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should include a description of the evidence to be offered and the amount of time needed to prepare and present it. Requests for additional time will be reviewed with consideration as to whether the requesting participant has exercised due diligence, and whether the requesting participant has been unreasonably delayed from fully understanding the proposal.

[66 FR 54438, Oct. 29, 2001, as amended at 68 FR 12589, Mar. 17, 2003]

§ 3001.60 Express mail market response—rule for decision.

The Commission will issue a recommended decision in accordance with the policies of 39 U.S.C., and which it determines would be a reasonable response to the change in the market for expedited delivery services. The purpose of §§ 3001.57 through 3001.60 is to allow for consideration of Express Mail Market Response rate requests within 90 days, consistent with the procedural due process rights of interested persons.

[66 FR 54438, Oct. 29, 2001]

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

§ 3001.61 Applicability.

The rules in this subpart govern the procedure with regard to requests of the Postal Service pursuant to section 3623 of the Act that the Commission submit a recommended decision on establishing or changing the mail classification schedule. The Rules of General Applicability in subpart A of this part are also applicable to proceedings on requests subject to this subpart.

§ 3001.62 Filing of formal requests.

Whenever the Postal Service determines to request that the Commission submit a recommended decision on establishing or changing the mail classification schedule, the Postal Service shall file with the Commission a formal request for a recommended decision. Such request shall be filed in accordance with the requirements of §§ 3001.9 to 3001.11 and § 3001.64. Within 5 days after the Postal Service has filed

a formal request for a recommended decision in accordance with this subsection, the Secretary shall lodge a notice thereof with the Director of the Federal Register for publication in the FEDERAL REGISTER.

[38 FR 4330, Feb. 13, 1973, as amended at 51 FR 8827, Mar. 14, 1986]

§ 3001.63 Filing of prepared direct evidence.

Simultaneously with the filing of the formal request for a recommended decision under this subpart, the Postal Service shall file all of the prepared direct evidence upon which it proposes to rely in the proceeding on the record before the Commission to establish that the mail classification schedule or changes therein proposed by the Postal Service are in accordance with the policies and the applicable criteria of the Act. Such prepared direct evidence shall be in the form of prepared written testimony and documentary exhibits which shall be filed in accordance with § 3001.31.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38977, July 21, 1993]

§ 3001.64 Contents of formal requests.

(a) *General requirements.* (1) Each formal request filed under this subpart shall include such information and data and such statements of reasons and bases as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance, and impact of the proposed new mail classification schedule or the proposed changes therein and to show that the mail classification schedule as proposed to be established or changed is in accordance with the policies and the applicable criteria of the Act. To the extent the information is available or can be made available without undue burden, each formal request shall include the information specified in paragraphs (b) through (h) of this section. If the required information is set forth in the Postal Service's prepared direct evidence, it shall be deemed to be part of the formal request without restatement.

(2) If any information required by paragraphs (b) through (h) of this section is not available and cannot be

made available without undue burden, the request shall provide where reference is made to this paragraph, in lieu of such information, a statement explaining with particularity:

(i) The information which is not available or cannot be made available without undue burden;

(ii) The reason or reasons that each such item of information is not available and cannot be made available without undue burden;

(iii) The steps or actions which would be needed to make each such item of information available, together with an estimate of the time and expense required therefor;

(iv) Whether it is contemplated that each such item of information will be supplied in the future and, if so, at what time; and

(v) Whether reliable estimates are available where such information cannot be furnished and, if so, the specifics of such estimates.

(3) The provisions of paragraph (a)(2) of this section for the Postal Service to include in its formal request certain alternative information in lieu of that specified by paragraphs (b) through (h) of this section are not in derogation of the Commission's and the presiding officer's authority, pursuant to §§ 3001.23 through 3001.28, respecting the provision of information at a time following receipt of the formal request.

(4) The Commission may request information in addition to that required by paragraphs (b) through (h) of this section.

(b) *Classification and standards information.* (1) Every formal request shall include copies of the then effective Domestic Mail Classification Schedule and the proposed changes therein, including, in legislative format, all proposed changes in the schedules of rate or rates of postage and fee or fees for postal services that appear therein.

