

1. In order more fully to release the Board to the expeditious performance of its primary function and responsibility of deciding cases, the authority and responsibility for all administrative functions of the Agency shall be vested in the General Counsel, except as provided below. This authority shall be exercised subject to the limitations contained in paragraphs 2, 5 and 6, and shall be exercised in conformity with the requirements for joint determination as described in paragraph 4.

2. Subject to the limitations contained in paragraphs 5 and 6, the General Counsel shall exercise full and final authority on behalf of the Agency over the selection, retention, transfer, promotion, demotion, discipline, discharge, and in all other respects, of all personnel engaged in the field, except that personnel action with respect to Regional Directors and Officers-in Charge of Subregional offices will be conducted as hereinafter provided, and in the Washington Office (other than personnel in the Board Members' Offices, the Division of Judges, the Division of Information, the Security Office, the Office of the Solicitor, the Office of the Executive Secretary and the Office of Inspector General): provided, however, that the establishment, transfer or elimination of any Regional or Subregional Office shall require the approval of the Board.

The appointment, transfer, demotion, or discharge of any Regional Director or of any Officer-in-Charge of a Subregional office shall be made by the General Counsel only upon the approval of the Board.

4. In connection with and in order to effectuate the foregoing, the General Counsel is authorized to formulate and execute such necessary requests, certifications, and other related documents on behalf of the Agency, as may be needed from time to time to meet the requirements of the Office of Personnel Management, the Office of Management and Budget or any other Governmental Agency; provided, however, that the total amount of any annual budget requests submitted by the Agency, the apportionment and allocation of funds and/or the establishment of personnel ceilings within the Agency shall be determined jointly by the Board and the General Counsel.

2. Add the following paragraphs 5 and 6 to the text of section VII of the amendment dated April 28, 1961 (effective May 15, 1961):

5. The Information Technology Branch shall be realigned under the authority of the Chief Information Officer ("CIO") (who will jointly report

to the General Counsel and the Chairman of the Board with respect to those matters covered by the responsibilities of the CIO), and placed with the Office of Inspector General, Office of Equal Employment Opportunity and the Office of Employee Development outside the Division of Administration. The Editorial and Publications Services Section of the Library and Administrative Services Branch, Division of Administration, shall be transferred to the Office of the Executive Secretary.

6. The Chairman of the Board shall have full and final authority over the selection, retention, transfer, promotion, demotion, discipline, discharge and evaluation of those persons holding Senior Executive Service positions in the Division of Administration, the senior management official in the Office of Employee Development, the Chief Information Officer and the Inspector General.

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## POSTAL RATE COMMISSION

[Docket No. MC2002-3; Order No. 1347]

### Experimental Mail Classification Case

**AGENCY:** Postal Rate Commission.

**ACTION:** Notice and order on new experimental docket.

**SUMMARY:** This document establishes a docket for consideration of a proposed two-year experiment. The experiment entails two new discounts for certain co-palletized Periodicals mail that is dropshipped to designated destination entry facilities. This document briefly reviews the proposal, sets initial procedural dates, authorizes settlement discussions, and identifies other pertinent Commission actions.

**DATES:** 1. *September 26, 2002:* Postal Service's request filed with the Commission.

2. *October 2, 2002:* issuance of Commission notice and order (no. 1347).

3. *October 18, 2002:* deadline for notices of intervention, response to motion for waiver, comments on appropriateness of experimental status and use of expedited procedures.

4. *October 22, 2002:* settlement conference (10 a.m.).

5. *October 23, 2002:* prehearing conference (2 p.m.).

**ADDRESSES:** Send correspondence to the attention of Steven W. Williams, Secretary, Postal Rate Commission, 1333

H Street NW., Suite 300, Washington, DC 20268-001.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6815.

**SUPPLEMENTARY INFORMATION:** On September 26, 2002, the United States Postal Service filed a request seeking a recommended decision from the Postal Rate Commission approving an experimental mail classification, along with two related discounts, for certain Outside County Periodicals mail that is co-palletized and dropshipped to specified destination facilities.<sup>1</sup> Request of the United States Postal Service for a Recommended Decision on Experimental Periodicals Co-Palletization Dropship Discounts (request). The request, which includes six attachments, was filed pursuant to chapter 36 of the Postal Reorganization Act, 39 U.S.C. 3601 *et seq.*<sup>2</sup>

In contemporaneous filings, the Service asks for waiver of certain standard filing requirements (if the Commission deems such waiver is required), and seeks expedited consideration of its proposal, including establishment of procedures for settlement. The Service's request for expedition is in addition to that generally available under the Commission's experimental rules [39 CFR 3001.67-3001.67d]. United States Postal Service Request for Expedition and Establishment of Settlement Procedures (request for expedition), September 26, 2002; Motion of United States Postal Service for Waiver (motion for waiver), September 26, 2002. The Service's request, the accompanying testimony of witness Taufique (USPS-T-1), and other related material are available for inspection in the Commission's docket section during regular business hours. They also can be accessed electronically, via the Internet, on the Commission's Web site (<http://www.prc.gov>).

