

PRESIDING OFFICER'S
RULING NO. N2006-1/38

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

Evolutionary Network Development
Service Changes

Docket No. N2006-1

PRESIDING OFFICER'S RULING ON MOTION
OF OFFICE OF THE CONSUMER ADVOCATE
TO ENTER INTO EVIDENCE A REPORT
OF THE OFFICE OF THE INSPECTOR GENERAL
OF THE UNITED STATES POSTAL SERVICE

(September 19, 2006)

On July 21, 2006, the Office of the Consumer Advocate (OCA) filed a motion¹ to enter into evidence a Status Report prepared by the Office of the Inspector General (OIG) of the United States Postal Service. That document was identified and transcribed during the hearing in this docket on July 19, 2006.² At that time, the Postal Service objected to introduction of the Status Report into the evidentiary record on the ground that there was no foundation for the factual assertions it contains.³ In light of this dispute, I ordered that the document be transcribed, and allowed submission of a written motion for its inclusion in the record within the following seven days.⁴

In its motion, OCA asserts that the Status Report is directly relevant to this proceeding, and that no additional foundation is required for the facts contained therein.

¹ Motion of Office of the Consumer Advocate to Enter into Evidence in These Proceedings Report of Office of the Inspector General of the United States Postal Service, July 21, 2006 (Motion).

² See Tr. 3/577-94.

³ *Id.* at 578-79.

⁴ *Id.* at 579. Thus, the transcript's editorial statement on the following page that the document "was received in evidence" is inaccurate.

OCA notes that the Postal Service has not challenged the authenticity of the proffered Status Report, and argues that the Commission may take official notice of it as an official document issued by a federal government agency issued in the normal course of its business. As one of a series of ongoing investigative reports being conducted by the OIG on the END program—and one that includes information regarding Postal Service network changes since 1995 and comments by postal management—OCA argues that the report has relevant evidentiary value in this proceeding. OCA also notes that Postal Service witness Williams testified that he had seen the document.⁵

The Postal Service has not filed a written response to OCA's motion.

I agree with OCA that the identified OIG report is appropriate for official notice and inclusion in the evidentiary record of this proceeding. Section 31(j) of the Commission's rules of practice provides, in relevant part:

Official notice may be taken of such matters as might be judicially noticed by the courts of the United States or of any other matter peculiarly within the general knowledge of the Commission as an expert body.

39 CFR § 3001.31(j). The OIG Status Report satisfies the first of the rule's criteria; in the language of the Federal Rules of Evidence, the facts therein are "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."⁶ Further, because the report "presents the results of our self-initiated review of the Evolutionary Network Development (END) initiative[,]"⁷ the facts therein are relevant to issues before the Commission in this docket, and thus are admissible as evidence. Therefore, I shall grant OCA's motion.

⁵ Motion at 2-3.

⁶ Fed. R. Evid. 201(b)(2). The official character of the Status Report is established by its publication; it can be found on the Office of the Inspector General's website at: http://www.uspsoig.gov/foia_files/NO-MA-06-001.pdf.

⁷ Tr. 3/581. (Footnote omitted.)

RULING

The Motion of Office of the Consumer Advocate to Enter into Evidence in These Proceedings Report of Office of the Inspector General of the United States Postal Service, filed July 21, 2006, is granted.

Dawn A. Tisdale
Presiding Officer