

ORDER NO. 1456

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

Before Commissioners: George Omas, Chairman;
 Dawn A. Tisdale, Vice Chairman;
 Tony Hammond; and
 Ruth Y. Goldway

Repositionable Notes Minor Classification
Change

Docket No. MC2006-2

NOTICE AND ORDER CONCERNING POSTAL SERVICE
MOTION FOR EXPEDITED ISSUANCE OF A
RECOMMENDED DECISION

(Issued March 9, 2006)

On March 8, 2006, the Postal Service filed a motion for an expedited issuance of a recommended decision in this docket.¹ In it, the Postal Service asks that the Commission issue its recommended decision so that it would be available to the Governors to consider in their meeting scheduled for March 22, 2006. The Postal Service notes that the expiration date for the provisional RPN service is April 3, 2006. It is clear that the Commission's recommended decision needs to be available to the Governors prior to their March 22 meeting in order to avoid an interruption of service.

The Postal Service supports its motion by asserting that there are no issues of material fact that would require a hearing in this docket. It describes settlement discussions prior to the prehearing conference of February 23, 2006, indicating that

¹ Motion of the United States Postal Service for Expedited Issuance of a Recommended Decision, March 8, 2006 (Motion).

there would be no opposition to its extension proposal. The Postal Service reports that, based on subsequent settlement discussions, it has determined that if it were to offer a Stipulation and Agreement supporting its proposed extension, the participants would neither sign it nor oppose it. It offers its Motion in lieu of a Stipulation and Agreement. Motion at 1.

The Postal Service notes that the Commission has not yet formally held that the expedited procedures provided by rule 69 of its rules of practice are appropriate for considering its proposed extension. It points to the testimony of witness Kaneer that it has designated for inclusion in the record,² and argues that the record is adequate for a recommended decision and that further proceedings are not needed in this docket, given the extremely limited scope of its Request. Motion at 2.

Rules 69 through 69c were adopted to make expedited procedures available where a classification change is minor in its scope and impact. Those purposes are well served by applying expedited procedures to the Postal Service's proposal to extend the period for which the provisional RPN classification and rates are authorized. As witness Kaneer observes, this proposal does not involve a change in rates or fees. It does not impose any additional eligibility restrictions. Since the likely volumes and revenues involved are so small, the extension that the Postal Service requests will not significantly change the estimated institutional cost contribution of the affected subclasses. It is therefore appropriate to treat the Postal Service's proposal as a request for a minor classification change and apply the expedited procedures of rule 69. Largely for the same reasons, the Commission finds that the data normally required by rule 64 to support classification change proposals need not be filed in this docket, and that relevant information provided in Docket Nos. R2005-1 and MC2004-5 is adequate to evaluate the proposal.

² Designation of the United States Postal Service of Direct Testimony for Inclusion in the Evidentiary Record with Signed Declaration, March 8, 2006.

As witness Kaneer's testimony explains, the reason that the Postal Service finds itself in need of an expedited decision is due to its decision not to file a request for a modified RPN service until it could benefit from the academic examination of economic issues raised by the Postal Service's pricing of RPN services provided by Dr. Frank Wolak in a white paper and subsequent public seminar. Witness Kaneer aptly notes that the timing of the white paper and seminar were not under the Postal Service's control. Under these circumstances, every effort consistent with the participants' right of due process should be made to avoid an interruption of RPN service.

Order No. 1452 directed participants to identify, by February 23, 2006, any issue of material fact that would warrant a hearing. No participant did. The Office of the Consumer Advocate took advantage of the opportunity to engage in limited discovery. Although no participant appears willing to sign a formal Stipulation and Agreement supporting the proposed extension, none has indicated opposition to it, or indicated a desire to examine the proposal further. The Postal Service appears to contemplate a recommended decision without an opportunity to file briefs or reply briefs. Since this is unusual, even in minor classification cases, participants will have an opportunity to file answers to the Postal Service's motion before the Commission rules on it. Answers to the Postal Service's motion for an expedited recommended decision, if any, will be due on Monday, March 13, 2006. If any participant wishes to designate additional material for inclusion in the record, such designations will be due on March 13, 2006, as well.

It is ordered:

1. The procedures of 39 CFR § 3001.69 through 69c will govern the consideration of the Postal Service's Request in this docket.
2. The Postal Service's motion for conditional waiver of 39 CFR § 3001.64 is granted.

3. Answers to the Motion of the United States Postal Service for Expedited Issuance of a Recommended Decision, filed March 8, 2006, will be due on or before March 13, 2006.

4. Designation of material for inclusion in the evidentiary record will be due on March 13, 2006.

By the Commission
(SEAL)

Steven W. Williams
Secretary