

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

Before:

Chairman Omas,
Vice Chairman Hammond,
Commissioner Covington, and
Commissioner Goldway

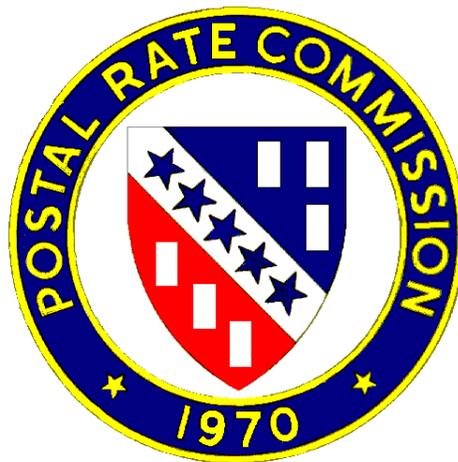
Experimental Priority Mail
Flat Rate Box

Docket No. MC2004-2

OPINION AND RECOMMENDED DECISION

APPROVING

STIPULATION AND AGREEMENT



Washington, DC 20268-0001
October 6, 2004

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I. INTRODUCTION AND SUMMARY

The Commission adopts a settlement proposed by the majority of the participants as the basis for its opinion and recommended decision approving a two-year experiment to test two box-shaped containers of standardized size for Priority Mail shipments. Both containers would be charged a flat rate of \$7.70.

The Postal Service will collect data pursuant to a data collection plan and file periodic reports during the course of the experiment. Should the Service decide to file a request to establish a permanent Flat Rate Box classification before the end of the two-year period, the experiment may be extended.

The Commission acknowledges the participants' efforts to rapidly resolve issues in this docket and reach a settlement. The experiment will shed light on the public's acceptance of a new packaging option for Priority Mail intended to add value through convenience and ease of use, as well as on its future pricing should the Postal Service request a permanent mail classification.

II. PROCEDURAL HISTORY

On June 3, 2004, the United States Postal Service filed a Request with the Postal Rate Commission seeking a recommended decision approving an experimental mail classification and a related proposed rate for two forms of standardized box-shaped packages for Priority Mail shipments. In the Request, the Postal Service proposes a two-year experiment, stating this period will allow mailers sufficient time to adjust their mailing practices and the Service an adequate period to aggregate and fully analyze data gathered in the experiment. Should the Service file a request for a permanent mail classification during the experiment, it would be extended pending action on that request.

The Postal Service's Request was submitted pursuant to Chapter 36 of the Postal Reorganization Act, 39 U.S.C. § 3601 *et seq.* It incorporates five attachments,¹ and is accompanied by the prepared direct testimony of three Postal Service witnesses² together with related exhibits and library references.

In contemporaneous filings, the Postal Service requested a conditional waiver of certain standard filing requirements and establishment of settlement procedures.³ Commission Order No. 1408 announced the filing of the experimental request and discussed related matters.⁴ Participants directed discovery requests to the Postal

¹ 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.

² Testimony of Thomas M. Scherer on Behalf of the United States Postal Service (USPS-T-1); Testimony of Daniel J. Barrett on Behalf of the United States Postal Service (USPS-T-2); Testimony of L. Paul Loetscher on Behalf of the United States Postal Service (USPS-T-3).

³ Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, June 3, 2004; United States Postal Service Request for Establishment of Settlement Procedures, June 3, 2004.

⁴ Notice and Order on Request for Experimental Priority Mail Flat Rate Box Offering, June 9, 2004 (Order No. 1408).

Service from June through August, 2004; none requested a hearing or the opportunity to submit responsive testimony.

A prehearing conference was held in this docket on July 8, 2004. In a Notice issued July 19, 2004, Chairman Omas designated Commissioner Dana B. Covington, Sr. to serve as Presiding Officer in this proceeding. Settlement conferences, authorized in Order No. 1408, were coordinated by the Postal Service, which issued progress reports on July 22 and August 5, 2004.

