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FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT:

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[FR Doc. 02-11204 Filed 5-3-02; 8:45 am]

BILLING CODE 6325-39-P

POSTAL RATE COMMISSION

[Order No. 1339; Docket No. MC2002-1]

Classification and Fees for Confirm® Service

AGENCY: Postal Rate Commission.

ACTION: Notice and order concerning Confirm® service.

SUMMARY: This document informs the public that the Postal Service has asked the Commission for a decision on classification and fees for Confirm®, a new service to enable mailers to track automation compatible letter-size and flat mail pieces. It also establishes several procedural deadlines and sets a date for a prehearing conference and possible informal settlement discussions.

DATES: *May 16, 2002:* deadline for notices of intervention.

May 20, 2002: prehearing conference (at 1 p.m.) and tentatively scheduled informal settlement discussion (at 9:30 a.m.) if notice is served on participants by the Postal Service.

May 23, 2002: deadline for answers to conditional motion for waiver.

ADDRESSES: The prehearing conference will be held in the Commission's hearing room, 1333 H Street NW., suite 300, Washington, DC 20268-0001. Send notices and comments to the attention of Steven W. Williams, secretary, 1333 H Street NW., suite 300, Washington, DC 20268-0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202-789-6824.

SUPPLEMENTARY INFORMATION:

A. Authority To Consider the Service's Request

39 U.S.C. 3622 and 3623.

B. Background

On April 24, 2002, the Postal Service filed a request for a recommended

decision on classification and fees for Confirm®, a new service using PLANET Codes (a new form of bar code) to enable commercial mailers to track individual automation compatible letter-size and flat mail pieces. Request of the United States Postal Service for a recommended decision on classification and fees for Confirm®, April 24, 2002 (request). The request was accompanied by a statement of compliance with the Commission's filing requirements and a conditional motion for waiver. In addition, the Postal Service requests that proceedings to consider Confirm® be expedited.

Establishing a Formal Docket

The Postal Service's request was filed pursuant to sections 3622 and 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.* The Commission hereby institutes a proceeding, designated as docket no. MC2002-1, to consider the instant request. In the course of this proceeding, participants may propose alternatives to the Service's proposal, and the Service itself may revise, supplement, or amend its initial filing. The Commission's review of the Service's request, including any revisions, alternatives proposed by others, or options legally within the purview of the Service's request, may result in recommendations that differ from those proposed by the Postal Service in its initial filing.

Contents of the filing

As a preliminary matter, the Commission has posted the request and related material on its website at www.prc.gov. Subsequent filings in this case will also be posted on the website, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's website is available online or by contacting the Commission's webmaster at 202-789-6873.

The entire filing and related documents are also available for public inspection in the Commission's docket section. The docket section's hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on federal government holidays. The docket section telephone number is 202-789-6846.

The request includes six attachments as follows. Attachment A contains the proposed amendments to the domestic mail classification schedule (DMCS); Attachment B sets forth the proposed fee schedule. Attachment C is the required certification concerning the accuracy of the cost statements and supporting data submitted as part of the request. Attachment D contains the audited financial statements for FY 2000

and FY 2001. Citing USPS-LR-J-2, the Postal Service notes that the cost and revenue analysis report for FY 2000 was filed in docket no. R2001-1. Appendix E is an index of testimonies, workpapers, and associated attorneys. Appendix F represents the Postal Service's compliance statement in response to Commission rules 54 and 64, 39 CFR 3001.54 and 3001.64.

In support of the request, the Postal Service also submitted the testimony of five witnesses. Witness Bakshi, a Postal Service employee, describes Confirm® service, its operation, and its implementation. *See* USPS-T-1. Witness Lubenow, a consultant, provides both background and an industry perspective concerning Confirm® service. *See* USPS-T-2. Witness Nieto, a consultant, provides estimated test year costs in support of the proposed Confirm® fees. *See* USPS-T-3. Witness Rothschild, a consultant, presents the results of survey research undertaken to assess the market demand for Confirm® products at two different pricing scenarios. *See* USPS-T-4. Witness Keifer, a Postal Service employee, describes the proposed fee design and classification changes. Witness Keifer also addresses the financial impacts associated with Confirm®. *See* USPS-T-5.

In addition, the Postal Service filed two Category 2 library references supporting the prepared testimony: USPS-LR-1, witness Rothschild's (USPS-T-4) CONFIRM market research, and USPS-LR-2 supporting spreadsheets for witness Nieto (USPS-T-3).

Brief Description of the Proposal

The Postal Service proposes to offer Confirm® in a three-tiered subscription format, with the subscriptions labeled platinum, gold, and silver. As proposed, Confirm® service will be available to users of First-Class Mail, Standard mail, and Periodicals. Confirm® service will enable subscribers to track qualified outgoing and incoming mail, providing information about each mailpiece, *e.g.*, the date and time processed, the processing facility, and barcode data.

The proposed annual fee for a platinum subscription is \$10,000, which entitles the subscriber to three ID codes and unlimited scans. The proposed annual fee for a gold subscription is \$4500, entitling the subscriber to one ID code and 50 million scans. A silver subscription is available for a term of three months and entitles the subscriber to one ID code and 15 million scans. The proposed fee is \$2000. *See* USPS-T-5 at 2.

