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ORDER NO. 1216
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UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Before Commissioners:

Edward J. Gleiman, Chairman;
George W. Haley, Vice Chairman;
Ruth Y. Goldway; W.H. "Trey" LeBlanc III; and
George A. Omas

Mailing Online Service

Docket No. MC98-1

NOTICE AND ORDER ON FILING OF REQUEST FOR
ESTABLISHMENT OF AN EXPERIMENTAL MAIL CLASSIFICATION
AND FEE SCHEDULE FOR AN ONLINE MAILING SPECIAL SERVICE,
TO BE PRECEDED BY A PROPOSED MARKET TEST

(Issued July 17, 1998)

Notice is hereby given that on July 15, 1998, the United States Postal Service filed a Request with the Postal Rate Commission pursuant to § 3623 of the Postal Reorganization Act, 39 U.S.C. §§ 101 et seq., for a recommended decision on proposed additions to the Domestic Mail Classification Schedule (DMCS) on an experimental basis. The Request also incorporates a proposal for the establishment of associated new fees. The Request includes attachments and is supported by the testimony of eight witnesses and four library references. It is on file in the Commission Docket Room and is available for inspection during the Commission's regular business hours. For interested persons who have access to the internet, the Request and related documents are available on the Commission's Home Page at:
<http://www.prc.gov/wsdocs/MC98-1/MC98-1.htm>.

Proposed Market Test Preceding Establishment of Experimental Mail Classification and Fees. The Postal Service indicates that it desires to conduct a



market test of the proposed online mailing service prior to its introduction as an experimental mail classification. The Service proposes to conclude a current operations test¹ and begin a more extensive market test of the service, at interim fees to be recommended by the Commission, in early September of this year. Postal Service Request at 2-3.

Under the Postal Service's proposal, the market test would be conducted while the Commission considers its request to establish Mailing Online as an experimental service. The interim market test fees would remain in effect pending the Commission's issuance of a recommended decision on the proposed experimental mail classification, and would expire upon implementation of the requested experimental service, or within 3 months of a decision rejecting the latter proposal. In a separate motion filed by the Postal Service, which is described in more detail below, the Service states that its "preferred objective for this experiment is to have it recommended by the Commission by the end of November, 1998."² In the event the Commission recommends the experimental classification and associated fees, the Service anticipates that they will be implemented together with the new rates and fees that the Governors of the Postal Service have resolved to put into effect on January 10, 1999, in connection with Docket No. R97-1. The Service proposes that the experimental service have a duration of two years.

Description of Request. The proposed Mailing Online service would enable individuals and organizations with access to a personal computer and an internet connection to transmit documents created on their computers to the Postal Service in digital form for printing and entry as mail, paying online in a single transaction. Users would transmit digital document files generated in any of several selected word

¹ According to the Request, the Postal Service currently is conducting an operations test of the proposed Mailing Online service with one postal Web server, one printer contractor, and a maximum of 200 customers located in Tampa, Florida, and Hartford, Connecticut. Test customers currently pay the single-piece First-Class rate for mailing, but no additional fee for production of the mailpiece entered into the postal system. Request at 2.

processing and desktop publishing applications, together with recipient information and other data, to a designated Postal Service site on the World Wide Web. The Postal Service would offer users a number of choices regarding printing and finishing specifications, customization of output by recipient variables in the user's database, and scheduling of a specific mailing date.

Users of the proposed Mailing Online service would be charged existing postage rates for mailing, plus a fee for production and other pre-mailing services. Depending upon the character of the material being sent and the user's service preference, mail pieces generated by the Mailing Online service would be charged postage at either the First-Class or Standard Mail Automation Basic rates applicable to the finished mail piece.³

In lieu of specific unit fees for the Mailing Online special service, the Postal Service proposes what might be described as a "cost plus" approach to fee calculation. For the duration of the market test, the Service proposes that fee elements be set at the unit contract cost of the respective service feature to the Postal Service, multiplied by a factor of 1.25 to provide a resulting cost coverage of 125 percent. According to the Service, these various costs will be established in the Mailing Online printer contract to be awarded during August, 1998. For the subsequent experimental service phase, the Service proposes fees to be calculated by multiplying the sum of printer contractual costs for the particular mailing⁴ by the same 125 percent cost coverage, then adding

² Motion of the United States Postal Service for Expedition, and for Waiver of Certain Provisions of Rule 161 and Certain Provisions of Rule 64(h), July 15, 1998, at 1.