On August 10, 2004, the Postal Service filed a motion in favor of consideration of a Stipulation and Agreement as the basis for the Commission's recommended decision in this proceeding.⁵ The Postal Service attached a draft copy of a Stipulation and Agreement to this pleading. The Office of the Consumer Advocate filed comments in support of the Service's motion;⁶ intervenor David B. Popkin filed a pleading in opposition.⁷

On August 19, 2004, the Postal Service filed a motion for establishment of procedural steps to conclude the proceeding.⁸ The Presiding Officer granted this motion, and adopted a final procedural schedule for the case, in a ruling issued on August 31, 2004.⁹

On September 8, 2004, the Postal Service filed a motion requesting that the direct testimony of its three witnesses, two supporting library references, and the written cross-examination designated by the Office of the Consumer Advocate be entered into

⁵ Motion of the United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, August 10, 2004.

⁶ Office of the Consumer Advocate Comments in Support of Motion of the United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, August 18, 2004.

⁷ David B. Popkin Opposition to the Motion of the United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, August 12, 2004.

⁸ Motion of United States Postal Service for Establishment of Final Procedural Steps, August 19, 2004.

⁹ Presiding Officer's Ruling Establishing Final Procedural Schedule, August 31, 2004.

the record.¹⁰ The motion was accompanied by supporting declarations from the Postal Service witnesses. The testimony and designated written cross-examination were entered into the record on September 16, 2004, and the record was closed.¹¹

Three participants filed pleadings on the merits of the proposed Stipulation and Agreement. OCA filed comments in support of the settlement agreement on August 18, 2004.¹² David B. Popkin filed an opposition to the Postal Service motion to consider the settlement agreement as the basis for a recommended decision on August 12, 2004, and initial and reply briefs.¹³ The Postal Service filed comments in support of the settlement agreement on September 9, 2004, and reply comments On September 16, 2004.¹⁴

¹⁰ Motion of the United States Postal Service to Place Direct Testimony and Written Cross-Examination into the Evidentiary Record, September 8, 2004.

¹¹ Presiding Officer's Ruling Receiving Testimony and Other Materials into Evidence and Closing the Record, September 16, 2004.

¹² Office of the Consumer Advocate Comments in Support of Motion of the United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, August 18, 2004 (OCA Comments).

¹³ David B. Popkin Opposition to the Motion of the United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, August 12, 2004 (Popkin Opposition); Initial Brief of David B. Popkin, September 9, 2004 (Popkin Initial Brief); Reply Brief of David B. Popkin, September 16, 2004 (Popkin Reply Brief).

¹⁴ Comments of the United States Postal Service in Support of the Stipulation and Agreement, September 9, 2004 (Postal Service Comments); Reply Comments of the United States Postal Service in Support of the Stipulation and Agreement, September 16, 2004 (Postal Service Reply Comments).

III. SUMMARY OF PROPOSAL

A. Features of Proposal and Supporting Evidence

The Postal Service's proposal is presented by its witnesses Scherer, Barrett, and Loetscher. Their testimony, together with two supporting library references, provide evidentiary support for the Service's proposed experimental Priority Mail flat rate box.

Witness Barrett's Testimony. According to witness Barrett, the proposed flat rate box represents a Postal Service effort to make its expedited services easier to use. Citing its rate simplicity, ease of use, and enhanced access to entry into the postal system, he testifies that the proposed classification would enhance value for convenience-oriented customers, especially consumers and small businesses.

Witness Barrett describes the key characteristics of the proposed new packaging options, as well as the channels through which they would be offered to customers and entered into the mailstream. The new packaging options would consist of two corrugated fiberboard boxes of different external dimensions that would have the same internal capacity, and thus accommodate a variety of possible contents while affording the same amount of packing space. The optional packages would be charged the same uniform rate of \$7.70, with applicable postage available by any of the current means of payment. The finished packages could be mailed at a post office or picked up by a letter carrier, and would be subject to existing security provisions applicable to parcels weighing 16 ounces or more.

Witness Loetscher's Testimony. Witness Loetscher sponsors a special study he conducted for his employer, Christensen Associates, that estimates the size distributions and densities of Priority Mail parcels. The study's details and documentation appear in *Priority Mail Parcel Size Distribution and Density Study, Supporting Materials of Witness Loetscher (USPS-T-3)*, which the Postal Service filed as Library Reference USPS-LR-2/MC2004-2. Witness Scherer uses the study's results in arriving at a proposed rate for the flat rate parcels.