As proposed, subscribers may obtain additional ID codes for \$500 per three months, or \$2000 per year. Silver and gold subscribers may obtain additional scans, silver in blocks of 2 million scans for \$500, and gold in blocks of 6 million scans for \$750. *Ibid.*

Proposed Classification Changes

The Postal Service proposes to amend the DMCS to include new sections 990 and 991, which, among other things, define the service, and describe its availability and customer requirements. A new fee schedule, 991, is also proposed. Request at attachments A and B.

Conditional Motion for Waiver

In addition to attachment F, the Postal Service submitted a separate statement concerning its compliance with the filing requirements. This statement was coupled with a conditional motion for waiver. See statement of United States Postal Service concerning compliance with filing requirements and conditional motion for waiver (statement). The Postal Service indicates that it has supplemented materials developed specifically to support its request by incorporating testimony and documentation submitted in the recently concluded omnibus rate case, docket no. R2001-1. Statement at 1. The Postal Service suggests that this approach is justified for several reasons, including, among others, congruent test years (FY 2003) and a substantial overlap between the information required by the general filing requirements and that already provided in docket no. R2001-1. *Id.* at 2-3. Further, the Postal Service asserts that its compliance should be assessed in light of the nature of Confirm® service and the minor extent that total cost-revenue relationships will be affected by its implementation. *Id.* at 3. The Postal Service, therefore, contends that it is in compliance with the Commission's filing requirements. Alternatively, however, the Postal Service requests a waiver of the filing requirements pursuant to 39 CFR 3001.22, 3001.54(r), and 3001.64(h)(3).

Request for Expedition

The Postal Service accompanied its filing with a precatory request for expedition. See United States Postal Service request for expedition. In support, the Postal Service states its belief that an early recommended decision will benefit mailers and facilitate an orderly transition to the proposed service and fees. The Postal Service emphasizes, however, that it is not advocating any schedule that would

compromise any participants' opportunity to be heard consistent with due process requirements or that would otherwise limit the Commission's ability to develop a record on which to make its recommendations. Further, the Postal Service suggests that this proceeding warrants expeditious procedures, noting its optimism on the possibility that it may be settled. The Postal Service concludes with a request that "due consideration be given to taking measures that would expedite proceedings and lead to an early Recommended Decision." United States Postal Service request for expedition at 2.

Intervention

Each interested person wishing to be heard in this matter is directed to file a notice of intervention with Steven W. Williams, secretary of the Commission, 1333 H Street NW., suite 300, Washington, DC 20268-0001, on or before May 16, 2002. Each notice should specify whether the party seeks to participate on a full or limited basis. See 39 CFR 3001.20 and 3001.20a. Written discovery pursuant to rules 25-28 may be undertaken upon intervention.

Representation of Interests of the General Public

The Commission designates Shelley S. Dreifuss, acting director of the Commission's office of the consumer advocate, to represent the interests of the general public in this proceeding, pursuant to 39 U.S.C. 3624(a). Ms. Dreifuss shall direct the activities of Commission personnel assigned to assist her and, at an appropriate time, provide the names of these employees for the record. Neither Ms. Dreifuss nor the assigned personnel shall participate in or advise as to any Commission decision in this proceeding, other than in their designated capacity. Participants shall serve the OCA separately with three copies of all filings in addition to, and at the same time, as they effect service on the Commission.

Prehearing Conference Date; Informal Settlement Discussion

The Commission will hold a prehearing conference on May 20, 2002, at 1:00 p.m. in the Commission's hearing room, 1333 H Street NW., suite 300, Washington, DC 20268-0001. In light of the Postal Service's statement concerning the prospects of settling this proceeding, the Commission will make its hearing room available at 9:30 a.m. on May 20, 2002 for the participants to engage in informal settlement discussions. If such discussions are scheduled, the Postal Service should

provide notice to all participants. At the prehearing conference, the Postal Service shall present a status report concerning settlement discussions, if any.

Ordering Paragraphs

It is ordered:

1. Docket no. MC2002-1 is established to consider the Postal Service's request for a recommended decision on classification and fees for Confirm® service.
2. The Commission will sit en banc in this proceeding.
3. Notices of intervention are due no later than May 16, 2002.
4. A prehearing conference will be held May 20, 2002 at 1:00 p.m. in the Commission's hearing room.
5. Answers to the Postal Service's conditional motion for waiver are due May 23, 2002.
6. Shelley S. Dreifuss, acting director of the Commission's office of the consumer advocate, is designated to represent the interests of the general public.
7. The Secretary shall cause this notice and order to be published in the **Federal Register**.

Dated: April 29, 2002.

Steven W. Williams,
Secretary.

[FR Doc. 02-11107 Filed 5-3-02; 8:45 am]

BILLING CODE 7715-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45816; File No. SR-ISE-2002-11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC Relating to a Market Maker Inactivity Fee

April 24, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 16, 2002, the International Securities Exchange LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.