's expiration to implementation of Periodicals rates resulting from the rate case, thereby accounting for the possibility that the Commission may not recommend permanent classification authority. USPS-T-1 at 2.

IV. SUMMARY OF STIPULATION AND AGREEMENT

Participants' positions. The settlement agreement was signed by the Postal Service, the OCA, and intervenors ABM, MPA, and PostCom. Mr. Popkin did not sign the agreement, but did not oppose it.

Summary. The agreement consists of two parts. Part I, captioned Background, identifies the date the Service's request was filed; statutory authority; docket number and caption; and supporting testimony. Part II, Terms and Conditions, consists of ten numbered paragraphs. Paragraph No. 1 states that the Stipulation and Agreement represents a negotiated settlement of all issues raised by this Request. Paragraph No. 2 states that the signatories agree, for purposes of this proceeding only, that the Docket No. MC2001-3 direct testimony of Postal Service witness Koroma (USPS-T-1) along

with the Service's Docket No. MC2001-3 request and a related attachment, provide sufficient reasons and substantial evidence justifying a decision recommending the change to the DMCS § 443.1a. This paragraph further states that signatories stipulate that any of the aforementioned materials not heretofore entered into the Docket No. MC2001-3 evidentiary record be so entered.

Paragraph No. 3 provides that on the basis of such record, for purposes of this proceeding only, the signatories stipulate that the DMCS changes set forth in the attachment to the agreement are in accordance with the policies of title 39, United States Code and the criteria and factors of 39 U.S.C. § 3623. Paragraph No. 4 provides that the agreement is offered in total and final settlement of this proceeding.

Paragraph No. 5 reserves signatories' rights to withdraw from the agreement under certain circumstances and subject to certain conditions. Stated circumstances include the Commission's adoption of a recommended decision that deviates from the classification proposed in the agreement or the Governors' failure to approve the Commission's recommended decision. Exercise of the right to withdraw is subject to certain notice requirements, and withdrawal by one or more signatories does not affect the operation of the agreement as to other signatories.

Paragraph Nos. 6, 7 and 8 note that the agreement pertains only to this proceeding and addresses its limits as precedent.

Paragraph No. 9 asks that the Commission expeditiously issue a decision recommending adoption of the DMCS provision [§ 443.1a] appended to the agreement. Paragraph No. 10 states that the agreement represents the entire agreement of the signatories, and supersedes any understandings or representations not contained in it.

V. FINDINGS AND CONCLUSIONS

Based on representations in the Postal Service's motion for acceptance of the stipulation and agreement and an independent review of the record, the Commission

finds that all participants have had an opportunity to participate in the proceedings that led to the filing of the settlement agreement. The Commission is also satisfied that all participants have had an adequate opportunity to comment on the appropriateness of the settlement as a resolution of the issues raised in this case, and to determine their position on its suitability as a basis for this opinion and recommended decision.

Having made these determinations, the Commission has reviewed the evidentiary record pursuant to its statutory obligation under chapter 36 of title 39 of the U.S. Code. This includes an independent review of the testimony of Postal Service witness Koroma. This review leads to the conclusion that the record supports the proposed classification change set out in the settlement agreement, and that this change meets the policies of the Postal Reorganization Act, in particular, 39 USC § 3623(c)(2) and (5). This limited extension is not expected to have any adverse impact on postal revenue, volume, or operations. The Commission therefore recommends to the Governors of the Postal Service that the DMCS be amended as set forth in Appendix Two of the accompanying recommended decision.

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

Before Commissioners: George A. Omas, Chairman
 Ruth Y. Goldway, Vice Chairman
 Dana B. Covington, Sr.

Ride-Along Experiment Extension

Docket No. MC2001-3

RECOMMENDED DECISION

(Issued January 11, 2002)

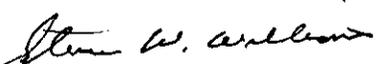
The Commission, having considered the Stipulation and Agreement filed and entered into the record of this proceeding, has issued its Opinion thereon. Based on that Opinion, which is attached hereto and made a part hereof,

It is ordered:

1. The Postal Service's motion for consideration of stipulation and agreement is granted and the Stipulation and Agreement filed by the Postal Service is accepted.
2. The Commission's Opinion and Recommended Decision shall be transmitted to the Governors of the Postal Service and the Governors shall thereby be advised that the proposed amendment to the DMCS (set forth in Appendix Two) is in accordance with the policies of title 39, United States Code and the factors set forth in §3623(c) thereof, and will further the general policies of efficient postal operations and reasonable rates and fees enunciated in the Postal Reorganization Act (39 U.S.C. §§ 101(a),

403(a) and 403(b); and is hereby recommended to the Governors for approval.

By the Commission.


Steven W. Williams
Secretary

[RESERVED]

[RECOMMENDED CHANGES IN RATE SCHEDULES]

Note: This opinion and recommended decision does not entail any changes in rate schedules.

RECOMMENDED CHANGES IN
DOMESTIC MAIL CLASSIFICATION SCHEDULE

The following changes represent the changes to the Domestic Mail Classification Schedule recommended by the Postal Rate Commission in response to the Postal Service's Request in Docket No. MC2001-3. Proposed deletions are bracketed; proposed additions are underlined; pertinent existing citations or other material is either included for clarification or its absence is indicated by the use of asterisks.

PERIODICALS CLASSIFICATION SCHEDULE

443 Attachments and Enclosures

443.1 General.

* * *

443.1a * * *

This provision expires on [February 26, 2002] the effective date to be set by the Board of Governors for Rate Schedules 421 and 423 resulting from Docket No. R2001-1.

PARTICIPANTS AND COUNSEL

(Italicized boldface type indicates that participants signed the Stipulation and Agreement underlying the Commission's recommendation)

American Business Media (ABM)

David R. Straus

Association for Postal Commerce (PostCom*)

N. Frank Wiggins

Magazine Publishers of America, Inc. (MPA)

James Pierce Myers

Office of the Consumer Advocate (OCA)

Shelley Dreifuss

†David B. Popkin (Popkin)

David B. Popkin

United States Postal Service (Postal Service)

Daniel J. Foucheaux, Jr.

Scott L. Reiter

* This participant appeared under the name Advertising Mail Marketing Association (AMMA) in the original experimental docket (MC2000-1).

† Limited Participant

WITNESS

United States Postal Service

Samuel J. Koroma

USPS-T-1

