Postal Rate Commission
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BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268–0001

EXPERIMENTAL PREMIUM FORWARDING SERVICE	:	Docket No. MC2005-1

STATEMENT OF THE UNITED STATES POSTAL SERVICE
CONCERNING COMPLIANCE WITH FILING REQUIREMENTS
AND CONDITIONAL MOTION FOR WAIVER
(November 19, 2004)

In the Compliance Statement (Attachment E) to its Request, the Postal Service has identified information contained in its testimony and supporting documentation intended to satisfy the filing requirements in pertinent provisions of the Commission's Rules of Practice and Procedure (Rules 54, 64 and 67). The Postal Service has supplemented materials developed specifically for this proposal by incorporating documentation submitted by the Postal Service in the most recently concluded omnibus rate proceeding, Docket No. R2001-1, as well as material filed periodically with the Commission. In light of several considerations, the Postal Service believes that most of the specific filing requirements are met by incorporating these materials. Alternatively, if the Commission concludes that the incorporated materials are insufficient to satisfy its filing requirements, the Postal Service moves for waiver of the pertinent provisions.

I. INCORPORATION OF DOCKET NO. R2001-1 MATERIAL

The Postal Service's incorporation of Docket No. R2001-1 materials is justified by the fact that this proposal would not materially alter the rates, fees, and classifications

established by that rate proceeding. As outlined in the Request and the testimony, Premium Forwarding Service (PFS) would simply constitute another option for customers who temporarily relocate, and would only have a limited impact on overall postal costs, volumes, and revenues. PFS would thus constitute a relatively minor change to the array of mail classes and special services comprehensively considered in Docket No. R2001-1.

The Postal Service has employed a similar approach to compliance with the Commission's filing requirements in recent proposals to implement limited experimental changes.[1] Like those recent proposals, PFS would constitute only a minor change, meaning there is substantial overlap between the information necessitated by the general filing requirements and the materials provided in Docket No. R2001-1.[2] For

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[1] *See* Statement of the United States Postal Service Concerning Compliance With Filing Requirements and Conditional Motion for Waiver, Docket No. MC2004-2 (June 3, 2004); Statement of the United States Postal Service Concerning Compliance With Filing Requirements and Conditional Motion for Waiver, Docket No. MC2004-1 (February 25, 2004); Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, Docket No. MC2003-2 (May 28, 2003); Motion Of United States Postal Service For Waiver, Docket No. MC2002-3 (September 26, 2002).

[2] The Postal Service fully acknowledges that the Commission's and the Governors' decisions in Docket No. R2001-1 were founded on a settlement agreement, and that many issues that might have been raised by the materials submitted in that case were not litigated. Furthermore, the Postal Service appreciates the non-precedential status of the Commission's and the Governors' findings and conclusions in the rate case, as specified in the Stipulation and Agreement. In this regard, we must emphasize that our position on compliance in the instant docket is not based on the status of the rate case documentation as adjudicated fact, but rather on its character as material submitted that addresses the elements of the Commission's general filing requirements. In most instances, the rate case materials satisfying the general filing requirements pertain to matters that simply are not relevant to the issues raised by PFS, and that would not be affected if the experiment were recommended and approved. The actual relationships between the experiment and existing rates, fees, and classifications are fully explained

example, certain filing requirements call for information pertaining to the full spectrum of postal products: e.g., Rule 54(b)(3) (economic substitutability between classes and subclasses); Rule 54(d) (physical attributes of mail by class and subclass); Rules 54(f)-(h) (total historical and projected costs separated by postal and nonpostal services and distributed to classes, subclasses, and special services); Rule 54(j) (revenues and volumes projected for classes, subclasses, and special services); and Rule 54(l) (billing determinants for classes, subclasses, and special services). These requirements are adequately addressed through reference to information provided in the most recent omnibus rate proceeding, especially where, as here, the proposal is for an experiment of limited duration.