Some of the estimates witness Scherer uses rely on data that reveal the distribution of Priority Mail volumes. Witness Loetscher states that the Postal Service considers these data to be too commercially sensitive to report at this time; therefore, they are not disclosed in the library reference containing his supporting materials.

Witness Scherer's Testimony. Witness Scherer's testimony focuses on proposing a rate for the flat rate boxes; considering the value created and the risks inherent in a flat rate Priority Mail offering; formulating a Data Collection Plan for the experiment; and demonstrating that the Service's proposal conforms to the statutory and regulatory criteria applicable to the proposed experiment.

Witness Scherer explains that the proposed rate of \$7.70 is derived from the current Priority Mail rate schedule.¹⁵ While the Postal Service did not specifically estimate the costs associated with the proposed flat rate parcels, witness Scherer does rely on data gathered in a special study conducted from October 2002 through January 2003, which is presented in witness Loetscher's testimony. Using data from the study, witness Scherer arrives at a compensatory "base rate" of \$5.92. At the proposed rate of \$7.70, a box of the designed capacity of .34 cubic feet would incorporate a "premium" of \$1.78 to cushion the potential cost impact of the box being used for relatively heavy and/or long-distance Priority Mail shipments.

Witness Scherer recognizes that the proposed flat rate parcel experiment incorporates elements of risk. For the Postal Service, he testifies that the prevailing risk is revenue leakage resulting from Priority Mail transactions that would otherwise generate revenue greater than the proposed \$7.70 rate. He estimates an upper-bound risk of \$12.6 million,¹⁶ which he finds acceptable for the proposed experiment.

For customers, witness Scherer testifies that the only risk in using the flat rate box is potential overpayment in instances in which they could use other Priority Mail

¹⁵ The proposed rate is twice the \$3.35 rate currently applicable to the Priority Mail flat rate envelope.

¹⁶ Witness Scherer's analysis relies on data and computations contained in Library Reference USPS-LR-1/ MC2004-2.

packaging options at lower rates. However, he believes customers will consider the relative merits of their possible choices, and therefore characterizes the risk to customers as minimal.

Witness Scherer presents detailed rationales for the appropriateness of treating the Postal Service's proposal as an experiment, and for its compatibility with the statutory criteria incorporated in 39 U.S.C. §§ 3623(c) and 3622(b). He also proposes the Service's data collection plan for the experiment, which is discussed in the following section.

B. Data Collection Plan

Witness Scherer sponsors the Postal Service's plan for collecting data on the flat rate boxes during the proposed experiment's two-year duration. He proposes semiannual tabulation of volume—distinguished for each of the two box sizes—by weight increment and zone. Volume data would be generated by sampling in the Service's ongoing Origin-Destination Information System – Revenue, Pieces and Weight (ODIS-RPW), with some system modifications for purposes of the experiment. Sampling would begin at the start of the experiment, with results reported to the Commission every six months.

In addition to weight and zone, the ODIS-RPW sample would identify the method of postage payment—*e. g.*, stamps, meter, permit imprint, or Postage Validation Imprinter (PVI). Witness Scherer anticipates that this information will offer some insight into the types of customers who use the flat rate box.

According to witness Scherer, the ODIS-RPW data will indicate the weight and zone characteristics of volume that gravitates to the flat rate box, but not the origin of such volume. The latter is significant, he explains, because the revenue impact of migration from Priority Mail or other mail classifications may be either positive or negative. In order to gauge these effects, he anticipates that the Postal Service will supplement the ODIS-RPW sampling with a nationwide market research survey in the

second year of the experiment.¹⁷ The objective will be to estimate the net revenue and contribution impacts of the experiment as an aid to evaluating the potential merits of a permanent mail classification.

¹⁷ The Postal Service has committed itself to conducting the market research effort in the settlement agreement it advances in this case. See Motion of United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, *supra*, Attachment C, page 2, para. 3.

