

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

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**PARTIAL OBJECTION OF THE UNITED STATES POSTAL SERVICE
TO INTERROGATORY OF AMERICAN POSTAL WORKERS UNION, AFL-CIO
(APWU/USPS-3(B))
(September 5, 2008)**

In accordance with the Commission's Rules of Practice and Procedure, the United States Postal Service hereby partially objects to Interrogatory APWU/USPS-3(b), filed on August 26, 2008. The Postal Service objects to this interrogatory request on the grounds of attorney-client and work product privilege. The full interrogatory states:

- APWU/USPS-3.** The *Decision of the Governors on Docket No. MC2007-1* did not provide an estimate of the anticipated impact on postal revenues separate from the Commission's estimate but states on page 6 that the Offices of Finance and Marketing of the Postal Service did some analyses.
- a). Did these analyses by the Offices of Finance and Marketing include any recognition of potential added reductions in contributions from NSAs that were functionally equivalent to the Bank of America agreement?
 - b). In a letter to the Board of Governors on October 15, 2007, the APWU expressed its concern that approval of the Bank of America NSA would leave the Postal Service vulnerable to reduced contributions due to requests from other mailers for comparable NSAs. Please describe any analyses that were done by the Postal Service between the Commission's issuance of a decision and the time the *Decision of the Governors on Docket No. MC2007-1* was published that addressed the potential impact on revenues of functionally equivalent NSAs.
 - c). If such analyses were not done, why not?
 - d). If such analyses were done, how many potential functionally equivalent NSAs were identified and what was the estimated potential financial impact of those on the Postal Service?
 - e). Between the time of the PRC decision and the publication of the *Decision of the Governors on Docket No. MC2007-1*, did any member of Postal management make a decision to control the risks associated with functionally equivalent

NSAs? If so, please identify the member of Postal Management, and the process considered to control these risks.

APWU/USPS-3(b) asks the Postal Service to “describe any analyses... that addressed the potential impact on revenues of functionally equivalent NSAs” that were done between the issuance of the Commission’s Opinion and Recommended Decision and the Governors’ Decision on the Bank of America NSA. The Postal Service’s interpretation, based on reading APWU/USPS-3 in its entirety, is that this interrogatory is aimed at financial analyses of the impact on postal revenues that were performed by the Postal Service during the above-referenced time period.

However, because subpart (b) simply uses the term “analyses” more broadly, it could encompass a legal memorandum prepared by Postal Service counsel. Consequently, in the Postal Service’s view, such document would arguably be covered by the broad characterization contained in APWU/USPS-3(b). Thus, the Postal Service objects to this subpart to the extent it requests a description of this particular analysis, as this memorandum is shielded from disclosure of any kind by the attorney-client privilege, as well as the attorney work product privilege. Requiring a description of attorney-client and work product privileged material would create a chilling effect on Postal Service counsel’s ability to provide candid legal advice to clients.

Therefore, for the aforementioned reasons, the Postal Service respectfully objects to APWU/USPS-3(b) in part. The Postal Service plans to respond to that subpart with respect to any non-privileged information.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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