

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

Before Commissioners:

Michael Kubayanda, Chairman;
Ann C. Fisher, Vice Chairman;
Mark Acton;
Ashley E. Poling; and
Robert G. Taub

Institutional Cost Contribution
Requirement for Competitive Products

Docket Nos. RM2017-1
RM2022-2

NOTICE AND ORDER PROVIDING AN OPPORTUNITY TO COMMENT ON THE
COMMISSION'S SECTION 703(d) ANALYSIS

(Issued September 7, 2022)

I. INTRODUCTION

As part of its enactment of the Postal Accountability and Enhancement Act (PAEA), Congress sought to determine whether the Postal Service's competitive products enjoyed any legal advantages over private companies providing similar products.¹ Uncodified section 703 of the PAEA directed the Federal Trade Commission (FTC) to prepare a report identifying federal and state laws that apply differently to the Postal Service's competitive products than to similar products offered by private competitors.² The FTC was required to include any recommendations concerning how

¹ See Postal Accountability and Enhancement Act (PAEA), Pub. L. No. 109-435, Title VII, § 703, 120 Stat. 3198, 3244 (2006); see also S. Rep. No. 108-318 at 29 (2004).

² PAEA section 703(a). Section 703 was not codified and is reproduced in the notes of 39 U.S.C.A. 3633. See also Federal Trade Commission, Accounting for Laws that Apply Differently to the United States Postal Service and its Private Competitors, December 2007 (FTC Report), available at <https://www.ftc.gov/sites/default/files/documents/reports/accounting-laws-apply-differently-united-statespostal-service-and-its-private-competitors-report/080116postal>.

to end any such legal differences that it deemed appropriate and, in the interim, to account for the net economic effect resulting from such differences. PAEA section 703(b). Additionally, section 703 directed the Commission, when revising regulations under 39 U.S.C. 3633, to consider the FTC's recommendations as well as subsequent events that affect the continuing validity of the FTC's net economic effect finding. *Id.* § 703(d). Pursuant to section 703(d) of the PAEA, the Commission seeks public input regarding further Commission analysis of the subsequent event that occurred after March 25, 2022, which was the last opportunity to provide comment in Docket Nos. RM2017-1 and RM2022-2.

II. BACKGROUND

The FTC issued its report in December 2007, which considered both the implicit subsidies enjoyed by, and legal constraints imposed on, the Postal Service's Competitive products due to the Postal Service's unique legal status.³ In Chapter IV of its report, the FTC completed its net economic effect analysis by specifically identifying those implicit subsidies and legal constraints that could be quantified in order to calculate any impact on the Postal Service.⁴ The FTC calculated the cost of the quantifiable legal constraints and the value of the implicit subsidies and concluded that

³ FTC Report at 55-77. In its review of the Postal Service's unique legal status, the FTC analyzed laws applicable to the Postal Service due to its status as a governmental entity as well as those disadvantages imposed on and advantages allowed by the PAEA. *Id.*

⁴ *Id.* at 64 n.287. The FTC Report discussed additional implicit subsidies and legal constraints beyond those listed in its net economic effect analysis, but because the additional subsidies and constraints could either not be quantified or the effect on the Postal Service was unclear, the FTC did not include them as part of its final analysis. See *id.* at 1, 50, 54, 56, 64, 89. Among others, the FTC was unable to quantify the implicit subsidies relating to the Postal Service's access to federal funding and eminent domain, preferential customs treatment compared to competitors, immunity from certain conduct under the Federal Tort Claims Act, its exemption from paying federal income taxes, and potential advantages stemming from the Postal Service's letter and mailbox monopolies. *Id.* at 29-37, 47-52, 64. Among others, the FTC was unable to quantify the legal constraints relating to pricing restrictions on competitive products, the costs associated with the Postal Service's Universal Service Obligation, the limited ability of the Postal Service to close post offices, the inability to outsource delivery routes to private carriers, requirements related to retirees, and the restraints on financing and investing. *Id.* at 37-45.

the Postal Service’s unique legal status placed it at a net competitive disadvantage in offering Competitive products relative to private competitors. *Id.* at 64. Table II-1 displays the FTC’s calculations.

