

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

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**OBJECTION OF THE UNITED STATES POSTAL SERVICE
TO INTERROGATORY OF PUBLIC REPRESENTATIVE
(PR/USPS-15)
(September 15, 2008)**

In accordance with the Commission's Rules of Practice and Procedure, the United States Postal Service hereby objects to the following interrogatory filed on September 3, 2008, by the Public Representative: PR/USPS-15. The objectionable interrogatory is reprinted verbatim below, and is followed by the Postal Service's objection.

PR/USPS-15. Please refer to PRC-LR-1, "Workpapers for MC2007-1 Opinion and Recommended Decision (Released from Protective Conditions)," and PRC Op. MC2007-1 (Released from Protective Conditions), which relies on the analysis in PRC LR-1, where it states, at page 2:

[1006] Applying the most recent read/accept rates, assuming that Bank of America continues to perform at systemwide average levels, and generally accepting the Postal Service's estimate relating to the other four incentive discounts, the financial analysis reveals that the Postal Service will lose up to \$45.8 million from the Agreement. Even in the unlikely event that Bank of America achieves perfect read/accept rates, the Postal Service will lose more than \$25 million from the Agreement.

Please confirm that the Postal Service concludes, as the Commission did, that the "Postal Service will lose more than \$25 million . . . up to \$45.8 million from the Agreement." If you do not confirm, please provide a detailed explanation of any disagreement with the Commission's financial analysis in PRC-LR-1, and provide any Postal Service financial analysis (in electronic form), and any other analysis, that supports your explanation and/or shows the areas of disagreement with the Commission's financial analysis.

The Postal Service objects to the above-referenced interrogatory on the grounds of relevance, and on the grounds that the requested analyses are protected from disclosure under 39 U.S.C. § 410(c)(4). Financial analysis that the Postal Service produced after the issuance of the Opinion and Recommended Decision in the Bank of America NSA are not relevant to the issues in the Capital One complaint. Whether the Postal Service agreed or disagreed with certain aspects of the Commission's financial analysis does not speak to the key issues in this docket: namely, 1) whether or not Capital One is similarly situated to Bank of America, 2) whether or not functionally equivalent agreements must be identical to the baseline agreements upon which they are based, and 3) whether or not the Postal Service's has unduly discriminated against Capital One (or granted an undue preference to Bank of America). This interrogatory seeks details pertaining the Bank of America NSA that go far beyond what should be examined in this case, and this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence. Thus, the Postal Service objects on the grounds of relevance.

Additionally, this interrogatory is squarely aimed at any financial analyses the Postal Service performed between the issuance of the Commission's Recommended Decision and the Decision of the Governors of the Postal Service. Financial analyses that are executed in response to Commission Recommended Decisions are utilized to inform postal management's recommendations to the Governors, and ultimately assist the Governors on deciding how to act on the Commission's Recommended Decision, in accordance with the Governors' extant authority under former 39 U.S.C. § 3625. Thus, these analyses constitute "information prepared for use in connection with proceedings

under chapter 36 of [Title 39, U.S. Code]” and are protected from public disclosure requirements. Thus, the Postal Service objects to this interrogatory on the grounds that the requested analyses are protected from disclosure under 39 U.S.C. § 410(c)(4).

Therefore, the Postal Service respectfully objects to PR/USPS-15 for the aforementioned reasons.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing and Product Support

Elizabeth A. Reed

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1135
(202) 268-3179; Fax -6187
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