(2) The schedules required by paragraph (b)(1) of this section shall, for all classes and subclasses of mail and service, be in summary fashion and tariff-like form. (E.g., there shall be a specification of those rules, regulations, and practices which establish the conditions of mailability and the standards of service.) As a part thereof, the schedules shall specifically be ad-

ressed to such functions as mail pick-up and delivery, processing, and other similar functions.

(3) The schedules required by paragraph (b)(1) of this section shall also contain a statement identifying the degree of economic substitutability between the various classes and subclasses, e.g., a description of cross-elasticity of demand as between various classes of mail.

(4) The schedules required by paragraph (b)(1) of this section shall be accompanied by an identification of all nonpostal services.

(c) *Mail characteristics.* Every formal request shall include such studies, information and data on the characteristics of the users of the Postal Service, the nature of the items mailed and the nature of the methods of mailing, which will assist the Commission in determining whether or not the proposed mail classification schedule or the proposed changes therein are in accordance with the policies and the applicable criteria of the Act. Included, subject to paragraph (a)(2) of this section, shall be:

(1) An identification of the characteristics of the mailer and recipient, and a description of the contents of items mailed within the various classes and subclasses of mail and service;

(2) An identification of the physical attributes of the items mailed by class and subclass, including shape, weight, and distance;

(3) To the extent the following information is not expressly included under paragraph (b)(2) of this section, a summary statement describing special service arrangements provided to, or requested or required of, mailers by the Postal Service which bear upon the cost of service or the value of the mail service to both the sender and the recipient, e.g., services relating to mailer preparations in excess of requirements specified by the Postal Service Manual, pick-up and delivery, expedited or deferred processing, and other similar activities performed.

(d) *Effects of proposed changes.* (1) Subject to paragraph (a)(2) of this section, every formal request shall include a statement showing the effects of the proposed changes in the then effective classification schedule upon:

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(i) The costs attributed and assigned to each class and subclass of mail or service as developed pursuant to §3001.54(h);

(ii) The total accrued costs of the Postal Service developed pursuant to §3001.54(f); and

(iii) The total revenues of the Postal Service and the revenues of each class and subclass of mail or service developed pursuant to §3001.54(j).

(e) *Interclass changes.* Subject to paragraph (a)(2) of this section, whenever it is proposed that a portion of one existing class or subclass of mail or service be reassigned to another existing class or subclass of mail or service, every formal request shall include a comparison of the before and after costs and revenues associated with handling the relevant classes or subclasses of mail or service, and the before and after costs and revenues of the portion which is to be reassigned.

(f) *Statement of reasons.* Every formal request shall include a complete statement of the reasons and bases for the Postal Service's proposed mail classification schedule or proposed changes therein.

(g) *Workpapers.* (1) Whenever the Service files a formal request it shall accompany the request with seven sets of workpapers, five for use by the Commission staff and two which shall be available for use by the public at the Commission's offices.

(2) Workpapers shall contain:

(i) Detailed information underlying the data and submissions for paragraphs (b) through (f) of this section;

(ii) A description of the methods used in collecting, summarizing and expanding the data used in the various submissions;

(iii) Summaries of sample data, allocation factors and other data used for the various submissions;

(iv) The expansion ratios used (where applicable); and

(v) The results of any special studies used to modify, expand, project, or audit routinely collected data.

(3) Workpapers shall be neat and legible and shall indicate how they relate to the data and submissions supplied in response to paragraphs (b) through (f) of this section.

(4) Workpapers shall include citations sufficient to enable a reviewer to trace any number used but not derived in the associated testimony back to published documents or, if not obtained from published documents, to primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc. With the exception of workpapers that follow a standardized and repetitive format, the required citations themselves, or a cross-reference to a specific page, line, and column of a table of citations, shall appear on each page of each workpaper. Workpapers that follow a standardized and repetitive format shall include the citations described in this paragraph for a sufficient number of representative examples to enable a reviewer to trace numbers directly or by analogy.

