

PRESIDING OFFICER'S  
RULING NO. MC2005-2/1

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

Rate and Service Changes To Implement  
Functionally Equivalent Negotiated Service  
Agreement With HSBC North America Holdings Inc.

Docket No. MC2005-2

PRESIDING OFFICER'S RULING  
ESTABLISHING PROCEDURAL SCHEDULE

(Issued March 29, 2005)

*Prehearing Conference.* A prehearing conference was held on March 24, 2005 in Docket No. MC2005-2 to identify issues for consideration and to solicit information necessary to establish a procedural schedule. Prior to the prehearing conference, participants also were directed to provide argument in writing in regard to proceeding under rule 196 for functionally equivalent Negotiated Service Agreements, identification of issues that would require a hearing, and the Postal Service's proposal for limitation of issues.<sup>1</sup>

*Postal Service's Request to Proceed Under Rule 196.* The Commission's rules require the Commission to make decisions as to the procedural path that this docket will follow after the conclusion of the prehearing conference. The first decision is whether to apply the more expedited rules for functionally equivalent Negotiated Service Agreements, rule 196, or whether to consider the Postal Service's request as a new baseline Negotiated Service Agreement, rule 195. No participant expressed an objection to treating the Postal Service's request as a request for a functionally equivalent Negotiated Service Agreement. The Postal Service's request shall be

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<sup>1</sup> PRC Order No. 1431, February 28, 2005.

considered as a request for a functionally equivalent Negotiated Service Agreement, and proceed under rule 196.

*Identification of Issues that Require a Hearing.* No issues were identified, either in writing or at the prehearing conference, which would require oral examination of any witness at a hearing. Thus, no evidentiary hearings shall be scheduled in this docket.

*Postal Service's Proposal for Limitation of Issues.* The Postal Service filed a proposal to limit the issues open for litigation in this proceeding.<sup>2</sup> The Postal Service asserts that it is relying on specific Docket No. MC2002-2 testimony, and submits that issues previously decided in that docket should not be open for relitigation.<sup>3</sup> It asserts that the key issues to be addressed in the instant proceeding include the financial impact of the Negotiated Service Agreement on the Postal Service over the duration of the agreement, and the fairness and equity of the Negotiated Service Agreement in regard to other users of the mail. It contends that the issue of fairness and equity of the Negotiated Service Agreement in regard to the competitors of the parties to the Negotiated Service Agreement is no longer likely to constitute a key issue based on the Commission's recommendations of similar Negotiated Service Agreements and the absence of opposition from competitors.

There were no participant objections to the Postal Service proposal.

Rule 196(a)(6) specifies three issues deemed always relevant to any request predicated on a functionally equivalent Negotiated Service Agreement:

- (i) The financial impact of the Negotiated Service Agreement on the Postal Service over the duration of the agreement;
- (ii) The fairness and equity of the Negotiated Service Agreement in regard to other users of the mail; and
- (iii) The fairness and equity of the Negotiated Service Agreement in regard to the competitors of the parties to the Negotiated Service Agreement.

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<sup>2</sup> United States Postal Service Proposal for Limitation of Issues, February 23, 2005 (Proposal).

<sup>3</sup> The Postal Service's Proposal contains a partial list of issues that it contends were decided in Docket No. MC2002-2. See Proposal at 2.

Rule 196(a)(6). Although there may not be an objection to the fairness and equity of the Negotiated Service Agreement in regard to the competitors of the parties to the Negotiated Service Agreement, the Commission found this to be an important issue, and will not foreclose potential discussion on this topic. The issues in this docket shall be limited to the issues identified in rule 196(a)(6), which the Commission rules identify as under consideration in any request predicated on a Negotiated Service Agreement.

*Discovery.* At the prehearing conference, counsel for HSBC proposed a March 31, 2005 deadline for close of discovery. This date also would allow for follow-up discovery, if necessary, before initial briefs are due. There were no objections to this proposal. The period for initial discovery shall close on March 31, 2005.

*Rebuttal Testimony.* There is no indication that any participant intends to file rebuttal testimony in this docket. Any participant intending to file rebuttal testimony shall indicate this intent to the Commission by April 8, 2005. If necessary, rebuttal testimony shall be filed by April 15, 2005.

*Creating the Record.* Participants may designate interrogatory responses to be included in the record as written cross-examination. Designations shall be filed by April 15, 2005. Two copies of the designated material shall be provided to the Commission at that time.

The Commission designates responses to POIR Nos. 1 and 2 to be included as record evidence in this docket.

Proponents of the direct case, by motion, shall request the Commission to enter witness testimony, the designated written cross-examination, the POIRs, and any proponent designated written counter-cross-examination into the record. The motion shall include a declaration/affidavit from each witness attesting to the proposed record material. These motions are due April 19, 2005.

*Briefs.* At the prehearing conference, counsel for HSBC proposed an April 20, 2005 deadline for briefs. There were no objections to this proposal. Briefs shall be due April 20, 2005. Reply Briefs shall be due April 27, 2005.

RULING

1. Docket No. MC2005-2 shall proceed under rule 196 for functionally equivalent Negotiated Service Agreements.
2. The issues open for litigation in this docket shall be limited to those issues specified in rule 196(a)(6), consistent with the body of this ruling.
3. The Commission designates responses to POIR Nos. 1 and 2 to be included as record evidence in this docket.
4. A procedural schedule is established as shown in the Attachment.

George Omas  
Presiding Officer

Docket No. MC2005-2  
Procedural Schedule

|  |                |
|--|----------------|
| Close of initial discovery                     | March 31, 2005 |
| Notice of intent to file rebuttal testimony    | April 8, 2005  |
| If necessary, rebuttal testimony               | April 15, 2005 |
| Designation of written interrogatory responses | April 15, 2005 |
| Motions to enter testimony into the record     | April 19, 2005 |
| Briefs   | April 20, 2005 |
| Reply Briefs                                   | April 27, 2005 |