

experiment, the Postal Service states that it intends to gather more complete data during the proposed term of the experiment. It says this effort may support a request for a permanent classification. *Id.* at 3–4. The Service proposes that the experimental classification be in effect for two years, but also seeks approval of a provision that would allow for a brief extension if permanent classification authority is sought while the experiment is pending. The Postal Service proposes to limit the number of participants to 20 in the first year of the experiment, enlarging it by 10 in the second year. USPS–T–1 at 16.

The Service says the expedition allowed under the experimental rules is appropriate in the interest of putting the proposed services into effect in time for the 2003 holiday mailing season. Request at 5.

II. Conditional Request for Waiver of Certain Filing Requirements

The Postal Service avers that its filing complies with applicable Commission filing requirements, but, as a precautionary alternative, seeks waiver of various filing requirements should the Commission conclude otherwise.⁷ In support of its request, the Postal Service says its compliance statement (attachment F to the request) addresses each filing requirement and indicates which parts of the filing satisfy each rule. It also notes that it has incorporated by reference pertinent materials from docket no. R2001–1, the most recent omnibus rate case.⁸ It states that incorporation satisfies the filing requirements pertaining to classes of mail and special services. In addition, the Postal Service contends that the experimental parcel return services will not materially alter the rates, fees and classifications established in docket No. R2001–1. It concludes that its proposal will have only a limited impact on overall postal costs, volumes, and revenues. *Id.* at 1. It also asserts that there is substantial overlap between information sought in the general filing requirements and the materials provided in docket No. R2001–1. *Id.* at 2.

Notwithstanding its principal position, the Postal Service recognizes that the Commission may find that it has failed to comply with the filing requirements. Accordingly, the Postal Service requests a waiver of certain filing requirements if the Commission

concludes that the materials incorporated from the omnibus case are not sufficient to satisfy those requirements. *Id.* at 4. Responses to the Postal Service's conditional motion are due on or before June 27, 2003.

III. The Postal Service Requests Expedition, Suggesting Several Specific Procedures, Including Settlement Procedures

In support of its request for expedition beyond that contemplated by the rules governing experimental classifications, the Postal Service asserts that the proposed classification change is straightforward, and of limited scope and duration. It also states that the proposed parcel return services would have an insignificant effect on overall volumes, revenues, and costs. Further, it states that, based on discussions with industry representatives, the proposal has widespread support and should have no significant adverse impact on competitors. The Postal Service believes there is a distinct possibility for settlement.⁹

In lieu of proposing a specific schedule, the Postal Service identifies four procedures the Commission could employ to expedite the proceeding. These include setting a relatively short intervention period and requiring participants to identify, in their notices of intervention, whether they intend to seek a hearing and to identify any genuine issues of material fact that may warrant such a hearing. In addition, the Postal Service requests that a settlement conference be scheduled as quickly as possible following the deadline for intervention. Finally, it suggests that the time allotted for discovery, if found to be necessary, be abbreviated and limited to matters related directly to its proposal. *Id.* at 2–3.

IV. Commission Ruling

Proceeding under the experimental rules. The Postal Service's request was filed pursuant to the Commission's rules 67–67d involving experimental classification changes. Formal status as an experiment under these rules is based on an evaluation of factors such as the proposal's novelty, magnitude, ease or difficulty of data collection, and duration. A final determination regarding the appropriateness of the experimental designation and application of Commission rules 67–67d will not be made until participants have had an adequate opportunity to comment. Participants are invited to file comments on this matter by June 18, 2003. See rule 67(c).

Postal Service's request for expedition. The Postal Service requests that the Commission expedite this proceeding, advancing several reasons to support its request. First, the Postal Service states that the proposal is straightforward and has a limited scope and duration, as explained in the testimony of witness Gullo and in its Request. Further, the Postal Service contends that the proposed changes would not significantly effect its overall revenues, volumes, or costs. Finally, the Postal Service states that industry representatives support the proposal, concluding that it should have no adverse effect on competitors.¹⁰

To expedite the proceeding, the Postal Service suggests several procedures for the Commission's consideration, including establishing a relatively short intervention period, requiring the prospective participants to request a hearing and identify any issues of material fact in their notices of intervention.¹¹ In addition, the Postal Service requests that a settlement conference be convened at an early date, and further that the time allotted for discovery, if necessary, be abbreviated.¹²

The reasons offered by the Postal Service in support of expedition are essentially the same as advanced in prior requests.¹³ This undercuts the claim for expedition since there is nothing to distinguish this proceeding from any other. Moreover, it gives the appearance that such requests have become routine. In any event, the reasons advanced to accelerate this proceeding are not particularly compelling.

It would appear to be axiomatic that any proposed experiment would have the characteristics that the Postal Service offers to support an expedited schedule. For example, presumably all experimental changes would have a limited scope and duration, be sufficiently explained by supporting testimony, and be supported by industry representatives. Even taking these as a given, they fail to warrant accelerating this proceeding in the manner suggested by the Postal Service.

The Postal Service requests a relatively short intervention period. The Postal Service does not suggest a

¹⁰ Request for Expedition at 1–2.

¹¹ *Id.* at 2–3.

¹² *Id.* at 3.

¹³ Compare United States Postal Service Request for Expedition and Establishment of Settlement Procedures, Docket No. MC2002–3 September 26, 2002; and Motion of the United States Postal Service for Expedition, and Waiver of Certain Provisions of Rule 161 and Certain Provisions of 64(h), Docket No. MC2000–1, September 27, 2000.

⁷ The Request (at 5) limits the waiver request to rules 54 and 64. While the Conditional Motion also references rule 67 (at 4), the relief requested is limited to rules 54 and 64. Conditional Motion at 5, n.4.

⁸ Conditional Motion at 1 and 3.

⁹ Request for Expedition at 1–2.