IV. SUMMARY OF UNDERLYING STIPULATION AND AGREEMENT

Summary. The settlement submitted by the Postal Service on behalf of all signatories consists of two parts. Part I, captioned Background, identifies the authority for filing a request with the Commission, the filing date of the Request, and the docket designation. It also states that the basis for the Postal Service's Request is explained in the direct testimonies of witnesses Scherer, Barrett, and Loetscher.

Part II, captioned Terms and Conditions, consists of ten numbered paragraphs. Paragraph No. 1 states that the agreement represents a negotiated settlement of all issues raised in the instant request.

Paragraph No. 2 provides that the signatories stipulate and agree, for purposes of this proceeding only, that certain referenced materials provide substantial evidence supporting and justifying a decision recommending the experimental changes to DMCS § 223 and Rate Schedule 223, as proposed by the Postal Service. These include direct testimony and materials filed in support of the Postal Service's Request in Docket No. MC2004-2 and designated written cross-examination, as revised and supplemented.

Paragraph No. 3 provides that on the basis of the record identified in Paragraph No. 2, for purposes of this proceeding only, the signatories stipulate and agree that the experimental DMCS and Rate Schedule changes set forth in the attachment to the settlement agreement are in accordance with the policies of title 39, United States Code and, in particular, the criteria and factors of 39 U.S.C. §§ 3622 and 3623.

Paragraph No. 4 provides that the settlement agreement is offered in total and final settlement of this proceeding. It further states that the signatories 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 the settlement agreement; or (c) pleadings, testimony or comments in support of this settlement agreement.

Paragraph No. 5 reserves to each signatory a right to withdraw from the settlement agreement and specifies the terms and effect of exercising this right.

Paragraph No. 6 states that the settlement agreement pertains only to the instant proceeding. It further provides that signatories 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 purpose 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, the settlement agreement.

Paragraph No. 7 provides that signatories shall not be bound or prejudiced by the settlement agreement in any future negotiation or proceeding (other than any proceeding involving the honoring, enforcement, or construction of the settlement agreement), nor shall any participant rely for any purpose on the fact that another participant entered into or did not oppose it. It also states that the signatories 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, their resolution will not be entitled to precedential effect in any other proceeding.

Paragraph No. 8 sets forth the signatories' request that the Commission expeditiously issue a decision recommending adoption of the experimental DMCS and Rate Schedule provisions appended to the settlement agreement.

Paragraph No. 9 states that the Postal Service agrees to print a notice to users on the proposed flat rate boxes indicating that the boxes may not be the lowest-cost Priority Mail option.

Paragraph No. 10 provides that the settlement agreement represents the entire agreement of the signatories, and states that it supersedes any understandings or representations not contained herein.

In addition to the numbered paragraphs, the Stipulation and Agreement has three attachments. Attachment A contains the changes to the Domestic Mail Classification Schedule proposed by the Postal Service in its Request. Similarly, Attachment B contains the Service's proposed change to the existing rate schedule for Priority Mail. Lastly, Attachment C contains a description of the Postal Service's data collection plan for the experiment, which expands upon the plan described in witness Scherer's testimony.

Participants' Positions. The signatories to the Stipulation and Agreement are the Association of Priority Mail Users, Inc.; Mail Order Association of America; Parcel Shippers Association; Office of the Consumer Advocate; and the Postal Service. Of the remaining participants, neither Douglas F. Carlson nor David B. Popkin signed the agreement. As the procedural history states above, only Mr. Popkin actively opposes a recommended decision based on the settlement agreement.

V. FINDINGS AND CONCLUSIONS

As noted above, the Stipulation and Agreement was signed by five of seven participants in this proceeding, and only one of the two non-signatories actively opposes its adoption. The Commission finds that all participants have had an opportunity to participate in the negotiations that led to the filing of the settlement agreement filed August 10, 2004, and that all participants have had an adequate opportunity to comment on the appropriateness of the settlement as a resolution of the issues in this case.

The Commission finds the terms of the proposed Stipulation and Agreement to be consistent with the requirements and statutory factors of the Postal Reorganization Act, and compatible with the Commission's rules on experimental classifications.