### I. The Service Characterizes Its Proposal as a Limited Initiative With the Potential To Improve Operational Efficiency and Control Costs

The Postal Service proposes conducting a two-year experiment

<sup>1</sup> The request also includes a proposal to delete a reference to an outdated "ride-along" rate in DMCS section 443.1a. USPS-T-1 at 1-2.

<sup>2</sup> Attachments A and B to the request contain proposed classification schedule provisions (or revisions to existing provisions); attachment C incorporates by reference the certified financial statement provided in docket no. MC2002-2; attachment D is the certification required by Commission rule 54(p); attachment E is an index of testimony and exhibits; and attachment F is a compliance statement addressing satisfaction of various filing requirements.

testing two discounts for qualifying Outside County Periodicals mail that is co-palletized and dropshipped to either an area distribution center (ADC) or a sectional center facility (SCF).<sup>3</sup> The proposed ADC discount is 0.7 cent per piece; the proposed SCF discount is 1.0 cent per piece. USPS-T-1 at 10. Both discounts were developed using the cost base, advertising pound rates, and test year that underlie the Commission's Periodicals rate recommendations in docket no. R2001-1. Request at 2; USPS-T-1 at 10. The ADC discount reflects passthrough of 95 percent of the underlying cost avoidance estimates; the SCF discount reflects 80 percent passthrough. USPS-T-1 at 13. The proposed discounts leave existing Periodicals classifications and rates otherwise unchanged. Request at 2.

In support of the experiment, the Service states that 70 percent of Periodicals mail is already prepared on pallets, but the remainder is not because it lacks the volume and/or density, as individual publications, to reach the requisite pallet minimum of 250 pounds. Since preparing co-pallets is typically more onerous than preparing single-publication pallets, the Service believes these discounts may encourage mailer participation in worksharing behavior that benefits both customers and the Postal Service. *Id.* at 1-2. In particular, it says the discounts are designed to provide an additional incentive for publishers, printers and consolidators to combine different publications or print runs on pallets, so that Periodicals mail can be prepared on pallets, rather than in sacks, and dropshipped to destination facilities. *Id.* at 1.

The Service proposes extending the new discounts only to Periodicals mail that lacks the density to prepare single-publication pallets; however, both smaller circulation publications and smaller portions of larger circulation publications will be able to participate and receive the proposed discounts under applicable rules. Request at 2 and 6. Qualifying co-palletized mail must be prepared either on ADC or SCF pallets of 250 or more pounds. To limit the scope of the experiment and simplify administration, mail that is co-palletized on 5-digit or 3-digit pallets will not be eligible for the new discounts. USPS-T-1 at 8.

*Experimental designation.* The Service seeks consideration of its proposal under the Commission's experimental rules (rules 67-67d). In support of this approach, it notes that it currently lacks data about how much response there will be to a rate incentive for co-palletization, but 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 Service says the expedition allowed under the experimental rules is appropriate in light of the interest in controlling Periodicals costs as soon as possible. It also says flexibility is required because the detailed, conventional data necessary to support a request for a permanent classification are currently unavailable. *Id.* at 5. The Service says it believes that this proposal will be attractive to mailers, contribute to the long-term viability of the postal system, and further the general policies of efficient postal operations and reasonable rates and fees enunciated in the Postal Reorganization Act, including 39 U.S.C. 3622(b) and 3623(c). *Id.* at 4-5.

## II. The Service Seeks Waiver of Certain Filing Requirements, if Deemed Necessary

The Service maintains that its filing satisfies applicable Commission filing requirements, but seeks waiver of pertinent provisions of rules 54, 64 and 67 to the extent the Commission concludes otherwise. In support of its primary position, the 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 documentation from the recent omnibus rate case (docket no. R2001-1). Motion for waiver at 1. The Service contends, among other things, that the rate case documentation satisfies most filing requirements because the proposed discounts will not materially alter the rates, fees and classifications established in that docket, and therefore 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.

However, if the Commission concludes that the materials from the omnibus case are not sufficient to satisfy the requirements, the Service contends strict compliance is not warranted, and seeks waiver. It cites the reasons expressed in support of its general position on the adequacy of its filing; the nature of the proposed experiment; and the small impact on total costs and revenues and on the costs, volumes and revenues of mail categories. *Id.* at 5. Responses to the Service's motion for waiver are due by October 18, 2002.

## III. The Service Seeks Expedition and Suggests Several Specific Procedures, Including Prompt Establishment of Settlement Procedures

In support of expedition, the Service asserts that the proposed change is straightforward; limited in scope and duration; and insignificant in terms of its effect on overall volumes, revenues and costs. It also states that the proposal is a candidate for settlement, given widespread support for it within the Periodicals industry, and the lack of adverse effect on competitors or other mailers. Request for expedition at 1-2.

