

ORDER NO.1365

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

Before Commissioners:

George Omas, Chairman;  
Dana B. Covington, Sr., Vice Chairman;  
Ruth Y. Goldway; and Tony Hammond

Customized Market Mail  
Minor Classification Changes

Docket No. MC2003-1

NOTICE AND ORDER ON FILING OF REQUEST  
FOR EXPEDITED DECISION ON MINOR CLASSIFICATION CHANGE  
IMPLEMENTING CUSTOMIZED MARKET MAIL

(Issued March 19, 2003)

I. Introduction

Notice is hereby given that on March 14, 2003, the United States Postal Service filed a formal request with the Postal Rate Commission, pursuant to 39 U.S.C. § 3623, seeking a recommended decision on a proposed minor classification change for a new Standard Mail option referred to as Customized Market Mail (CMM). The Service's designation of its request as a minor classification change signals its interest in application of procedural rules that allow for expedited consideration and issuance of a Commission decision, if no hearing is required, within 90 days. Request of the United States Postal Service for a Recommended Decision on Customized Market Mail Minor Classification Changes, March 14, 2003 (Request).

The proposal relaxes Standard Mail's longstanding restriction to rectangular pieces. It would allow certain non-rectangular or other nonstandard-shaped pieces to be sent as Standard Mail, subject to certain conditions. These include complying with packaging and other preparation requirements and shipping CMM directly to the destination delivery unit, thereby bypassing intermediate handlings.

The proposal entails minor changes to the Domestic Mail Classification Schedule (DMCS) and the addition of new footnotes to Standard Mail Rate Schedules 321A and 323A. The Service asserts that the changes would not have a significant effect on the Postal Service's overall volumes, revenues and costs. *Id.* at 1.

*Rates; surcharges, permits.* Qualifying CMM pieces would pay the basic nonletter rate for Standard Mail Regular or Nonprofit subclass mail, plus the residual shape charge. CMM would not be eligible for the destination entry rate, the parcel barcode discount or for ancillary services. Ineligibility for the destination entry rate is based, in part, on the assumption that most CMM mailings would not meet the minimum volume threshold. No additional permit would be required.

*Contents; availability.* The Request includes four attachments. Attachments A and B, respectively, present requested changes in the Domestic Mail Classification Schedule and Rate Schedules. Attachment C is an index of testimony. Attachment D addresses compliance with 39 CFR § § 3001.64 and 3001.69a. Contemporaneous submissions include the testimony of witnesses Ashe (USPS-T-1) and Hope (USPS-T-2); two library references; a request for expedition and establishment of settlement procedures; and a motion for waiver of several rules related to data and information. United States Postal Service Request for Expedition and Establishment of Settlement Procedures, March 14, 2003; Motion of United States Postal Service for Waiver, March 14, 2003 (Postal Service Motion).

The Request and other referenced material are on file in the Commission's docket room and are available for inspection during the Commission's regular business

hours. This material can also be accessed via the Commission's website [www.prc.gov](http://www.prc.gov).<sup>1</sup>

II. Grounds for Service's Designation of Docket No. MC2003-1 as a Minor Classification Change

Commission rules tie eligibility for treatment as an expedited minor classification change to satisfaction of three criteria. Specifically, the proposal (1) must not involve a change in any existing rate or fee; (2) must not impose any restriction in addition to pre-existing conditions of eligibility for entry of mail in an existing subclass or category of service, or for an existing rate element or worksharing discount; and (3) must not significantly increase or decrease the estimated institutional cost contribution of the affected subclass or category of service. 39 CFR §§ 3001.69-3001-69c.

The Service asserts that its proposal meets all three criteria. It states that CMM will be subject to the existing Standard Mail Regular and Nonprofit nonletter basic category mail rates and the residual shape surcharge, and therefore will not entail new rates, fees or surcharges. It says eligibility standards will not be restricted, because for pieces less than ¼-inch in thickness, the proposed classification changes will make existing classifications more inclusive. For pieces greater than ¼-inch but less than or equal to ¾-inch in thickness, the proposed classification changes will establish optional entry and handling procedures. In addition, the Service says CMM will not cause a significant impact on the contribution of Standard Mail toward institutional costs. *Id.* at 4.