A. Consistency with Mail Classification Criteria of § 3623(c)

The Postal Service states that the proposed flat rate box experiment is consistent with § 3623 because it would provide mutual benefits to mailers and the Service.¹⁸ Similarly, OCA anticipates that “the new consumer-friendly flat rate box should become a very valuable and desirable postal product.”¹⁹

The record evidence proffered in support of the settlement supports the proposal's consistency with the statutory considerations laid out in 39 U.S.C. § 3623(c). First, the proposed classification's objective—“giving customers a simple means of entering Priority Mail parcels”²⁰—is responsive to the criteria in § 3623(c)(2) and (c)(5), which direct the Commission to consider the relative value of the various kinds of mail matter entered into the postal system, and the justifications for and desirability of special classifications, from both mail users' and the Postal Service's perspectives.

¹⁸ Postal Service Comments at 3-5.

¹⁹ OCA Comments at 2.

²⁰ Postal Service Comments at 5.

Under the proposed experiment, the Postal Service will make two new optional packages available to customers at no fee. The dimensions of the new boxes correspond to packaging that has proven popular with Priority Mail users in the past, and they will be able to accommodate a variety of possible contents. The Service will provide them through its retail locations and the Internet. Both packages would be charged the same flat fee of \$7.70, a rate that would allow users to apply two currently-available \$3.85 stamps. These features, all of which contribute to the proposed boxes' convenience and ease of use, are likely to be desirable and thereby add value to Priority Mail service.²¹

The proposed experiment is also potentially desirable from the Postal Service's perspective. The Service hopes to realize additional institutional cost contribution from new Priority Mail volume attracted by the convenience of the flat rate box, and from current customers who will choose to pay higher postage because of the same features.²²

However, the Service also recognizes that introducing the flat rate boxes carries a financial risk: potential revenue leakage resulting from Priority Mail customers who currently pay higher rates for relatively heavy and/or long-distance shipments "buying down" to the flat rate box. Witness Scherer's testimony analyzes the potential revenue leakage from this effect, and arrives at a worst-case annual revenue loss of \$12.6 million.²³ The Postal Service views this risk of revenue leakage as minimal, and argues that it should be more than offset by the potential financial benefits of the experiment.²⁴ The Commission agrees that the reasonably bounded risk of potential revenue leakage

²¹ Additionally, as the Postal Service comments, such enhancements in Priority Mail service would be responsive to the § 3623(c)(3) factor, "the importance of providing classifications with extremely high degrees of reliability and speed of delivery[.]"

²² USPS-T-1 at 3; Postal Service Comments at 4-5.

²³ USPS-T-1 at 6-9.

²⁴ Postal Service Comments at 4-5.

estimated by the Service does not significantly detract from the merits of its proposed innovation.²⁵

The Postal Service also recognizes that introduction of the proposed flat rate boxes poses a potential risk to Priority Mail users: the possibility that they will “overpay” for the boxes in some instances. However, the Service considers this risk to be minimal, inasmuch as electing to use the new boxes will require Priority Mail customers to deliberate between choosing the new option or using the current weight- and zone-based rates of postage.²⁶

Intervenor Popkin vigorously disagrees with the Service’s position, and asserts that the current proposal “can only benefit the sophisticated mailer.”²⁷ He expresses concern that many mailers will overpay for the flat rate box because of a lack of knowledge, rather than an informed choice of its added convenience.²⁸ He likens mailers’ circumstances to those during the period in which flat rate envelopes were available for Priority Mail, but priced at the two-pound rate rather than the minimum rate. Mr. Popkin claims that Postal Service window service personnel were not properly instructed to provide guidance to potential users at that time, resulting in mailer confusion.²⁹

In view of the mailer confusion he anticipates, Mr. Popkin urges the Commission to take whatever steps are necessary to ensure that mailers will be able to make an educated decision whether to use the proposed flat rate boxes. Specifically, he suggests that the Postal Service should be required to begin reporting on its efforts to inform the public about all available Priority Mail alternatives immediately, and to

²⁵ Witness Scherer calculates that the worst-case annual revenue leakage of \$12.6 million would equal 0.28 percent of Priority Mail revenues. According to the Postal Service’s Cost and Revenue Analysis Report for Fiscal Year 2003 (PRC Version), this worst-case figure would also equal 0.91 percent of Priority Mail’s \$1.378.6 billion total contribution to institutional costs.