The Service does not propose a specific schedule, but identifies four procedures the Commission could employ to facilitate a quick resolution of this case. 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 would warrant such a hearing. They also include scheduling a settlement conference as quickly as possible following the deadline for intervention; dispensing with discovery if there is no hearing or no genuine issues of material fact; or, should discovery be necessary, shortening various time limits. *Id.* at 2-3.

## IV. Commission Response

*Appropriateness of proceeding under the experimental rules.* For administrative purposes, the Commission has docketed the instant filing as an experimental case. Formal status as an experiment under Commission rules 67-67d 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

<sup>3</sup> The Service defines co-palletization as the practice of combining bundles of different publications going to the same destination ADC or SCF, on the same pallet. It defines co-mailing as the combination of different publications in the same bundles, with the bundles then combined on pallets. Request at 3.

comments on this matter by October 18, 2002.

*Appropriateness of establishing other expedited procedures.* The Commission grants the Service's request for expedition to the extent of authorizing settlement procedures; allowing a shorter-than-usual period for intervention; and requiring participants, in their notices of intervention, to state whether they intend to seek a hearing and to identify with particularity any genuine issues of material fact that would warrant a hearing. Decisions on other expedited procedures, such as limiting discovery time limits, will be made at a later time.

*Settlement.* The Commission authorizes settlement negotiations in this proceeding. It appoints Postal Service counsel as settlement coordinator. In this capacity, counsel for the Service shall file periodic reports on the status of settlement discussions. The Commission authorizes the settlement coordinator to hold a settlement conference on October 22, 2002, at 10 a.m. in the Commission's hearing room. Authorization of settlement discussion does not constitute a finding on the proposal's experimental status or on the need for a hearing.

*Representation of the general public.* In conformance with section 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, 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. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss 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 at the same time as, service on the Commission of the 24 copies required by Commission rule 10(d) (39 CFR 3001.10(d)).

*Intervention; need for hearing.* Those wishing to be heard in this matter are directed to file a written notice of intervention with Steven W. Williams, secretary of the Commission, 1333 H Street, NW., suite 300, Washington, DC 20268-0001, on or before October 18, 2002. Notices should indicate whether participation will be on a full or limited basis. See 39 CFR 3001-20 and 3001-20a. No decision has been made at this point on whether a hearing will be held in this case. To assist the Commission in making this decision, participants are directed to indicate, in their notices of

intervention, whether they seek a hearing and, if so, to identify with particularity any genuine issues of material facts believed to warrant such a hearing.

*Experimental status.* Participants may comment on whether the Service's request should be evaluated under Commission rules 67-67d. Comments are due by October 18, 2002. Participants should be prepared to discuss relevant issues at the prehearing conference.

*Prehearing conference.* A prehearing conference will be held October 23, 2002, at 2 p.m. in the Commission's hearing room. Participants shall be prepared to address matters referred to in this ruling.

#### Ordering Paragraphs

*It is ordered:*

1. The Commission establishes docket no. MC2002-3, experimental periodicals co-palletization dropship discounts, to consider the Postal Service request referred to in the body of this order.
2. The Commission will sit en banc in this proceeding.
3. The deadline for filing notices of intervention is October 18, 2002.
4. Notices of intervention shall indicate whether the participant seeks a hearing and identify with particularity any genuine issues of material fact that warrant a hearing.
5. The deadline for answers to the motion of United States Postal Service for waiver is October 18, 2002.
6. The deadline for comments on United States Postal Service request for expedition and establishment of settlement procedures is October 18, 2002.
7. The Commission will make its hearing room available for a settlement conference on Tuesday, October 22, 2002, at 10 a.m., and at such other times deemed necessary by the settlement coordinator.
8. Postal Service counsel is appointed to serve as settlement coordinator in this proceeding.
9. The Postal Service's request for expedition is granted to the extent of allowing a shorter-than-usual intervention period, allowing settlement discussions, and requiring participants' interest in a hearing to be identified in the notice of intervention.
10. A prehearing conference will be held Wednesday, October 23, 2002 at 2 p.m. in the Commission's hearing room.
11. Shelley S. Dreifuss, director of the Commission's office of the consumer advocate, is designated to represent the interests of the general public.
12. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

**Garry J. Sikora,**  
*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25762; 812-12682]

### The Charles Schwab Family of Funds, et al.; Notice of Application

October 3, 2002.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements.

**APPLICANTS:** The Charles Schwab Family of Funds, Schwab Investments, Schwab Capital Trust, and Schwab Annuity Portfolios (collectively, the "Trusts") and Charles Schwab Investment Management, Inc. ("CSIM").

#### SUMMARY OF THE APPLICATION:

Applicants request an order to permit them to enter into and materially amend sub-advisory agreements without shareholder approval and to grant relief from certain disclosure requirements.

**FILING DATES:** The application was filed on November 14, 2001, and amended on October 1, 2002.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 28, 2002, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, 101 Montgomery Street, San Francisco, CA 94104.

**FOR FURTHER INFORMATION CONTACT:** Christine Y. Greenlees, Senior Counsel,