

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268B0001

EXPERIMENTAL PRIORITY MAIL FLAT-RATE
BOX, 2004

Docket No. MC2004-2

**MOTION OF THE UNITED STATES POSTAL SERVICE FOR
CONSIDERATION OF THE STIPULATION AND AGREEMENT
AS THE BASIS FOR RECOMMENDED DECISION
(August 10, 2004)**

The United States Postal Service hereby moves that the Commission base its recommended decision in this docket on the Stipulation and Agreement filed herewith, in accordance with 39 U.S.C. § 3623. The participants have engaged in settlement negotiations, as reported to the Commission on July 22, 2004 and August 5, 2004. Those negotiations have been fruitful, producing the attached Stipulation and Agreement. Based on the negotiations, all but one or two participants are expected to sign.¹ The settlement coordinator remains hopeful that, after reviewing all pending submissions by the Postal Service to outstanding discovery, the remaining participants will also be willing to sign. However, even without their signatures, the Postal Service considers the Stipulation and Agreement to offer the best means to bring this proceeding to a resolution.

For the reasons set forth in the Stipulation and Agreement and any briefs filed in accordance with the procedural schedule, the Postal Service requests

¹ Parties who wish to sign the Stipulation and Agreement should file their signature page directly with the Commission with an appropriate notice.

that the Commission base its recommended decision in this docket on the attached Stipulation and Agreement.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

Richard T. Cooper

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2993; Fax -5402

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.

Richard T. Cooper

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-2993; Fax -5402
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STIPULATION AND AGREEMENT

This Stipulation and Agreement is submitted pursuant to Rule 29 of the Rules of Practice and Procedure of the Postal Rate Commission, 39 C.F.R. § 3001.29, by and between the undersigned participants or through their respective attorneys. It is a negotiated settlement of all issues raised in the above-captioned docket. The undersigned participants hereby stipulate and agree to the following:

I. BACKGROUND

On June 3, 2004, pursuant to 39 U.S.C. § 3623, the United States Postal Service filed with the Postal Rate Commission a request for a decision recommending the establishment of an experimental change in the Domestic Mail Classification Schedule (DMCS) to create a new classification and flat rate within Priority Mail for matter mailed using specific, Postal Service-supplied Priority Mail box-shaped packaging. The request was designated as Docket No. MC2004-2 by the Commission. The basis for the request is explained in the Docket No. MC2004-2 direct testimony of witnesses Thomas M. Scherer (USPS-T-1), Daniel J. Barrett (USPS-T-2), and L. Paul Loetscher (USPS-T-3).

II. TERMS AND CONDITIONS

1. This Stipulation and Agreement represents a negotiated settlement of all issues raised by the Docket No. MC2004-2 Request of the United States Postal Service for a Recommended Decision on Experimental Classification and Rate For Priority Mail Flat-Rate Box.

2. The undersigned participants stipulate and agree, for purposes of this proceeding only, that the following materials provide substantial evidence supporting and justifying a Recommended Decision recommending the proposed experimental changes to DMCS § 223, and Rate Schedule 223: the Docket No. MC2004-2 direct testimony and materials filed in support of the Postal Service's Request, and any written cross-examination, as revised and supplemented, that is designated before the record closes. The proposed DMCS language, rate schedule changes, and data collection plan are attached to this Stipulation and Agreement as Attachments A to C, respectively.

3. On the basis of such record, for purposes of this proceeding only, the undersigned participants stipulate and agree that the experimental DMCS and Rate Schedule changes set forth in the Attachment to this Stipulation and Agreement are in accordance with the polices of title 39, United States Code, and in particular, the criteria and factors of 39 U.S.C. §§ 3622 and 3623.

4. This Stipulation and Agreement is offered in total and final settlement of this proceeding. The undersigned participants agree that they will file no further pleadings or testimony with the Commission in this proceeding, with the exception of:

(a) pleadings or testimony explicitly requested by the Commission or in reply to such pleadings; (b) pleadings or testimony opposing pleadings or testimony filed in opposition to this Stipulation and Agreement; or (c) pleadings, testimony or comments in support of this Stipulation and Agreement.

5. If the Commission adopts a Recommended Decision that materially differs from the experimental classification and rate as filed in this Stipulation and Agreement, or if the Governors of the Postal Service fail to approve the Commission's Recommended Decision adopting the experimental classification and rate as filed by the Postal Service, then each signatory reserves the right to withdraw from this Stipulation and Agreement. Any signatory withdrawing under the terms of this paragraph must provide written notice of its intention to withdraw to all participants within five (5) business days of the occurrence of the specific event giving rise to the right to withdraw. Any exercise of such right by one or more signatories shall not affect the operation of this Stipulation and Agreement as to other signatories.

6. This Stipulation and Agreement pertains only to the instant proceeding. The undersigned participants shall not be considered as necessarily agreeing with or conceding the applicability of any ratemaking principle, any method or principle of classification, any terms and conditions of service, any method of cost of service determination, any principle or method of rate or fee design, the validity or use of any data relied upon by the Postal Service in this docket for any other purposes or in any other classification or ratemaking proceeding, or the application of any rule or interpretation of law, that may underlie, or be thought to underlie, this Stipulation and Agreement.

