

ORDER NO. 1408

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 Priority Mail Flat-Rate Box

Docket No. MC2004-2

NOTICE AND ORDER ON REQUEST FOR
EXPERIMENTAL PRIORITY MAIL FLAT-RATE BOX OFFERING

(Issued June 9, 2004)

I. Introduction

On June 3, 2004, the United States Postal Service filed a request for a recommended decision from the Postal Rate Commission approving a two-year experimental mail classification and rate for a new Priority Mail “flat-rate box” offering.¹ The Request, which includes five attachments, was filed pursuant to Chapter 36 of the Postal Reorganization Act, 39 U.S.C. § 3601 *et seq.*² It was accompanied by three pieces of testimony (along with related exhibits and library references); a statement

¹ Request of the United States Postal Service for a Recommended Decision on Experimental Classification and Rate for Priority Mail Flat-Rate Box, June 3, 2004 (Request). *See also* Notice of United States Postal Service of Filing of Library Reference USPS-LR-1 and Notice of United States Postal Service of Filing of Library Reference USPS-LR-2, both filed June 3, 2004.

² Attachments A and B identify requested changes to the Domestic Mail Classification Schedule and the associated Priority Mail rate schedule; Attachment C is the certification regarding, among other things, the accuracy of the cost statements and supporting data submitted with the Request; Attachment D is an index of testimony and exhibits; and Attachment E is a compliance statement addressing the Service’s satisfaction of various filing requirements or its interest in waiver of certain requirements.

regarding satisfaction of certain compliance requirements, along with a conditional motion for waiver of certain standard filing requirements; and a request for prompt establishment of settlement procedures.³ The Request and all related material are available for inspection in the Commission's docket section during regular business hours, and can be accessed electronically, via the Internet, on the Commission's website at <http://www.prc.gov>.

Summary. The proposal encompasses two new Priority Mail flat-rate box options, each priced at \$7.70, and is geared primarily to convenience-oriented customers. Special boxes would be provided at no additional charge to customers by the Postal Service, and would be readily available at post offices, other physical locations and via the Internet. The two proposed package shapes were chosen based on an analysis of a national Priority Mail survey. Both boxes have the same cubic volume (0.34 feet), but one is a longer, shallower shape suitable for mailing garments, while the other is a taller package that could accommodate items such as shoes.⁴ Text printed directly on the boxes would provide pertinent instructions and information, such as security-related entry limitations and payment methods. One payment option, given that the proposed rate is twice the postage now charged for the Service's existing Priority Mail flat-rate envelope, would be the application of two \$3.85 denomination stamps. Request at 2.

The Service asserts that the proposed experiment will not materially affect its overall revenue position and will not entail any capital investment. It also says the proposed rate is sufficient to guard against any significant loss of revenue from existing Priority Mail customers, while providing for additional revenues from new Priority Mail

³ Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, June 3, 2004 (collectively referred to as Motion for Waiver); United States Postal Service Request for Establishment of Settlement Procedures, June 3, 2004 (Settlement Request). The latter request seeks expedition in addition to that generally available under the Commission's experimental rules [39 CFR §§ 3001.67-3001.67d].

⁴ The external measurements of one box are 14" x 12" x 3.5"; the external measurements of the other are 11.25" x 8.75" x 6." Request at 2. Inside dimensions, respectively, are 13.25" x 11.75" x 3.25" and 11" x 8.5" x 5.5". USPS-T-2 at 4-5.

business. Thus, it says the proposed experiment creates no appreciable risk of significant, negative financial results or harm to the Postal Service, mailers using the new packaging, or other mailers. Id. at 3. The Service also asserts, among other things, that the proposal is consistent with the logic of the experimental rules; will further the general policies of the Postal Reorganization Act; and conforms to the applicable statutory criteria. Id. at 4-5.

II. The Service Characterizes Its Proposal as a Short-Term Experiment Testing a Convenience-Oriented Option Similar, in Many Respects, to the Existing Priority Mail Flat-Rate Envelope

The Service cites customer convenience as the primary justification for offering the proposed flat-rate boxes as additional expedited mailing options. It says customers can simply put an item in a box obtained from the Postal Service, apply the known postage amount and address, and enter the box into the mailstream in an appropriate fashion, thereby avoiding the need to weigh and rate Priority Mail parcels, or to visit a post office for weighing and rating. Id. at 2.

The Service proposes a two-year experiment. It says this should allow mailers sufficient time to adjust their mailing practices to use the classification. It also says this amount of time will provide an adequate period to aggregate and analyze the experimental data, thereby facilitating a request for a permanent change in mail classification. Id. at 4. If a permanent request is made within the experimental period, the Service asks that the experiment be allowed to continue until action on that request can be completed, thus avoiding disruption. Id. at 5.