The Service also states that the requested amendments to the DMCS will further the general policies of the Postal Reorganization Act to plan, promote and provide adequate and efficient postal services at fair and reasonable rates and fees, and are consistent with applicable statutory criteria.

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<sup>1</sup> This is the case except for USPS-LR-1, which consists of physical examples of CMM. Facsimiles of these pieces appear in USPS-T-1, Exhibit USPS-1.

### III. Testimony

*Witness Ashe (USPS-T-1).* Witness Ashe describes the Service's proposal and related market research.<sup>2</sup> He identifies the anticipated customer base, reviews related postal operating plans for handling CMM, and addresses mailing requirements. Ashe also addresses why the proposal satisfies the criteria for consideration of a minor classification change. USPS-T-1 at 13. Ashe explains that existing DMCS § 6020 and DMM § C010.1.1 require, as a basic condition for mailability, that all mail pieces ¼-inch thick or less must be rectangular in shape. He notes that administrative rulings interpreting this requirement have held that mail pieces do not meet the definition of "rectangular" if they do not have four right-angle corners and four straight and regular edges, or if they have any holes or other voids with their dimensions. *Id.* at 1.

Ashe characterizes CMM as a response to customer interest in using more creative advertising, and describes it as a "niche" piece whose characteristics and costs for preparation and mailing make it suitable only for targeted, carefully developed promotional messages to a selected audience. *Id.* at 4. He expects that CMM, at least for the foreseeable future, will remain a low-volume form of mail that generates proportionally small revenues, used in situations where a message of this sort makes financial and commercial sense. *Id.* at 6-7.

*Witness Hope (USPS-T-2).* Witness Hope provides an overview of classification changes; a description of how CMM fits into the current Standard Mail rate design and DMCS; and a review of the proposal's consistency with statutory classification criteria. She also provides a summary of benefits and explains why the proposal qualifies as a minor classification change. USPS-T-2 at 1. Witness Hope says no volume estimate is available, and anticipates that the CMM's overall impact on the affected subclasses will be minimal. She expects the effect on coverage of institutional costs to be negligible. *Id.* at 9.

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<sup>2</sup> The market research has been filed as USPS-LR-2.

#### IV. Service's Position on Expedited Procedures and Settlement Potential

##### A. Expedited Procedures

The Service seeks expedition of this proceeding under §§ 21 and 69 of the Commission's rules of practice. It proposes that the Commission issue the requisite finding on the threshold question of eligibility as a minor classification change well before the end of the prescribed 28-day period. It also suggests that the Commission schedule a settlement conference as soon as possible following the deadline for intervention and make several adjustments in the area of discovery. These include shortening the time for discovery on the Service's case (should discovery be found necessary); limiting discovery to matters bearing directly on the proposed classification changes; and shortening time limits for responses to discovery requests and to related objections and motions. Request at 3. The Service also urges the Commission to require parties opting to request oral cross-examination to state not only "the issues of material fact that require a hearing for resolution," as required under § 69b(h), but also to make a compelling case that oral cross-examination could not otherwise be obtained through written discovery.

*Rationale for expedition.* The Service believes expedition is reasonable because the proposed classification changes are straightforward and of limited scope. *Id.* at 1. The proposal expands eligibility for certain types of non-rectangular shapes that are currently not mailable under existing provisions of the DMCS. These pieces would be limited to the basic nonletter rate categories in the Standard Regular and Nonprofit subclasses. No new rates or surcharges are proposed for this matter. The proposal entails minor changes to the DMCS and the addition of new footnotes to Standard Mail Rate Schedules 321A and 323A. The changes would not have a significant effect on the Postal Service's overall volumes, revenues and costs. *Id.* at 1. Moreover, the Service asserts that there is a strong possibility of settlement, given indications from potential participants. *Id.* at 2. It also notes that because the proposal is likely to

appeal to highly targeted mailings, it should have no adverse effect on other mailers or competitors. *Ibid.*

B. Motion for Waiver

The Postal Service seeks waiver, in whole or part, of several rules that call for detailed data and information. 39 CFR 3001.64(b)(3); 39 CFR 3001.64(d) and 39 CFR 3001.69a(a)(3).<sup>3</sup> In general, it asserts that waivers are appropriate, in the public interest, and not prejudicial to the interests of any participant because the classification changes in issue are minor in nature and will not have a substantial effect on the volume, revenue and cost estimates, or on the relationships of mail. Moreover, the Service says production of the information would be unduly burdensome. Motion of United States Postal Service for Waiver, (Postal Service Waiver Motion), March 14, 2003, at 1 and 3.

