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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

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(4) The desired duration of the experiment as indicated by the Postal Service in its request and, specifically, in its proposed Domestic Mail Classification Schedule language.

(c) In the case of a proposal denominated as an experiment by the Postal Service, the Commission will entertain representations by parties to the case that the proposal should not be considered as an experiment and should follow the normal mail classification change procedures. The Commission does not contemplate entertaining representations by parties to a case filed under the normal procedures that the matter should be treated as an experiment under this section and §§ 3001.67a through 3001.67d.

[45 FR 83226, Dec. 18, 1980]

§ 3001.67a Requests involving experimental changes—procedures for limitation of issues.

(a) The purpose of this section is to provide a mechanism for the limiting of issues on which a trial-type hearing is required. It recognizes that in a proceeding properly designated as experimental under § 3001.67, some issues will be appropriate for determination on the basis of a less formal type of presentation and counterpresentation. It is the policy of this section to identify these issues at the earliest possible time and to employ less formal procedures to resolve them where the interests of expedition will be served thereby.

(b) At the earliest possible time following the filing of a request designated as experimental, or following the determination of any question as to whether such designation is proper, holding that such designation is proper, the parties will be required to file statements of the issues they perceive in the case. Each such statement shall designate with particularity those issues the party believes to be or involve genuine issues of material fact. Any party designating an issue as a genuine issue of material fact wholly or in part because of the Postal Service's statement that data called for by § 3001.64 are unavailable shall comply with the requirements of § 3001.67b. Responsive statements will be permitted

within 10 days of the filing of initial statements.

(c) Following the exchange of statements of issues called for by paragraph (b) of this section, the Commission will determine which issues constitute genuine issues of material fact and concomitantly order the limitation of trial-type hearing procedures to those issues. The order issued for this purpose will also set forth to the greatest extent feasible the procedures to be followed in disposing of issues not found to be genuine issues of material fact. According to the nature of the individual issue, these procedures may include.

(1) Filing of written comments and reply comments;

(2) Conference procedures, followed or accompanied by the filing of written comments and reply comments; and

(3) Briefing and argument.

In determining the procedures to be followed with respect to issues not requiring a trial-type hearing, the Commission will seek to accommodate the needs of expedition and procedural fairness in accordance with section 3624(b) of the Act.

[45 FR 83226, Dec. 18, 1980]

§ 3001.67b Requests involving experimental changes—unavailability of data.

If the Postal Service believes that data required to be filed under § 3001.64 are unavailable, it shall explain their unavailability as required by § 3001.64(a)(2)(i), (ii), and (iv). In particular, if the experimental character of the request bears on the unavailability of the data in question, the Postal Service shall explain in detail the nexus between these circumstances. A satisfactory explanation of the unavailability of data will be grounds for excluding from the proceeding a contention that the absence of the data should form a basis for rejection of the request, unless the party desiring to make such contention (a) demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the data which are unavailable, or (b) demonstrates other compelling