III. Supporting Testimony Supporting Testimony Addresses Pertinent Revenue, Volume and Statutory Criteria

A. Witness Scherer's Testimony (USPS-T-1)

Witness Scherer addresses derivation of the proposed rate, assesses risk, and describes the proposed data collection and reporting plan. He also discusses the proposal's conformance with the criteria for experiments and for rate and classification changes.

Scherer derives the proposed \$7.70 rate from the current Priority Mail schedule, using new survey data on the size and density characteristics of existing Priority Mail parcels to determine an average weight for the box. These new data are from witness Loetscher's testimony. USPS-T-1 at 3, 5. The sampling study provides an average density of 6.70 pounds per cubic foot for a Priority Mail parcel of 0.34 ft, or an average weight of 2.28 pounds. This weight is used to interpolate between the average Priority Mail postage for two-pound parcels and three-pound parcels (across all zones) to arrive at a base postage amount of \$5.92. Witness Scherer then considers economic and pricing criteria to reach a postage amount of \$7.70 for Priority Mail flat-rate boxes. *Id.* at 3.

Risk. Scherer says the flat-rate box, like all new product offerings, entails risk to both the customer and the Postal Service. However, he considers the risk to customers minimal, as they may "overpay" for the flat-rate box in some instances. *Id.* at 8-9. With respect to the Service, Scherer says the risk is quantifiable, has an acceptable upper bound for an experiment, and will be at least partially offset by some unquantifiable potential benefits. *Id.* at 6. In his view, the prevailing risk for the Service is the revenue leakage that would occur if Priority Mail customers currently paying more than \$7.70 "buy down" to the flat-rate box. In brief, Scherer finds 9.3 million eligible parcels currently priced above \$7.70, but says he does not expect all of them to migrate to the flat-rate box.

Data collection plan. Scherer proposes semi-annual tabulation of flat-rate box volume, distinguished for the two box sizes, by weight increment and zone. He says volume data will come from the ODIS-RPW sampling regularly conducted by the Postal Service's Office of Revenue and Volume Reporting. He says some ODIS-RPW system changes will be required, but that sampling should be able to commence at the start of the experiment. In addition to weight and zone, the sampling will identify the method of postage payment, and thereby provide some insight into the types of customers using the flat-rate box. *Id.* at 13. Scherer also anticipates that sampling will be supplemented, in the second year of the experiment, with market research. He expects this to take the form of a nationwide flat-rate box user survey, and provides possible sample survey questions in Attachment A of his testimony. He notes that Question 8 addresses the main objective of the survey, which is to discern the origins of volume gravitating to the flat-rate box.

Scherer also reviews the proposal in terms of the statutory classification and pricing criteria, and finds that the experiment is consistent with them. *Id.* at 14-18.

B. Witness Barrett's Testimony (USPS-T-2)

Witness Barrett discusses three facets of the convenience the Service seeks to create: obtaining the product, selecting a method of payment, and entering the item into the mailstream. USPS-T-2 at 6. His testimony indicates that the new boxes will be available via multiple channels, including the Internet, but indicates that post offices are expected to remain the primary contact point for consumers and small business customers. *Ibid.* He notes that payment may be made via existing methods, including stamps and electronic postage. *Id.* at 7.

Barrett notes that given Postal Service security measures, Priority Mail packages bearing stamps and weighing 16 ounces or more may not be placed in a collection box, but instead must be entered at the post office or may be picked up by a letter carrier from a customer's home or place of business pursuant to certain conditions. He says

the flat-rate boxes will be subject to the same security guidelines that apply to similar mailings.

Barrett asserts that the flat-rate box would meet customers' need for products that are easy to access and simple to use, and would provide enhanced simplicity and convenience. *Id.* at 3. He says it would offer customers a single, predetermined rate regardless of the actual weight or destination zone of the mailpiece. *Ibid.* He also says the Postal Service hopes, by creating a simplified transaction, to make it easier for retailers, contract postal units, and individuals or small businesses selling merchandise online to offer Priority Mail to their customers. *Ibid.*

C. Loetscher Testimony (USPS-T-3)

Witness Loetscher presents and sponsors a national study that estimates the size distributions and densities of Priority Mail parcels. Details and documentation are supplied in USPS-LR-2/MC2004-2.⁵ Section 1 of the library reference describes the study; section 2 describes the sample frame, site selection, and data collection methods; and section 3 describes the estimation methodology. An appendix presents the software code used to generate the estimates. USPS-T-3 at 1.

