

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

NOTICE OF RULEMAKING

Docket No. RM2010-9

RESPONSE OF THE UNITED STATES POSTAL SERVICE IN OPPOSITION
TO MOTION OF THE PUBLIC REPRESENTATIVE REQUESTING ADJUSTMENT TO
PROCEDURAL SCHEDULE
(June 18, 2010)

On June 11, 2010, the Public Representative filed a pleading pursuant to Commission Rule 21, entitled, "Motion Requesting an Adjustment to Procedural Schedule." The Public Representative seeks to adjust the procedural schedule to allow for two rounds of discovery in order for all interested parties to clarify the technical details and theoretical benefits of the methodologies detailed in Order No. 469, prior to the initial comment and reply period. The Postal Service hereby opposes the Motion because, not only is such an intensive discovery process not encompassed by the existing rules, the burden it would impose on the Postal Service in this rulemaking process far outweighs any utility it would presently offer.

Rule 41(a) provides an opportunity for interested persons to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. Discovery is not specifically identified in the rules as an option for interested parties nor has it historically ever been a part of a proceeding of this type. The Rule anticipates at least a thirty day (30) comment period and even the thirty day comment period is not always required if there is good cause to waive it. Considering the flexibility available to the Commission under the rules, it too did not

think it necessary to include a discovery period in the schedule or it would have taken such an action.

Further, requiring the Postal Service to respond to discovery requests in this rulemaking would be burdensome and not particularly useful. As asserted by the Public Representative, the Postal Service, as well as the Commission, has used varying methodologies to measure contribution in each of its volume incentive programs. The Postal Service needs to evaluate which methodology will best serve its estimation of incremental volume changes for future incentive programs. Thus, the Postal Service would not be able to respond to many of the Public Representative's requests for clarification or specific data regarding the development, application or accuracy of its methodology in a meaningful way, if at all. The more appropriate way to proceed would be to allow the Postal Service to present its proposed methodology during the comment period and then allow the Public Representative to comment on the methodology or request permission to conduct discovery, if necessary. Moreover, the Postal Service's resources are heavily devoted to efforts necessary to support its Six-Day to Five-Day case and other major impending filings. Requiring discovery in this proceeding would unreasonably divert its resources away from these matters and continued development of its own methodology.

The Public Representative has not offered a compelling reason why it can not achieve commenting on the methodologies discussed in Order No. 469 and why the schedule in this proceeding should be adjusted. Accordingly, the Postal Service respectfully requests that the Commission deny the Public Representative's Motion.

UNITED STATES POSTAL SERVICE

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