(h) *Matters affecting rates and fees.* (1) This paragraph applies to any proposed change in the then effective classification schedule which would result:

(i) In a change in the rates or fees for any existing class or subclass of mail and service, or

(ii) In the establishment of a new class or subclass of mail or service for which rates or fees are to be established, or

(iii) In a change in the relationship of the costs attributed or assigned to any class or subclass of mail or service to the revenues of that class or subclass of mail or service, or

(iv) In a change in the relationship of the total costs of the Postal Service to the total revenues.

(2) In the case of any proposed change in the then effective classification schedule covered by paragraph (h)(1) of this section, every formal request shall include, subject to paragraph (a)(2) of this section:

(i) The information required by paragraphs (b) through (h), (j) through (l), and (o) through (p) of §3001.54, together with the statement and opinion required by paragraphs (q) and (r) of §3001.54; and

(ii) A statement explaining to what extent the Postal Service has considered the criteria of section 3622 of the Act as justifying the rate consequences of the proposed classifications. The

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submission shall also include the identification of the relationship between the rates and fees for a particular class and subclass or service, the identification of the procedures and methods used to relate the residual costs which have not been attributed to any class and subclass of mail or service or groups thereof, and such other studies, information, and data relevant to the criteria established by section 3622 of the Act with appropriate explanations.

(3) The Commission may, upon the filing of a proper motion by the Postal Service, together with a showing of good cause therefor, waive certain of the above requirements if in the Commission's judgment it has been demonstrated that the proposed change in the classification schedule does not significantly change the rates and fees or the cost-revenue relationships referred to in paragraphs (h)(1)(i) through (iv) of this section.

(i) *Rejection of requests.* The Commission may reject any request under this subpart that patently fails to substantially comply with the requirements of this subpart.

[38 FR 7535, Mar. 22, 1973, as amended at 42 FR 18076, Apr. 5, 1977; 44 FR 26075, May 4, 1979; 45 FR 65575, Oct. 3, 1980; 50 FR 43393, Oct. 25, 1985; 51 FR 8827, Mar. 14, 1986; 58 FR 38977, July 21, 1993]

§ 3001.65 Service by the Postal Service.

Immediately after the issuance of an order or orders by the Commission designating an officer of the Commission to represent the interests of the general public in a proceeding before the Commission under this subpart, the Postal Service shall serve copies of its formal request for a recommended decision and its prepared direct evidence upon such officer and the intervenors as provided in § 3001.12. Service shall also be made on persons who are limited participants.

[38 FR 3511, Feb. 7, 1973, as amended at 51 FR 8827, Mar. 14, 1986; 58 FR 38977, July 21, 1993]

§ 3001.66 Failure to comply.

If the Postal Service fails to provide any information specified by this subpart, or otherwise required by the presiding officer or the Commission, the Commission, upon its own motion, or upon motion of any participant to the

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proceeding, may stay the proceeding until satisfactory compliance is achieved. The Commission will stay proceedings only if it finds that failure to supply adequate information interferes with the Commission's ability promptly to consider the request and to conduct its proceedings with expedition in accordance with the Act.

[38 FR 7536, Mar. 22, 1973, as amended at 51 FR 8827, Mar. 14, 1986]

§ 3001.67 Requests involving experimental changes.

(a) This section and §§ 3001.67a through 3001.67d apply in cases where the Postal Service requests a recommended decision pursuant to section 3623 of the Postal Reorganization Act and denominates the new service or change in an existing service as experimental in character. These sections do not apply to the situation in which a request not denominated as experimental by the Postal Service, either at the time of its filing or subsequently, is found to be justified by the Commission only on an experimental basis, following analysis of the record made in the proceedings on such a request.

(b) This section and §§ 3001.67a through 3001.67d are not intended to substitute for the rules generally governing requests for changes in the Domestic Mail Classification Schedule in cases where the treatment of the proposed changes as experimental is not justified by the character of those changes. The Commission reserves the right, in appropriate cases, to require that the normal procedures prescribed for nonexperimental cases under section 3623 be used. In determining whether the procedures for experimental cases may be used in a particular case, the Commission will consider:

(1) The novelty of the proposed change;

(2) The magnitude of the proposed change, including its effect on postal costs, postal revenues, mailing costs and practices of users of the mails, and persons or firms offering services competitive with or alternative to the service offerings of the Postal Service;

(3) The ease or difficulty of generating or gathering data with respect to the proposed change; and