7. In any future negotiation or proceeding (other than any proceedings involving the honoring, enforcement, or construction of this Stipulation and Agreement), the undersigned participants shall not be bound or prejudiced by this Stipulation and Agreement, nor shall any participant rely for any purpose on the fact that another participant entered into or did not oppose this Stipulation and Agreement. The undersigned participants also agree that, to the extent that matters presented in the Docket No. MC2004-2 Request, in any Commission Recommended Decision on that Request, or in any decision of the Governors of the Postal Service in this proceeding, have not actually been litigated, the resolution of such matters will not be entitled to precedential effect in any other proceeding.

8. The undersigned participants request that the Commission expeditiously issue a decision recommending adoption of the experimental DMCS and Rate Schedule provisions appended to this Stipulation and Agreement.

9. The Postal Service agrees to print on Priority Mail flat-rate boxes a notice to users indicating that Priority Mail flat rate boxes may not be the lowest-cost Priority Mail option.

10. This Stipulation and Agreement represents the entire agreement of the signatories, and supersedes any understandings or representations not contained herein.

* Signature pages are attached.

DOCKET NO. MC2004-2

PROPOSED DMCS CHANGES

* * * * *

**FIRST-CLASS MAIL
CLASSIFICATION SCHEDULE**

223.4 ~~Reserved~~ **Flat Rate Box.**

223.41 **General.** Priority Mail subclass mail sent in a “flat rate” box provided by the Postal Service is charged the rate designated in the note 5 for Rate Schedule 223.

223.42 **Duration of the Flat Rate Box Experiment.** The provisions of section 223.4 expire the later of:

a. two years after the implementation date specified by the Postal Service Board of Governors, or

b. if, by the expiration date specified above, a request for the establishment of a permanent Flat Rate Box classification is pending before the Postal Rate Commission, the later of:

(1) three months after the Commission takes action on such proposal under section 3624 of Title 39, or, if applicable,

(2) on the implementation date for a permanent Flat Rate Box classification.

Additions are underlined, and deletions are marked with ~~strike through~~.

DOCKET NO. MC2004-2

PROPOSED RATE SCHEDULE CHANGES

FIRST-CLASS MAIL
RATE SCHEDULE 223

PRIORITY MAIL

SCHEDULE 223 NOTES

5. A rate of \$7.70 is charged for matter sent in a flat-rate box provided by the Postal Service (experimental).

Additions are underlined.

MC2004-2 Data Collection Plan

The following is a description of the Postal Service's data collection plan for the proposed Priority Mail Flat-Rate Box experiment. The purpose of the data collection is to provide a measure of the experiment's effectiveness and data to facilitate the preparation of any request for a related permanent classification change. This plan collects data required by the Commission's Rules 64 and 54 and data desired for postal management's evaluation of the proposed classification and rate.

1. From the date that the rate for Priority Mail Flat-Rate boxes is implemented, through the course of the experiment, the Postal Service will collect volume data by weight increment and zone, and develop and report volume estimates for each of the two Priority Mail flat-rate box sizes. These estimates are expected to be based on ODIS-RPW and/or PERMIT system data. To the extent possible and practicable, the Postal Service will develop and report indicators of statistical reliability for each estimate reported. The Postal Service will document the methods used to construct all estimates and any indicators of statistical reliability.
2. From the date that the rate for Priority Mail Flat-Rate boxes is implemented, through the course of the experiment, the Postal Service will collect data identifying the method of postage payment for Priority Mail flat-rate boxes, and

report a rank ordering of the payment methods used for each of the two Priority Mail flat-rate box sizes.

3. During the second year of the experiment, the Postal Service will conduct market research, along the lines generally suggested in the testimony of witness Scherer, to identify the probable sources of flat rate box volume, and to gain some insight into customer preferences for the flat-rate box.
4. In the second year of the experiment, the Postal Service shall file with report number three, as defined below, copies (either physical or digital copies) of any advertisements promoting Priority Mail Flat-Rate boxes to the public (together with a listing of the media channels and dates that the advertisements were disseminated.)
5. In the second year of the experiment, the Postal Service shall file, commencing with report number three, as defined below, a qualitative report on the methods used to inform the public about the Priority Mail flat-rate box and pound/zone rated Priority Mail alternatives. To the extent possible and practicable, the Postal Service will include in its report copies of any posters, rack labels, enclosures in Priority Mail boxes, internet information, Customer Mailing Guide information, retail signage, and other informational materials used to inform the public about the Priority Mail flat-rate box and pound/zone rated Priority Mail alternatives.

6. Timing of reports: Reports will be filed with the Commission every six months, on a basis consistent with the Postal Service's fiscal year. The first two reports will cover the first year plus any partial quarters during which the experiment is in effect. Information responsive to Items 1 and 2 will be provided in each report; information responsive to Item 4 will be provided in the third report, information responsive to Item 5 will be provided in the third and fourth report, and information responsive to Item 3 will be provided in the fourth report. The Postal Service anticipates that collection of the data and preparation of each report will take between six and eight weeks, following the end of a reporting period. The Postal Service reserves the right to mask or aggregate commercially-sensitive information for reporting purposes, and/or to seek appropriate protections before disclosing any commercially-sensitive information.

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SIGNATURE PAGE FOR STIPULATION AND AGREEMENT

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking
United States Postal Service

Date: _____

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For Intervenor:

Date: _____

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Pro Se

Date: _____