Loetscher's study estimates the proportion of Priority Mail parcels by pound increment, zone and cubic foot increment. *Id.* at 2. Based on the 5,368 Priority Mail parcels that were sampled, Loetscher estimated parcels as having a density of 6.70 pounds per cubic foot. USPS-T-3 at 2-3.

⁵ In connection with his library reference, witness Loetscher states: "Some estimates used by witness Scherer rely on distributional Priority Mail volume data. The Postal Service considers these data to be commercially sensitive because they are similar to the GFY 2003 Priority Mail Billing Determinants data which, by convention, will not be reported to the Postal Rate Commission until spring of 2005. Data deemed too commercially sensitive by the Postal Service are not disclosed in the library reference." USPS-T-3 at 1.

IV. Experimental Designation

The Service asserts that by designating its Request as an experiment, it intends for the Commission to apply its expedited rules of practice for experimental changes. Request at 3. The Service says that this filing is consistent with the logic of the experimental rules. In particular, it notes 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 4-5.

V. Conditional Motion for Waiver

The instant filing incorporates by reference materials submitted with the Service's Docket No. R2001-1 Request, as well as other materials routinely provided to the Commission by the Service. *Id.* at 5. The Service says it believes that its filing satisfies all 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 position, the Service contends that its Compliance Statement (Attachment E 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 further asserts that there is substantial overlap between the information sought in the general filing requirements and the materials provided in Docket No. R2001-1. Motion for Waiver at 1-4.

In the event the Commission concludes that the materials from the omnibus case are not sufficient to satisfy the requirements, the Service seeks waiver. In support thereof, 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.

VI. The Service Requests Establishment of Settlement Procedures

The Service asks the Commission to authorize settlement procedures, citing, among other things, the straightforward nature of the proposal and its limited scope and duration. Settlement Request at 1-2. It asks that the Commission schedule several events: an informal, off-the-record technical conference involving witness Scherer, sometime on June 21-23, 2004; a settlement conference the following week, and a prehearing conference after the July 4th weekend. *Id.* at 3.

VII. Commission Response

Appropriateness of proceeding under the experimental rules. At this stage of the proceeding, the Commission has docketed the instant filing as an experimental case for administrative purposes. Formal status as an experiment under Commission rules 67-67d, which the Service makes clear it seeks for this Request, 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 accepting the filing as an experimental case 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 June 24, 2004.

Authorization of settlement negotiations. The Commission grants the Service's Request for Establishment of Settlement Procedures and appoints Postal Service counsel as settlement coordinator. In this capacity, counsel for the Service shall file periodic reports on the status of settlement discussions, with the first report to be

submitted on or before July 2, 2004. The Commission further authorizes the settlement coordinator to hold a technical conference, at the convenience of participants, anytime between June 21 and 23, 2004; authorizes a settlement conference to be held the next week, with notice to the Commission of the date and time selected; and sets a public post-settlement conference hearing for July 8, 2004 at 10 a.m. in the Commission's hearing room. If progress in the settlement conference overtakes the need for the July 8 conference, the settlement coordinator is to notify the Commission and participants as promptly as possible.

The Commission notes that authorization of settlement discussions does not constitute a finding on the proposal's experimental status or on the need for a hearing in this case.

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; positions on need for hearing. Those wishing to be heard in this matter are directed to file a notice of intervention with Steven W. Williams, Secretary of the Commission, 1333 H Street, NW, Suite 300, Washington, DC 20268-0001, on or before June 24, 2004. Notices shall indicate whether participation will be on a full or limited basis. See 39 CFR §§ 3001-20 and 3001-20a. Although the Commission is authorizing participants to engage in settlement discussions, no decision has been made at this time 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.

It is ordered:

1. The Commission establishes Docket No. MC2004-2, Experimental Priority Mail Flat-Rate Box, 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 June 24, 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 Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, June 3, 2004 is June 24, 2004.
6. The Commission grants the United States Postal Service Request for Establishment of Settlement Procedures, June 3, 2004 to the extent described in the body of this ruling.
7. The Commission appoints Postal Service counsel to serve as settlement coordinator in this proceeding.
8. The deadline for comments on the Postal Service's request for treatment under Commission rules 67-67d is June 24, 2004.

9. The Commission will make its hearing room available for technical conferences during the period of June 21-23, 2004, and the following week for a settlement conference at such times deemed necessary by the settlement coordinator.
10. A public post-settlement conference hearing will be held July 8, 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)

Garry J. Sikora
Acting Secretary