**Table II-1
FTC Report Total Range**

Range	Estimate (in Millions)	
	5.5%	13%
Total Legal Constraints	\$330	\$782
Total Implicit Subsidies	\$39	\$117
Total Range ⁵	\$213	\$743

Source: FTC Report at 55-57.

On February 8, 2018, as part of the Commission’s second 5-year review of the institutional cost contribution requirement for Competitive products, the Commission issued a Notice of Proposed Rulemaking, proposing revisions to its regulations pursuant to 39 U.S.C. 3633(a)(3) and (b). Accordingly, the Commission determined that an analysis pursuant to section 703(d) of the PAEA was necessary.⁶

⁵ The FTC estimated the low-end cost impact of the quantifiable implicit subsidies and legal constraints on competitive products based on the appropriate share mandated at the time of the FTC’s review, which required that competitive products cover 5.5-percent of institutional costs. See Docket No. RM2017-1, Notice of Proposed Rulemaking to Evaluate the Institutional Cost Contribution Requirement for Competitive Products, February 8, 2019, at 56 n.91 (Order No. 4402); see also FTC Report at 57. The FTC estimated the high-end cost impact of the quantifiable implicit subsidies and legal constraints on competitive products based on competitive product revenue, which at the time of the FTC’s review was 13 percent of total Postal Service revenue. See Order No. 4402 at 66; see also FTC Report at 55-57. The FTC subtracted the low subsidy from the high constraint and the high subsidy from the low constraint to create the maximum range of net economic effects. See FTC Report at 64. It is not guaranteed that both the subsidy and constraint will be near the same end of the estimated range (high or low). Using these differences maximized the range of possible effects. See Order No. 4402 at n.103.

⁶ See Order No. 4402 at 54-68; see also Docket No. RM2017-1, Revised Notice of Proposed Rulemaking, August 7, 2018, at 57-58 (Order No. 4742); Docket No. RM2017-1, Order Adopting Final Rules Relating to the Institutional Cost Contribution Requirement for Competitive Products, January 3, 2019, at 170-187 (Order No. 4963).

The Commission determined that “the scope of its review under section 703(d) is limited to considering whether the laws behind the implicit subsidies and legal constraints quantified by the FTC have changed since the FTC Report’s issuance, and if so, whether those changes affect the continuing validity of the FTC’s estimate of the net economic effect of those laws.” Order No. 4402 at 62. The Commission found that there was only “one law linked to a separately delineated element within the FTC’s calculation that has been amended, thereby constituting an event subsequent to the FTC Report’s issuance that affects the validity of the estimate of the net economic effect.” *Id.* at 63. The identified law was associated with international air transportation rate regulation and had been amended after the original FTC Report’s issuance.⁷ The Commission removed the cost of the international air transportation rate regulation constraint from the total cost of the legal constraints and updated the FTC’s calculation. See Order No. 4402 at 64.

However, the Commission determined that the updated total cost of the legal constraints continued to be greater than the total value of the implicit subsidies. *Id.* at 65. As such, the Commission found that although the removal of the international air transportation rate regulation constraint altered the overall estimate of the net economic effect, that subsequent event did not undermine the FTC’s overall finding of a net economic disadvantage and that the FTC’s finding remained valid. *Id.* The Commission concluded that the updated range of the implicit subsidies and legal constraints supported its determination that the FTC’s initial estimate of a Postal Service net economic disadvantage remained valid. *Id.* at 67. Tables II-2 and II-3 contain the

⁷ *Id.* at 63-64. In the FTC Report, the FTC explained that the Department of Transportation’s regulation of international mail air transport rates cost the Postal Service up to \$98 million more in FY 2006 than if the Postal Service were permitted to independently negotiate the rates on the free market as private companies were, at a value range of \$5 million to \$13 million. FTC Report at 44, 56. In 2008, Congress eliminated the Department of Transportation’s authority to regulate the prices paid by the Postal Service for air transport of international mail, allowing the Postal Service to negotiate terms for international air mail transportation contracts directly with airlines as private companies do. See Pub. L. 110-405, 122 Stat. 4287 (2008); see *also* FTC Report at 44-45.

updated estimate of legal constraints as well as the estimated total range of net economic effect completed by the Commission in Order No. 4402.

