

ORDER NO. 1392

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

Before Commissioners:

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

Experimental Periodicals  
Co-Palletization Dropship Discounts  
For High Editorial Publications

Docket No. MC2004-1

NOTICE AND ORDER ON FILING OF REQUEST SEEKING  
EXPERIMENTAL PERIODICALS DISCOUNTS

(Issued February 27, 2004)

On February 25, 2004, the United States Postal Service filed a request seeking a recommended decision from the Postal Rate Commission approving an experimental mail classification, along with related discounts, for certain high-editorial, heavy-weight, small-circulation Periodicals mail that is co-palletized and dropshipped.<sup>1</sup> The Request further proposes a modification to the expiration date of the Periodicals co-palletization dropship discounts experiment recommended in Docket No. MC2002-3 such that the expiration date for that experiment and the recommended expiration date for the instant request for experiment expire on the same date. The Request also includes a request for a minor classification change to Domestic Mail Classification Schedule (DMCS) § 511, which proposes to allow sample copies of periodicals to be mailed with parcels

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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).

using Parcel Post or Bound Printed Matter rates. This request is unrelated to the request for experiment. The Request, which includes six attachments, was filed pursuant to Chapter 36 of the Postal Reorganization Act, 39 U.S.C. § 3601 *et seq.*<sup>2</sup>

In contemporaneous filings, the Service asks for waiver of certain standard filing requirements (if the Commission deems such waiver is required),<sup>3</sup> and seeks expedited consideration of its proposal, including establishment of procedures for settlement.<sup>4</sup> The Service's request for expedition is in addition to that generally available under the Commission's experimental rules [39 CFR §§ 3001.67-3001.67d]. The Service's Request, the accompanying testimony of witness Taufique (USPS-T-1), and other related material are available for inspection in the Commission's docket section during regular business hours. They also can be accessed electronically, via the Internet, on the Commission's website ([www.prc.gov](http://www.prc.gov)).

I. The Service Characterizes its Proposal as a Logical Extension of the Co-Palletization Discounts Recommended in Docket No. MC2002-3 to Mailers of Certain High-Editorial, Heavy-Weight, Small-Circulation Periodicals Mail that is Co-Palletized and Dropshipped

Docket No. MC2002-3 established experimental co-palletization dropship per-piece discounts for Periodicals that allow mailers to combine different publications or print runs on pallets with the objective of moving certain Periodicals mail from sacks to pallets, and to encourage mailers to dropship closer to final destination. Although the

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<sup>2</sup> Attachments A and B to the Request contain proposed changes to the Domestic Mail Classification Schedule and the associated rate and fee schedules; Attachment C references the United States Certified Financial Statements for the Years Ended September 30, 2003 and September 30, 2002; Attachment D is the certification required by Commission rule 54(p); Attachment E is an index of testimony and exhibits; and Attachment F is a compliance statement addressing satisfaction of various filing requirements.

<sup>3</sup> Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, February 25, 2004 (Motion for Waiver).

<sup>4</sup> United States Postal Service Request for Expedition and Establishment of Settlement Procedures, February 25, 2004 (Request for Expedition).

Postal Service asserts that these discounts have begun to generate a significant amount of co-palletization, the discounts do not provide an effective incentive for mailers of low-circulation, heavy, high-editorial publications to co-palletize their mail.

To encourage mailers of high-editorial, heavy-weight, small-circulation Periodicals mail to co-palletize and dropship closer to final destination, the Postal Service proposes conducting a two-year experiment to test discounts for certain Periodicals mail that is co-palletized and dropshipped to either an area distribution center (ADC) or a sectional center facility (SCF). The discounts would apply exclusively to publications with advertising content of 15 percent or less, copy weight of 9 ounces or more, and circulation of 75,000 pieces or less (including all editions, issues and supplemental mailings). The proposed discounts range from \$0.008 to \$0.131 per editorial content pound. The amount of discount is proposed to be based on the number of zones skipped as a result of co-palletization and dropshipping, and whether the mail is entered at an ADC or a SCF. The discounts would be available only as an alternative to the existing co-palletization discounts. Request at 1-4. The discounts were developed using the advertising pound rates used in Docket No. R2001-1 and the general methodology used in Docket No. MC2002-3. USPS-T-1 at 12-14. A conservative passthrough of 30 percent of estimated cost savings is proposed. *Id.* at 16. The proposed discounts leave existing Periodicals classifications and rates otherwise unchanged.

*Experimental designation.* The Service seeks consideration of its proposal under the Commission's experimental rules (rules 67-67d). In support of this approach, it notes that it currently lacks data about how much response there will be to a rate incentive for co-palletization focused on high-editorial, heavy-weight, small-circulation publications, but intends to gather more complete data during the proposed term of the experiment. It says this effort may support a request for a permanent classification. The Service proposes that the experimental classification be in effect for two years, but also seeks approval of a provision that would allow for a brief extension if permanent classification authority is sought while the experiment is pending. Request at 4-5.

The Service contends that the expedition allowed under the experimental rules is appropriate in light of the interest in promoting efficiency in Periodicals operations as soon as possible. It also states that flexibility is required because the detailed, conventional data necessary to support a request for a permanent classification are currently unavailable. The Service believes that this proposal will be attractive to mailers, contribute to the long-term viability of the postal system, and further the general policies of efficient postal operations and reasonable rates and fees enunciated in the Postal Reorganization Act, including 39 U.S.C. §§ 3622(b) and 3623(c). *Id.* at 6.