²⁶ USPS-T-1 at 9-10.

²⁷ Popkin Initial Brief at 1.

²⁸ Popkin Reply Brief at 1.

²⁹ Popkin Initial Brief at 2.

change the wording of the proposed box design to recognize that there is a 70-pound weight limit for the subclass.³⁰

The Postal Service responds that nothing in the record suggests that Priority Mail users will be unable to decide whether using the flat rate box is in their best interests. To the contrary, the Service argues, mailers can be expected to make rational decisions in choosing among the available options. Because mailers will have no *a priori* expectations about how the postage for the flat rate box compares to other Priority Mail rates, choosing to use it will require a voluntary departure from their customary mailing practices. In making the choice, the Service notes, a mailer may decide that the flat rate box's convenience and ease of use trumps the ability to mail at another, possibly lower, rate. Furthermore, the Service claims that it has addressed the issue of providing adequate information to potential purchasers, citing its obligation under Paragraph 9 of the settlement agreement to include a notice on the boxes indicating that they may not be the least expensive option. Additionally, the Service cites its agreement to include this issue explicitly in its draft communications plan.³¹

The Commission agrees with the Postal Service that Priority Mail users can be expected to make rational decisions regarding use of the proposed flat rate boxes—provided the Service makes sufficient information available to them to inform their choice. The Service's undertaking in Paragraph 9 of the Stipulation and Agreement, in which it "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[,]" affords a concrete and useful medium of consumer information. More generally, the Postal Service's draft communications plan declares that its purpose is "to ensure consistent messaging about the Flat Rate Priority Mail Box to employees and customers." Tr. 2/47. In addition to the plan's other "messages" (*id.* at 48), the Commission strongly encourages the Postal Service to convey to both its employees and the mailing public the placement of the new boxes' uniform charge in the overall Priority Mail rate

³⁰ Popkin Initial Brief at 3-4.

³¹ Postal Service Reply Comments at 2-5.

schedule: *i. e.*, double the minimum rate for the service, and also potentially more than the otherwise-applicable weight- and zone-rated postage.³²

In summary, the Commission finds the proposed experiment to be consistent with the applicable criteria of 39 U.S.C. § 3623(c). By providing a convenient additional option for using Priority Mail service, it would introduce a desirable new feature that could enhance Priority Mail's value to users. The Postal Service also hopes to realize additional institutional cost contribution from new volume attracted by the convenience of the flat rate box, a desirable outcome from its perspective. Thus, the proposal is responsive to the criteria of § 3623(c)(2) and (5). Further, in view of the significant contribution Priority Mail makes to the institutional costs of the postal system, the proposal appropriately reflects the importance of this premium service, in accordance with § 3623(c)(3). Finally, with the consumer education efforts the Postal Service has agreed to perform, the proposed experiment is consistent with the maintenance of a fair and equitable classification system, in accordance with § 3623(c)(1).

The Commission recommends one small refinement in the Domestic Mail Classification Schedule language proposed by the Postal Service and the signatories. The Service's product concept for the experimental flat rate boxes contemplates packaging with an internal capacity of .34 cubic feet. Moreover, the rate developed in witness Scherer's testimony is critically dependent upon this specific internal volume. For this reason, the Commission recommends additional language specifying that the proposed rate of \$7.70 applies to flat rate boxes with an internal capacity of .34 cubic feet. This change would incorporate the crucial physical dimension of the proposed classification, without restricting the Postal Service's ability to develop alternative designs with the same characteristic. Additionally, this approach could accommodate

³² In view of the notice on the flat rate boxes themselves, which will appear contemporaneously with the initiation of the experiment, the Commission finds Mr. Popkin's suggestion that the Postal Service should be required to begin reporting immediately on its efforts to inform the public about all available Priority Mail alternatives to be unnecessary. There is also no evident need to alter the information on the boxes to give notice of the applicable 70-pound weight limit for Priority Mail, as it is highly unlikely that contents of either of the two flat rate boxes could exceed this limit, and the Service does not communicate this restriction on any of the other corrugated containers it provides. *Id.* at 68.

flat rate boxes of other volumes that could be charged different rates, should the Service choose to propose such additional products in the future.