**Table II-2
Updated Estimate of Legal Constraints**

Legal Constraints	Estimate (in Millions)	
	5.5%	13%
Total Legal Constraints	\$330	\$782
International Air Transportation	-\$5	-\$13
Updated Total Legal Constraints	\$325	\$769

Source: Order No. 4402 at 64.

**Table II-3
Updated Total Range**

Updated Range	Estimate (in Millions)	
	5.5%	13%
Updated Total Legal Constraints	\$325	\$769
Total Implicit Subsidies	\$39	\$117
Updated Total Range ⁸	\$208	\$730

Source: Order No. 4402 at 65.

⁸ The Commission applies the same methodology in updating the total range of costs the Postal Service would incur as described above. See *supra*, n.7.

Additionally, the Commission performed a supplemental analysis by updating the high-end costs associated with both the implicit subsidies and legal constraints based on current competitive product revenue at the time Order No. 4402 was issued.⁹ As noted above, the FTC's estimate of the high-end cost impact of the quantifiable implicit subsidies and legal constraints on competitive products was based on competitive product revenue, which at the time of the FTC's review was 13 percent of total Postal Service revenue. *See supra*, n.7. However, in FY 2017, competitive products made up 29.69 percent of total Postal Service revenue.¹⁰ As such, the Commission found it appropriate to update the high-end cost figures of the quantifiable implicit subsidies and legal constraints based on the best available Competitive product revenue totals at that time.¹¹ Table II-4 shows the Commission-updated figures based on Competitive products' total revenue in FY 2017 presented in Order No. 4402.

⁹ As noted above, the FTC estimated the low-end cost impact of the quantifiable implicit subsidies and legal constraints on competitive products by using competitive products' 5.5-percent mandatory contribution to institutional costs, which was the appropriate share mandated at the time of the FTC's review. *See id.* At the time Order No. 4402 was issued, Competitive products' appropriate share of institutional costs was 5.5 percent. Thus, the Commission found it unnecessary to update the low-end figures estimated by the FTC. *See* Order No. 4402 at 65-66.

¹⁰ Docket No. ACR2021, Library Reference PRC-LR-ACR2021-1, March 29, 2022.

¹¹ *See* Order No. 4402 at 66-67 (at the time Order No. 4402 issued, the best available figure was 29.69 percent).

**Table II-4
Updated Estimates Based on FY 2017 Postal Service Revenue**

	Estimate (in Millions)		
	5.5%	13%	29.69%
Legal Constraints Total	\$330	\$782	\$1,785
International Air Transportation	-\$5	-\$13	-\$29
Updated Total Legal Constraints	\$325	\$769	\$1,756
Total Implicit Subsidies	\$39	\$117	\$267
Updated Total Range ¹²	\$92	-	\$1,717

Source: Order No. 4402 at 67.

The estimates and conclusions described above were initially affirmed by the Commission as part of Order No. 4742. See Order No. 4742 at 57-58. Subsequently, as part of Order No. 4963, the Commission affirmed its findings related to its section 703(d) analysis from both prior orders. See Order No. 4963 at 187.

Subsequently, the United States Court of Appeals for the District of Columbia Circuit remanded Order No. 4963 to the Commission for further consideration of particular issues identified by the court consistent with the opinion issued in *United Parcel Serv., Inc. v. Postal Reg. Comm'n*, 955 F.3d 1038 (D.C. Cir. 2020).¹³ On November 18, 2021, the Commission issued Order No. 6043, which not only addressed the issues identified by the court, but also initiated the Commission's third 5-year review of the institutional cost contribution requirement for Competitive products.¹⁴ The Commission stated that it had "reviewed its findings from Order No. 4402 with respect to

¹² The Commission applies the same methodology in updating the total range of costs the Postal Service would incur as described above. See *supra*, n.7.

¹³ This opinion did not identify any issues related to the Commission's consideration of the FTC Report.

¹⁴ Supplemental Notice of Proposed Rulemaking and Order Initiating the Third Review of the Institutional Cost Contribution Requirement for Competitive Products, November 18, 2021, at 130 (Order No. 6043).

the FTC Report, and conclude[d] that no further events have occurred subsequent to the issuance of Order No. 4402 that would affect the ongoing validity of those findings.” *Id.* at 109, n.165. The Commission invited public comment on Order No. 6043 by February 25, 2022 (for initial comments) and by March 25, 2022 (for reply comments). *Id.* at 130-131. Docket Nos. RM2017-1 and RM2022-2 remain pending before the Commission.

