

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

RATE AND SERVICE CHANGES TO IMPLEMENT
FUNCTIONALLY EQUIVALENT NEGOTIATED
SERVICE AGREEMENT WITH HSBC NORTH
AMERICA HOLDING INC.

Docket No. MC2005-2

UNITED STATES POSTAL SERVICE
PROPOSAL FOR LIMITATION OF ISSUES
(February 23, 2005)

Pursuant to the procedures and approach embodied in Rule 196(a)(6), 39 C.F.R. § 3001.196(a)(6), the United States Postal Service submits that the issues in this case should be limited to those issues that are unique to the HSBC North America Holding Inc. ("HSBC"), Negotiated Service Agreement. The Postal Service submits that this agreement is functionally equivalent to the Capital One NSA, the rates and classifications for which were recommended by the Commission and approved by the Governors of the Postal Service in Docket No. MC2002-2.

As the Commission stated in Docket No. RM2003-5, Order 1391 at 48, "[t]he purpose of § 3001.196 is to provide an opportunity to expedite the review of a request for a functionally equivalent Negotiated Service Agreement by allowing the proponents of the agreement to rely on relevant record testimony from a previous docket. This potentially could expedite the proceeding by avoiding the need to relitigate issues that were recently litigated and resolved in a previous

docket." The Commission's rules reflect the relationship between baseline and functionally equivalent NSAs, in which functionally equivalent NSAs extend to qualifying mailers the core elements of baseline agreements that have been previously reviewed, recommended and approved by the Commission and the Governors.

Accordingly, pursuant to Rule 196(a)(3), 39 C.F.R. § 196(a)(3), the Postal Service has listed in its Compliance Statement the testimony from Docket No. MC2002-2, on which it relies, and respectfully submits that there should not be any relitigation of the issues that were decided in that docket. Those issues include, *inter alia*, the predominantly legal issues of (1) whether NSAs are consistent with the statutory scheme of the Postal Reorganization Act and, in particular, 39 U.S.C. § 403(c), which prohibits undue preferences; (2) the finding that an open "niche" classification should not be preferred over an NSA in general; (3) the finding that the provision of incentives to high-cost mailers to discontinue high cost behavior should not, in the abstract, disqualify a proposed NSA; (4) the general appropriateness of combining so-called "independently usable, unrelated elements"; (5) the utility of declining block rates; (6) the appropriateness of the general methodology used in Docket Nos. MC2002-2, MC2004-3, and MC2004-4 to calculate the benefits to the Postal Service; and (7) the appropriateness of the relationship between the core elements shared by both the Capital One NSA and the HSBC NSA, including the finding, in accordance with record evidence supporting the Capital One NSA, that the net

cost and revenue effect of the elements could benefit the Postal Service, the NSA partner, and all other mailers.

Accordingly, the Postal Service submits that the key issues to be addressed in the instant proceeding properly include: (1) the financial impact of the NSA on the Postal Service over the duration of the agreement; and (2) the fairness and equity of the NSA in regard to other users of the mail. Lastly, although Rule 196(a)(6) formally requires that the matter of fairness and equity of the NSA in regard to competitors also be included in this list, given that the Commission has already recommended similar NSAs for three of HSBC's competitors in the credit card industry without any opposition from within that industry, the Postal Service submits that, as a practical concern, that matter is no longer likely to constitute a key issue to be addressed and resolved during review of the instant NSA proposal.

The Postal Service further submits that, pursuant to Rule 196(a), the status of the HSBC NSA as a functionally equivalent NSA should result in an expeditious and uncomplicated review. To give effect to Rule 196(a), the issues

in this proceeding should be limited to those unique questions presented by the HSBC NSA.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

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