B. Consistency with Ratemaking Factors of § 3622(b)

As noted in the summary, the flat \$7.70 rate the Service proposes for the new packaging was produced by adding two components: (1) a “base rate” of \$5.92 derived by witness Scherer from the output of the special study performed by witness Loetscher; plus (2) a rate “premium” of \$1.78, corresponding to witness Scherer’s judgment regarding the added value of the parcels and the need for revenue protection against the migration of relatively heavy and/or long-distance shipments.³³ The choice of \$1.78 as the additional premium brings the rate to twice the minimum Priority Mail rate of \$3.85.

The Postal Service argues that the proposed \$7.70 rate is consistent with the statutory pricing criteria in 39 U.S.C. § 3622(b). Because it has been designed to cover costs adequately and protect against the risk of revenue leakage, the Service claims it complies with the requirement of § 3622(b)(3). According to the Service, the “premium” element of the rate appropriately reflects the value created by the flat rate box’s convenience and ease of use, in accordance with the value of service criterion in § 3622(b)(2). Finally, because the proposed rate equals two existing \$3.85 stamps, the Service argues that it fits sensibly within the current Priority Mail rate schedule, and furthers the consideration of simple, identifiable relationships between rates, in keeping with § 3622(b)(7).³⁴

Intervenor Popkin expresses concern about the proposed rate, questioning whether the premium over the “base rate” of \$5.92 “has been inappropriately raised to \$7.70 under the guise of providing this alleged convenience.”³⁵ He argues that current aviation security restrictions for parcels weighing more than one pound greatly reduces

³³ USPS-T-1 at 3-6.

³⁴ Postal Service Comments at 5-6.

³⁵ Popkin Initial Brief at 1.

the convenience of the flat rate box concept, and that underlying statistics display a limited degree of confidence.³⁶

In the only other comment on the Service's proposed rate, OCA states that it is "uncertain...whether measurable additional carrier or mail processing costs will be incurred as a result of additional carrier pick ups that may be required[.]"³⁷ However, OCA goes on to state its belief "that any such added costs can be justified by the added convenience of the new product."³⁸

The Commission finds the proposed \$7.70 to be consistent with the ratemaking factors of 39 U.S.C. § 3622(b). First, the rate is reasonably constructed to satisfy the cost recovery standards of § 3622(b)(3). While there is necessarily some uncertainty regarding the likely weight and distance characteristics of the proposed flat rate boxes, the Postal Service's analysis represents a reasonable effort to use existing data to produce a reliable estimate of a compensatory "base rate." Contrary to Mr. Popkin's suggestion, the statistical reliability of the results of witness Loetscher's study is adequate for witness Scherer's derivation of an average revenue for Priority Mail parcel of comparable size.

The additional rate "premium" of \$1.78 also serves several functions in furtherance of statutory ratemaking considerations. First, it serves as a hedge against potential revenue leakage resulting from volume migration and unanticipated additional costs,³⁹ thereby providing further assurance of sufficient cost recovery in accordance with § 3622(b)(3). Second, it reflects the incremental value of the flat rate box's

³⁶ *Id.* at 1-2.

³⁷ OCA Comments at 2.

³⁸ *Ibid.*

³⁹ OCA's observation that additional carrier pickups required for the flat rate boxes may measurably increase carrier or other costs appears to be valid. However, no method of identifying or quantifying those costs was explored on the record, nor is any feasible means of doing so during the experiment apparent. In view of the Postal Service's recent promotion of its pickup services (including free carrier pickup; see <http://www.usps.com/pickup/welcome.htm>), it will probably be appropriate to address this potential costing issue—with regard to parcel categories generally—in a future rate proceeding.

features to the user, an appropriate consideration under § 3622(b)(2). Finally, by yielding an effective rate of \$7.70, it establishes a “simple, identifiable relationship” with the rest of the Priority Mail rate schedule, a relevant consideration under § 3622(b)(7).

It is possible, as intervenor Popkin suggests, that actual experience with the value-added features of the flat rate boxes ultimately may justify a rate premium less than the \$1.78 proposed by the Postal Service for the experiment. However, in light of potential revenue leakage and other uncertainties, the Commission finds that the proposed \$7.70 rate achieves a reasonable balance between cost recovery and value considerations, especially in light of its clear relationship to current Priority Mail rates.