³ In addition to offering Mailing Online users the opportunity to use First-Class Mail or Standard Mail Regular rates, a witness for the Postal Service states in part of its pre-filed testimony that the Service is developing a means for verifying the eligibility of mailers with Standard nonprofit permits, so that they may use the service to mail at Standard nonprofit rates.

⁴ The Postal Service anticipates that printing costs may vary substantially by region because of differing levels of labor and real estate costs. Thus, a Mailing Online user whose documents are sent to a printing site located in a higher-cost area would likely pay higher fees than if the same services were performed by a printer in a lower-cost area.

0.1 cent per impression to recover other Postal Service costs. Postal Service Request, Attachment B1, Page 2; Attachment B2, Page 1.

Expedited Consideration of the Request. The Postal Service's Request invokes the operation of two independent portions of the Commission's rules of practice and procedure which provide for expedited consideration of requests for particular types of mail classification changes. The first of these, encompassing sections 67 through 67d of the rules (39 C.F.R. §§ 3001.67 through .67d), applies to requests for new services or mail classification changes that are experimental in character. These rules provide for the adoption of streamlined procedures for considering such requests, and require participants to identify the genuine issues of material fact raised by the Postal Service proposal in order to limit formal hearings to those issues. 39 C.F.R. § 3001.67a. They also provide for establishment of a procedural schedule that will allow issuance of a recommended decision within 150 days from any favorable determination the Commission may make as to the propriety of treating the Postal Service proposal as experimental. 39 C.F.R. § 3001.67d.

In connection with the proposed interim market test, the Postal Service also invokes the operation of Subpart I of the rules of practice, 39 C.F.R. §§ 3001.161 through .166. The purpose of these expedited procedures, as stated in 39 C.F.R. § 3001.164, "is to allow for consideration of proposed market tests within 90 days, consistent with the procedural due process rights of interested persons." Section 3001.163(e) requires any participant who wishes to dispute a genuine issue of material fact presented by the Service's request to identify facts it will controvert with specificity, and provides for formal hearings only when the Commission determines that there is a genuine and material factual issue to be resolved, and that a hearing is needed for that purpose.

According to the Service, its Request is suitable for consideration under both the experimental service and market test rules. Mailing Online service qualifies for consideration under the market test rules, the Service states, because the proposed test would be modest in scope, scale, duration, and potential impact, and because it is

being conducted "as a stepping stone to a more permanent service offering." Request at 5. (Footnote omitted.) The proposed service also qualifies for consideration as an experiment, the Service submits, in view of: its novelty as an electronic means of presenting documents for entry into the mail; the modest anticipated magnitude of its impact upon postal costs and revenues, and the mailing costs and practices of mail users; the need to gather information suitable for supporting a request for a permanent mail classification change; and the desirability of a two-year experiment to generate cost and volume information, as well as to demonstrate the viability of the service. *Id.* at 6-7.

In a separate Notice dated July 15, 1998, a copy of which was filed with its Request, the Postal Service certifies that it has complied with the early notification requirement specified for requested market tests in 39 C.F.R. § 3001.163(d).

Motion for Expedition and Waiver of Certain Provisions. The Postal Service's Request was also accompanied by a pleading captioned Motion Of The United States Postal Service For Expedition, And For Waiver Of Certain Provisions Of Rule 161 and Certain Provisions of Rule 64(h). In this pleading, the Service asks the Commission to accelerate the expedited consideration of its Request provided by the experimental service rules to achieve the Postal Service's preferred objective of issuance of a decision by the end of November, 1998. According to the Service, the accelerated procedural schedule it seeks is required to allow it "to explore the possibility that major software developers could integrate Mailing Online into impending updates of software in order to make the service widely and easily available to individual, small-office, and home-office mailers." Motion at 2. Additionally, the Service notes, a Commission decision no later than the end of November would accommodate the Service's planned deployment schedule that calls for nationwide customer access to Mailing Online service in January, 1999. *Ibid.*

The Service's Motion also requests that portions of section 161 and 64(h) of the Commission's rules be waived in this case. To the extent that § 161(a) could be read to require the filing of a contemporaneous request for a permanent classification change

as a prerequisite for a market test, the Postal Service requests a waiver of that requirement so that it may go forward with the market test at interim fees to be recommended by the Commission. *Id.* at 2-3. Pursuant to § 64(h)(3), the Service also asks to be relieved of the obligation to produce certain information regarding cost and revenue effects of its proposal, on the grounds that its proposal would not change any existing rates or fee, or produce a significant impact upon the cost-revenue relationships of existing postal services. *Id.* at 5-7. Specifically, the Service seeks waiver of §§ 54(b)(3) in part, 54(f)(2), 54(f)(3), 54(h), 54(j), and 54(l) in part. *Id.* at 8-9.