*Rule 64(b)(3) — Information on the economic substitutability between various classes and subclasses of mail, including a description of cross-elasticity of demand between various classes of mail.* The Service notes that economic substitutability of demand would not be expected to change under this proposal, particularly since potential users would only be able to enter CMM into the basic nonletter category tier in Standard Mail. Accordingly, it asserts the data this section seeks are not necessary or useful in considering the Service's proposal, and waiver will not impair the ability of the Commission or any participant to evaluate the Request. Postal Service Waiver Motion at 2.

*Rule 64(d) — Effects on cost assignments, total costs, and total revenues and 69a(a)(3) — a detailed estimate of the overall impact of the requested change in mail classification on postal costs and revenues, mail users, and competitors of the Postal Service.* The Service invokes the explanations provided in the testimony of its two witnesses as to why the proposal will not result in significant changes to postal cost and revenue relationships. *Id.* at 3. It says the cost of conducting detailed analyses is not

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<sup>3</sup> The Service seeks partial waiver for rule 69a(a)(3).

justified by the limited scope of the proposal and the small number of users likely to avail themselves of these new classification provisions. Ibid. It also says that given the expected insignificant near-term effect on costs and revenue, waiver of section 64(d) will not impair the ability of the Commission or prospective participants to evaluate the Service's presentation. Ibid.

#### V. Initial Procedural Steps

Although some aspects of the Service's proposal necessarily await an opportunity for interested parties to assess the filing, the Commission agrees with the Service that several steps can be taken now to expedite this case.

*Dates for intervention, statements, and responses.* The Commission prefers that those wishing to be heard in this matter submit a notice of intervention on or before April 3, 2003. Notices should indicate whether participation will be on a full or limited basis and state whether a hearing is requested. The Commission also prefers that responses to the Service's Request for Expedition and to the Postal Service Waiver Motion be filed no later than April 3, 2003.<sup>4</sup>

*Settlement matters and prehearing conference.* Subject to reconsideration if responses from participants so warrant, the Commission authorizes settlement proceedings in this case. It appoints Postal Service counsel to serve as settlement coordinator and to schedule settlement conferences as deemed appropriate. A settlement conference held before the prehearing conference would facilitate prompt action on the Request. Participants and the Commission are to be provided reasonable notice of such conferences. The Postal Service is also directed to file periodic status reports with the Commission. A prehearing conference is scheduled for April 9, 2003, at 10:00 a.m. in the Commission's hearing room. Participants should be prepared to

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<sup>4</sup> Interventions as of right, requests for a hearing and responses to the Service's request for expedition will be accepted until the April 9, 2003 prehearing conference.

discuss matters pertinent to the Service's proposal, especially the need for a hearing, and the request for expedition, including the Service's suggestions related to discovery.

*Representation of the general public.* In conformance with 39 U.S.C. § 3624(a), the Commission designates Shelley S. Dreifuss, Director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, when requested, shall provide their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. Service of documents on the OCA shall conform to Commission rules.

It is ordered:

1. The Commission will sit *en banc* in this proceeding.
2. Participants are encouraged to file notices of intervention, respond to the Request for Expedition and Establishment of Settlement Procedures, respond to the Postal Service's Motion for Waiver, and submit a request for a hearing no later than April 3, 2003.
3. Shelley S. Dreifuss, Director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.
4. The Commission authorizes settlement discussions in this proceeding.
5. Postal Service counsel is appointed to act as settlement coordinator in this proceeding, subject to reconsideration.
6. Settlement conferences are authorized to be held at time, dates and places arranged by the settlement coordinator.



7. The settlement coordinator shall file periodic status reports with the Commission.
8. A prehearing conference is scheduled for April 9, 2003 at 10:00 a.m. in the Commission's hearing room.
9. The Secretary shall cause this notice and order to be published in the *Federal Register*.

By the Commission.  
(SEAL)

Steven W. Williams  
Secretary