## II. The Service Seeks Waiver of Certain Filing Requirements, if Deemed Necessary

The Service maintains that its filing satisfies applicable Commission filing requirements, but seeks waiver of pertinent provisions of rules 54, 64 and 67 to the extent the Commission concludes otherwise. In support of its primary position, the Service contends that its Compliance Statement (Attachment F to the Request) addresses each filing requirement and indicates which parts of the filing satisfy each rule. It also notes that it has incorporated by reference pertinent documentation from the recent omnibus rate case (Docket No. R2001-1). The Service contends, among other things, that the rate case documentation satisfies most filing requirements because the proposed discounts will not materially alter the rates, fees and classifications established in that docket, and therefore will have only a limited impact on overall postal costs, volumes and revenues. It also asserts that there is substantial overlap between information sought in the general filing requirements and the materials provided in Docket No. R2001-1. Motion for Waiver at 1-4.

However, if the Commission concludes that the materials from the omnibus case are not sufficient to satisfy the requirements, the Service contends strict compliance is not warranted, and seeks waiver. It cites the reasons expressed in support of its general position on the adequacy of its filing; the nature of the proposed experiment; and the small impact on total costs and revenues and on the costs, volumes and

revenues of mail categories. Id. at 4-5. Responses to the Service's Motion for Waiver are due by March 19, 2004.

III. The Service Seeks Expedition and Suggests Several Specific Procedures, including Prompt Establishment of Settlement Procedures

In support of expedition, the Service asserts that the proposed change is straightforward; limited in scope and duration; and insignificant in terms of its effect on overall volumes, revenues and costs. It also states that there is a distinct possibility of settlement in this case. Request for Expedition at 1-2.

The Service does not propose a specific schedule, but identifies four procedures the Commission could employ to facilitate a quick resolution of this case. These include setting a relatively short intervention period and requiring participants to identify, in their notices of intervention, whether they intend to seek a hearing and to identify any genuine issues of material fact that would warrant such a hearing. They also include scheduling a settlement conference as quickly as possible following the deadline for intervention; abbreviating the time allotted for discovery on the Postal Service's direct case, including limiting the related time for responses, objections, and motions; and, considering the possibility of dispensing with briefs and oral argument. Id. at 2-3.

IV. Commission Response

*Appropriateness of proceeding under the experimental rules.* For administrative purposes, the Commission has docketed the instant filing as an experimental case. Formal status as an experiment under Commission rules 67-67d is based on an evaluation of factors such as the proposal's novelty, magnitude, ease or difficulty of data collection, and duration. A final determination regarding the appropriateness of the experimental designation and application of Commission rules 67-67d will not be made

until participants have had an adequate opportunity to comment. Participants are invited to file comments on this matter by March 19, 2004.

*Appropriateness of establishing other expedited procedures.* The Commission grants the Service's Request for Expedition to the extent of authorizing settlement procedures; allowing a shorter-than-usual period for intervention; and requiring participants, in their notices of intervention, to state whether they intend to seek a hearing and to identify with particularity any genuine issues of material fact that would warrant a hearing. Decisions on other expedited procedures, such as limiting discovery time limits, will be made at a later time.

*Settlement.* The Commission authorizes settlement negotiations in this proceeding. It appoints Postal Service counsel as settlement coordinator. In this capacity, counsel for the Service shall file periodic reports on the status of settlement discussions. The Commission authorizes the settlement coordinator to hold settlement conferences on March 18, 19, 22, or 23, 2004, in the Commission's hearing room. Authorization of settlement discussions does not constitute a finding on the proposal's experimental status or on the need for a hearing.

*Representation of the general public.* In conformance with section 3624(a) of Title 39, 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 in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply 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.

*Intervention; need for hearing.* Those wishing to be heard in this matter are directed to file a written notice of intervention with Steven W. Williams, Secretary of the Commission, 1333 H Street, NW, Suite 300, Washington, DC 20268-0001, on or before March 17, 2004. Notices should indicate whether participation will be on a full or limited basis. See 39 CFR §§ 3001-20 and 3001-20a. No decision has been made at this point on whether a hearing will be held in this case. To assist the Commission in

making this decision, participants are directed to indicate, in their notices of intervention, whether they seek a hearing and, if so, to identify with particularity any genuine issues of material facts believed to warrant such a hearing.

*Prehearing conference.* A prehearing conference will be held March 25, 2004, at 10:00 a.m. in the Commission's hearing room. Participants shall be prepared to address matters referred to in this ruling.

It is ordered:

1. The Commission establishes Docket No. MC2004-1, Experimental Periodicals Co-Palletization Dropship Discounts For High Editorial Publications, to consider the Postal Service Request referred to in the body of this order.
2. The Commission will sit en banc in this proceeding.
3. The deadline for filing notices of intervention is March 17, 2004.
4. Notices of intervention shall indicate whether the participant seeks a hearing and identify with particularity any genuine issues of material fact that warrant a hearing.
5. The deadline for answers to the Motion of United States Postal Service for Waiver is March 19, 2004.
6. The deadline for comments on the Postal Service's request for treatment under Commission rules 67-67d is March 19, 2004.

7. The Commission will make its hearing room available for settlement conferences on March 18, 19, 22, or 23, 2004, at such times as deemed necessary by the settlement coordinator.
8. Postal Service counsel is appointed to serve as settlement coordinator in this proceeding.
9. The Postal Service's Request for Expedition is granted to the extent of allowing a shorter-than-usual intervention period, allowing settlement discussions, and requiring participants' interest in a hearing to be identified in the notice of intervention.
10. A prehearing conference will be held Wednesday, March 25, 2004 at 10:00 a.m. in the Commission's hearing room.
11. Shelley S. Dreifuss, Director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.
12. The Secretary shall arrange for publication of this notice and order in the *Federal Register*.

By the Commission.  
(S E A L)

Steven W. Williams  
Secretary