Further Procedures. Section 163(b) provides that interested persons may intervene in proceedings to consider Postal Service requests to conduct a market test within 28 days after the Service's filing. Accordingly, anyone wishing to be heard in this matter is directed to file a written notice of intervention with Margaret P. Crenshaw, Secretary of the Commission, 1333 H Street, NW, Washington, D.C. 20268-0001, on or before August 12, 1998. Intended participants should indicate whether they request formal intervention or limited participator status. See 39 CFR §§ 3001.20 and 3001.20a.

Section 163(e) of the rules of practice [39 CFR §§ 3001.163(e)] states that the Commission will hold hearings on a Postal Service Request for a market test "when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue." To assist that determination, the same subsection directs parties who wish to dispute a genuine issue of material fact to file a request for a hearing, which:

shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position.

Ibid.

Any participant who wishes to dispute a genuine issue of material fact to be resolved with regard to the Postal Service's proposed market test in this proceeding

shall file a request for a hearing as specified in § 163(e) by August 12, 1998. In order to assist the Commission's determination of whether a hearing is necessary, should any written discovery be directed to the Postal Service by a participant before August 12, 1997, the Postal Service shall respond within 10 days.

With regard to the Service's longer-term Request to establish Mailing Online service as an experimental mail classification, § 67(c) provides that the Commission will entertain representations by participants that the proposal should not be considered as an experiment, and should follow the normal mail classification change procedures. Any participant intending to make such a representation shall do so by pleading no later than August 12, 1998.

In addition, § 67a(b) requires parties to proceedings in which the Postal Service seeks a classification change it denominates as experimental in character to file statements of the issues they perceive in the case at the earliest possible time following the filing of the Service's Request, or following a determination that the proposed change is experimental in character. In view of the Service's motion for extraordinarily expeditious consideration of its proposal, participants' statements of issues shall also be due no later than August 12, 1998.

A prehearing conference will be held in this proceeding on Friday, August 14, 1998, at 9:30 a.m. in the Commission's hearing room. Participants should be prepared to discuss what formal procedures, including hearings, may be necessary and appropriate in this docket. In addressing the issue of appropriate procedures in this docket, participants should also be prepared to address the potentially different procedural requirements presented by the Postal Service's market test proposal and its Request for establishment of Mailing Online as an experimental service. If the Commission determines that formal hearings to resolve genuine issues of material fact are required for either or both, hearings to evaluate the supporting evidence presented by the Postal Service may be scheduled to begin as soon as August 26, 1998. The Presiding Officer will establish subsequent procedural dates.

Representation of the general public. In conformance with 39 U.S.C. § 3624(a), the Commission designates W. Gail Willette, acting 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. Willette will direct the activities of Commission personnel assigned to assist her and, when requested, will supply their names for the record. Neither Ms. Willette nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and contemporaneous with, service on the Commission of the 24 copies required by § 10(c) of the rules of practice [39 CFR § 3001.10(c)].

It is ordered:

1. The Commission will sit en banc in this proceeding.
2. Notices of intervention shall be filed no later than August 12, 1998.
3. Participants who wish to request a hearing on the Postal Service's Request in this docket to conduct a market test shall submit such a request, together with statements in conformance with 39 C.F.R. § 3001.163(e), no later than August 12, 1998.
4. Statements of issues presented by the Postal Service's Request in this docket to establish a Mailing Online experimental mail classification in conformance with 39 C.F.R. § 3001.67a(b) shall be filed no later than August 12, 1998.
5. Answers to the Postal Service's Motion For Expedition, And For Waiver Of Certain Provisions Of Rule 161 and Certain Provisions of Rule 64(h) are to be submitted no later than August 12, 1998.
6. The Postal Service shall provide responses to any written discovery requests submitted to it before August 12, 1998, within 10 days.

7. W. Gail Willette, acting Director of the Commission's Office of the Consumer Advocate, is designated to represent the general public.

8. A prehearing conference in this docket shall be held on Friday, August 14, 1998, at 9:30 a.m. in the Commission's hearing room.

9. The Secretary shall cause this Notice and Order to be published in the FEDERAL REGISTER.

By the Commission.

(S E A L)


Cyril J. Pittack
Acting Secretary