In Order No. 1356, the Commission agreed with the Postal Service "that in assessing compliance with the filing rules, substantial weight should be given to the nature of the proposed experiment and to its limited impact on costs, volumes, and revenues."[3] The Commission also noted that there is "substantial overlap between the material provided in Docket No. R2001-1 and the information sought in the general filing rules."[4] Because of these reasons, the Commission concluded that all pertinent filing requirements had been satisfied in that proceeding.[5] Like the Experimental Periodicals

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in the testimony and supporting documentation provided with this filing. We further emphasize strongly that the Postal Service's filing here is not intended to create an opportunity for parties to raise issues avoided by settlement in the rate case, when they are essentially irrelevant to the instant proposal.

[3] *See* Order Addressing Outstanding Motions And Closing The Record, Docket No. MC2002-3 (December 20, 2002) (Order No. 1356).

[4] *Id*.

[5] *Id.* The Postal Service's Motion for Waiver was thus found to be moot. In addition, in Docket No. MC2004-1, the Presiding Officer similarly allowed incorporation of Docket No. R2001-1 material; because he also granted the Postal Service's Motion for Waiver,

Co-Palletization Discounts considered by the Commission in that proceeding, PFS would have a limited impact on postal costs, volumes, and revenues. Thus, for the same reasons that it found the filing requirements to be satisfied in Docket No. MC2002-3, the Commission should conclude that the filing requirements have been satisfied in this proceeding.

II. WAIVER OF FILING REQUIREMENTS

If the Commission concludes that the materials imported from Docket No. R2001-1 to satisfy the general filing requirements are not sufficient, and that strict construction of the rules regarding information pertaining to other mail and special services would require testimony that was developed specifically with reference to the proposed experimental service, the Postal Service respectfully moves that those requirements be waived, pursuant to 39 C.F.R. §§ 3001.22, 3001.54(r), 3001.64(h)(3), and 3001.67a. As noted above, the proposed experiment's limited nature and small impact on costs, volumes, and revenues do not warrant strict compliance with the filing requirements.[6]

Waiver of the general filing requirements would be fully consistent with the experimental rules and with the Commission's statutory obligations. First, the experimental rules contemplate that comprehensive data will not be deemed necessary: as the Commission has recognized in discussing Rule 67, "[o]ne of the primary purposes of these rules is to permit experiments despite the absence of data called for

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however, such incorporation was only to the extent that the filing requirements had not been disposed of by the granting of the motion. *See* P.O. Ruling No. MC2004-1/1 (March 29, 2004).

[6] As reflected in the Compliance Statement, Attachment E to the Request, full or partial waivers may be appropriate for the following rules: 54(b)(3), 54(c), 54(d), 54(e), 54(f)(2)-(3), 54(h)(1)-(12), 54(i), 54(j)(1)-(7), 64(b)(1)-(4), 64(c)(1)-(3), 64(d), and 64(h).

by our rules designed for the normal case—consideration of permanent changes."[7] As in prior experimental proceedings, for example, conducting a detailed breakdown and projection of costs, volumes, and revenue in this proceeding would be needlessly complex considering the narrowness of the proposal, and would serve only to pointlessly complicate and delay the proceedings.[8] Second, the testimonies and other documentation submitted in the Postal Service's filing provide sufficient information for both the Commission and interested parties to fully evaluate PFS considering the proposal is for an experimental service with a limited duration and impact. As it has done in past experimental proposals, therefore, the Commission should waive the relevant filing requirements.[9]

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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[7] PRC Op., MC86-1, at 9.

[8] *See, e.g.*, P.O. Ruling No. MC99-1/2 (April 9, 1999) (granting a motion for waiver of certain provisions of Rules 54 and 64 in part because the proposal was "extremely limited and will not affect the vast majority of postal products and services," and was thus "not expected to have cost or revenue consequences warranting application of the detailed requirements" of the Rules).

[9] *See, e.g.*, P.O. Ruling No. MC2004-1/1; P.O. Ruling No. MC99-1/2.

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.

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