C. Compatibility with Regulatory Standards for Experimental Classifications

The Commission finds that the proposed flat rate box experiment comports with the standards contained in the Commission’s regulations governing experimental mail classifications, 39 C.F.R. § 3001.67 through .67d. The novelty of a flat rate box-shaped container for Priority Mail shipments is obvious, as no such product has heretofore been offered by the Postal Service. The magnitude of the proposed change is also compatible with an experiment, given witness Scherer’s modest projection of even the “worst case” potential adverse impact on postal revenues. The desired two-year duration of the experiment is reasonable, as it is commensurate with the periods recommended for experimental classifications in the recent past.⁴⁰ Finally, the Service has demonstrated that it will be feasible to generate and gather data on the proposed experimental category. Thus, the Service’s request satisfies the criteria established for experimental classification changes in § 67(b) of the rules of practice.

The data collection plan proposed by the Postal Service satisfies the guidelines laid out in § 67c of the rules. Collecting volume data by weight increment and zone will allow the Service to determine whether the experimental category’s costs fall in the predicted range, and the extent to which the proposed rate protects against revenue

⁴⁰ See, e.g., PRC Op. MC2004-1, July 7, 2004, at 1; PRC Op. MC2003-2, August 26, 2003, at 1; PRC Op. MC2002-3, December 20, 2002, at 1.

leakage and yields a premium over costs. The planned market research effort should enable the Postal Service to assess customers' perception of the value added by the flat rate boxes.⁴¹ Collecting data that identifies the method by which postage is paid for the flat rate boxes should also yield insight into customer use of the category.

⁴¹ In view of the uncertainty surrounding the extent to which use of the flat rate boxes would involve additional pickups by letter carriers, the Commission suggests that including a "method of entry" question or questions in the survey instrument may yield useful information on this point.

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

Before Commissioners:

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

Experimental Priority Mail
Flat Rate Box

Docket No. MC2004-2

RECOMMENDED DECISION

(Issued October 6, 2004)

The Commission, having considered the Postal Service Request, and 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 Motion of the United States Postal Service for Consideration of the Stipulation and Agreement as the Basis for Recommended Decision, August 10, 2004, is granted. The Stipulation and Agreement filed by the Postal Service is accepted consistent with this Opinion and Recommended Decision.

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 rate (set forth in Appendix One) and the proposed amendments to the DMCS (set forth in Appendix Two) are in accordance with the policies of title 39, United States Code, and the factors set forth in §§ 3622(b) and 3623(c) thereof; and they are hereby recommended to the Governors for approval.

By the Commission.

(S E A L)

Steven W. Williams
Secretary

RECOMMENDED CHANGES IN RATE SCHEDULES

The following change represents the rate schedule recommendation of the Postal Rate Commission in response to the Postal Service's Docket No. MC2004-2 Request. The revision to Rate Schedule 223 appears in the "Schedule 223 Notes," as a new note 5. The text of the new note is underlined.

**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).

RECOMMENDED CHANGES IN DOMESTIC MAIL CLASSIFICATION SCHEDULE

The following material represents changes to the Domestic Mail Classification Schedule recommended by the Postal Rate Commission in response to the Postal Service's Docket No. MC2004-2 Request. First-Class Mail Classification Schedule section 223.4, currently a "reserved" section, is assigned to the "Flat Rate Box" category. New section 223.4 contains the caption for the category. Subsection 223.41 specifies the rate schedule applicable to the "flat rate" box provided by the Postal Service. Subsection 223.42 establishes the duration of the Flat Rate Box Experiment, and specifies the conditions and terms under which the duration of the experiment may be extended. Additions to the text of the current Domestic Mail Classification Schedule are underlined.

**RECOMMENDED CHANGES IN DOMESTIC MAIL
CLASSIFICATION SCHEDULE**

* * * * *

**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 Rate Schedule 223. A “flat rate” box with an internal capacity of .34 cubic feet is charged the rate designated in 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.

PARTICIPANTS AND COUNSEL

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

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