III. EVENTS SUBSEQUENT TO THE FTC REPORT

A. Medicare Part D

After the issuance of Order No. 6043 and the expiration of the comment period established therein, the Postal Service Reform Act of 2022 (PSRA) was enacted on April 6, 2022.¹⁵ Among other things, the PSRA requires Postal Service Health Benefits plans to participate in Medicare Part D, which would allow those plans to receive subsidies related to prescription drugs. See 5 U.S.C. 8903c(h). This new requirement is significant because, in its report, the FTC specifically identified and included the Postal Service’s inability to access subsidies offered to private employers under the Medicare Part D program in its calculation of the total legal constraints. See FTC Report at 38-39, 56.

As a result, the Commission finds that there has been one law linked to a separately delineated element within the FTC’s calculation that has been amended, thereby constituting an event subsequent to the FTC Report’s issuance that affects the validity of the estimate of the net economic effect.¹⁶ The Commission finds no other changes to federal or state law affect the legal constraints estimate. As such, and similar to its treatment of the international air transportation rate regulation constraint in

¹⁵ See Postal Service Reform Act of 2022 (PSRA), Pub. L. No. 117-108, 136 Stat. 1127 (2022).

¹⁶ The Commission has already taken into account the removal of the international air transportation rate regulation constraint. See *supra*, Section II.

Order No. 4402, the Commission removes the cost of the Medicare Part D constraint from the total cost of the legal constraints and updates the FTC’s calculation, which is illustrated in Tables III-1 and III-2 below.

**Table III-1
 Updated Estimate of Legal Constraints**

Legal Constraints	Estimate (in Millions)	
	5.5%	13%
Legal Constraints Total	\$325	\$769
Medicare Part D	-\$14	-\$33
Updated Legal Constraints Total	\$311	\$736

**Table III-2
 Updated Total Range**

Updated Range	Estimate (in Millions)	
	5.5%	13%
Updated Legal Constraints Total	\$311	\$736
Total Implicit Subsidies	\$39	\$117
Updated Total Range ¹⁷	\$194	\$697

¹⁷ The Commission applies the same methodology in updating the total range of costs the Postal Service would incur as described above. See *supra*, n.7.

Although the subsequent event discussed above altered the overall estimate of the net economic effect, it does not alter the FTC's overall finding of a net economic disadvantage. Accordingly, the Commission determines that the FTC's finding of a Postal Service net economic disadvantage continues to be valid.

B. Supplemental Analysis

In Order No. 4402, the Commission provided a supplemental analysis that updated the range of costs associated with the implicit subsidies and legal constraints, using the same methodology that the FTC used to develop the range representing the net economic effect on Competitive products. As noted above, the FTC estimated the high-end cost impact of the quantifiable implicit subsidies and legal constraints on Competitive products based on Competitive product's share of Postal Service revenue, which at the time of the FTC's review was 13 percent of total Postal Service revenue. See Order No. 4402 at 66; see *also* FTC Report at 55-57. Following the same approach in the Order No. 4402 supplemental analysis, the Commission updated the high-end cost impact estimate of the quantifiable implicit subsidies and legal constraints based on the FY 2017 revenue share of competitive products, which was 29.69 percent of total Postal Service revenue. See Order No. 4402 at 66.

The update completed by the Commission in Order No. 4402 resulted in an increase to the high-end constraint (disadvantage) and subsidy (advantage) figures used in FTC's calculation of the range of net economic disadvantage. The FTC's methodology applies a common percentage to calculate the low end of the ranges of advantages and disadvantages, and a different common percentage for the high end of the ranges. Consequently, updating those percentages affects the respective end of the range of advantages and the range of disadvantages by the same proportion. Because the total burden of constraints on the Postal Service exceeds the total benefit of implicit subsidies, any percentage selected for the low or high end of the range will result will in a net economic disadvantage.

However, FTC's methodology calculates one end of the range of net economic effect by subtracting the high end of the range of disadvantages from the low end of the range of advantages. Similarly, the other end of the range of net competitive effect is calculated by subtracting the low end of the range of disadvantages from the high end of the range of advantages. As a result, if the difference between the low and high percentages is large enough, the high end of the range of advantages may be greater than the low end of the range of disadvantages. In this situation, the FTC methodology produces a range that includes a net advantage. The implication of such a result is that if the overall advantages of the Postal Service's implicit subsidies accrue to competitive products at the percentage assumed by the high-end of the range, but at same time the overall disadvantages of the Postal Service's legal constraints accrue to competitive products at the percentage assumed by the low-end of the range, then this would result in competitive products operating at a net economic advantage. The Commission illustrates the concept described above by updating the net economic effect range based on current circumstances as shown in Table III-3.

For the low-end figures, the Commission continues to present the original 5.5 percent appropriate share used by the FTC in Table III-3, as well as the FY 2023 formula-derived appropriate share of 10.4 percent¹⁸ in Table III-4. As noted above, the Commission adopted a formula-based approach to determining the appropriate share, which would be calculated annually as part of the Commission's Annual Compliance Determination (ACD). See *generally* Order No. 4963. Because Order No. 4963 was appealed (and later remanded back to the Commission), the Commission used the original 5.5 percent appropriate share for compliance purposes during the FY 2020 and FY 2021 ACDs, while also presenting the relevant calculations of the formula-derived

¹⁸ Docket No. ACR2021, *Annual Compliance Determination Report*, March 29, 2022, at 100 (FY 2021 ACD). Although the formula-based approach to the appropriate share adopted in Order No. 4963 was remanded for further consideration, the court did not vacate the formula-based rule. See *United Parcel Serv., Inc.*, 955 F.3d at 1052.

appropriate share.¹⁹ Using 5.5 percent for the low-end figure appears to be increasingly distanced from the FTC methodology given both the procedural posture and that "[c]ompetitive product contribution to institutional costs has always exceeded the required amount, often by a significant margin." See Order No. 6043 at 10. Moreover, the changes in the market for competitive products and the Postal Service's position within that market lead the Commission to conclude that the 5.5 percent figure is no longer the appropriate share of institutional costs to be covered by competitive products. The formula-based 10.4 percent is a better representation of the low-end percentage employed by the FTC.

For the high-end figure, just as it did in Order No. 4402, the Commission updates the FTC methodology by using Competitive products' most recent revenue share. In FY 2021, Competitive products made up 44.42 percent of total Postal Service revenue.²⁰

¹⁹ See Docket No. ACR2020, *Annual Compliance Determination Report*, March 29, 2021, at 91; FY 2021 ACD at 95.

²⁰ Docket No. ACR2021, Library Reference PRC-LR-ACR2021-1.

**Table III-3
Updated FTC Estimates (Using 5.5% Appropriate Share)**

	Estimate (in Millions)	
	5.5% ²¹	44.42% ²²
Legal Constraints Total	\$325	\$2,627
Medicare Part D	-\$14	-\$111
Updated Legal Constraints Total	\$311	\$2,516
Total Implicit Subsidies	\$39	\$315
Updated Total Range ²³	-\$4	\$2,477

**Table III-4
Updated FTC Estimates (Using 10.4% Appropriate Share)**

	Estimate (in Millions)	
	10.4% ²⁴	44.42% ²⁵
Legal Constraints Total	\$615	\$2,627
Medicare Part D	-\$26	-\$111
Updated Legal Constraints Total	\$589	\$2,516
Total Implicit Subsidies	\$74	\$315
Updated Total Range ²⁶	\$274	\$2,443

²¹ The Commission used the original 5.5 percent figure for compliance purposes during the FY 2020 and FY 2021 ACDs.

²² At the time of its review, the FTC estimated the high-end based on competitive product revenue, which at that time was 13 percent of total Postal Service revenue. *See supra*, n.7. Tables III-3 and III-4 update this to the current best available figure, which is 44.42 percent.

²³ The Commission applies the same methodology in updating the total range of costs the Postal Service would incur as described above. *See supra*, n.7.

²⁴ Under the formula-based approach, the appropriate share requirement for FY 2023 would be 10.4 percent. FY 2021 ACD at 100.

²⁵ At the time of its review, the FTC estimated the high-end based on competitive product revenue, which at that time was 13 percent of total Postal Service revenue. *See supra*, n.7. Table III-5 updates this to the current best available figure, which is 44.42 percent.

²⁶ The Commission applies the same methodology in updating the total range of costs the Postal Service would incur as described above. *See supra*, n.7.

As expected, the Commission's updates to both the lower- and upper-end figures result in an increase in the magnitude of both the legal constraints and the implicit subsidies. As shown in Table III-4, with these updates the FTC's methodology produces a range of net economic disadvantage for competitive products between \$274 million and \$2.4 billion. If the high-end is updated, but the low-end of 5.5 percent is retained, the resulting range is from a slight net advantage of \$4 million to a net disadvantage of about \$2.5 billion.

As described above, the result of a range encompassing a net economic advantage shown in Table III-3 occurs because of the extreme difference between the low-end and high-end percentages. Specifically, the scenario in which competitive products have a net economic advantage is one in which over 44 percent of the economic advantage of the Postal Service's total implied subsidies accrue to competitive products, while at the same time only 5.5 percent of the economic burden of the Postal Service's total legal constraints accrue to competitive products. There is no evidence that the subsidies and constraints would accrue to competitive products in such different proportions. FTC calculated ranges of net economic effects using low- and high-end percentages that were only 7.5 percentage points apart, and it is not clear that the same methodology produces reasonable results if applied to low-end and high-end percentages that are nearly 39 percentage points apart. In any event, the ranges produced by updating the low-end and high-end percentages still overwhelmingly suggest that the Postal Service's competitive products operate at a net economic disadvantage.

Therefore, the updated range of the implicit subsidies and legal constraints does not alter the Commission's determination that the FTC's initial estimate of a Postal Service net economic disadvantage remains valid.

IV. INVITATION FOR COMMENTS

The Commission invites comment regarding its analysis of the “subsequent event” identified and discussed above. The Commission also invites comments on any other changes in law behind the implicit subsidies and legal constraints quantified by the FTC that have changed since March 25, 2022, which was the last opportunity to provide comment in Docket Nos. RM2017-1 and RM2022-2, and whether any of the identified changes affect the continuing validity of the FTC’s estimate of the net economic effect of those laws. Comments related to the reconsideration of the FTC’s original conclusions as to what implicit subsidies and legal constraints should be included in or excluded from the estimate of net economic effect, whether those subsidies or constraints were quantifiable, or whether alternative estimates of the quantified implicit subsidies and legal constraints are possible are all beyond the scope of this review.²⁷

Comments are due September 21, 2022. Additional information concerning this filing may be accessed via the Commission’s website at <http://www.prc.gov>.

Pursuant to 39 U.S.C. 505, Kenneth R. Moeller continues to be designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

²⁷ See Order No. 4402 at 62-63; Order No. 4963 at 173-87. In reaching this interpretation of section 703, the Commission considered the alternative interpretations offered by commenters and ultimately determined that the commenters “provide[d] no statutory basis for their stance that a subsequent event under section 703(d) should be viewed more broadly.” Order No. 4963 at 187. The plain meaning of the terms and phrases used in the text of section 703(d) unambiguously limits the scope of the Commission’s review to considering whether the laws behind the implicit subsidies and legal constraints quantified by the FTC have changed since the FTC Report’s issuance, and if so, whether those changes affect the continuing validity of the FTC’s estimate of the net economic effect of those laws. See Order No. 4402 at 61-62. This interpretation is reinforced by the title of section 703, which is “Study on Equal Application of Laws to Competitive Products.” Additionally, the structure of section 703, begins with subsection (a) titled “In General” to focus the scope of the FTC report and ends with subsection (d) to focus the matters for the Commission’s consideration. Thus, as a whole, the purpose of section 703 reflects a clearly limited scope. See Order No. 4402 at 62. Furthermore, to the extent that any ambiguity exists with respect to the scope of section 703 (which no party has argued), then the legislative history confirms section 703’s focus upon any potential “discriminatory laws” (S. Rep. No. 108-318 at 29 (2004)) and “disparities in legal treatment” (H. Rep. No. 109-66, pt. 1, at 63 (2005)) rather than a broader scope.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission seeks comment on the matters raised by this Notice.
2. Comments are due no later than September 21, 2022.
3. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller continues to be designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this Notice in the *Federal Register*.

By the Commission

Erica A. Barker
Secretary