

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

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
MOTION TO COMPEL RESPONSE TO
INTERROGATORY OF PUBLIC REPRESENTATIVE
(PR/USPS-15)
(October 1, 2008)**

In accordance with the Commission's Rules of Practice and Procedure, the United States Postal Service hereby responds in opposition to the Public Representative's Motion to Compel regarding the following interrogatory filed on September 3, 2008: PR/USPS-15. The Postal Service filed its objection on September 15, 2008, and the Public Representative filed its motion on September 24, 2008. The objectionable interrogatory is reprinted verbatim below, and is followed by the Postal Service's response in opposition to the motion to compel.

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.

As a preliminary matter, the Postal Service herein incorporates by reference the arguments contained in its objection to the above-referenced interrogatory. In sum, the Postal Service objects to PR/USPS-15 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).

The Public Representative's motion to compel is apparently an attempt to reframe the instant interrogatory request. The Postal Service maintains, as it did in its objection, that the plain language of this interrogatory request 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 in the Bank of America NSA (Docket No. MC2007-1). Such information is irrelevant to the instant proceeding and exempt from disclosure under 39 U.S.C. § 410(c)(4).

The Public Representative, in its motion, now states that it does not seek such analyses. Rather, the Public Representative now seeks:

a concrete, corrected, numerical analysis providing a current estimate of the loss of contribution from the Bank of America NSA. If such an analysis needs to be built from scratch or filed under seal, so be it.

Motion to Compel at 3-4. The Postal Service appreciates the fact that the instant request has been significantly narrowed. This request to perform a new financial analysis, providing a current estimate of the loss of contribution from the Bank of America NSA, is much different than the Public Representative's original request for a

detailed discussion and financial analysis of the Postal Service's disagreements with the Commission's financial analysis in Docket No. MC2007-1.

Nevertheless, the Postal Service reasserts its objection on the grounds of relevance, and to the extent any analyses may be protected under 39 U.S.C. § 410(c)(4). The Postal Service also reserves its rights to provide information under seal in the event that, under this reformulated discovery request, it might now be compelled to produce commercially sensitive data pertaining to a "current estimate" of the loss of contribution from the Bank of America NSA. Accordingly, the Postal Service respectfully requests that the Commission deny the Public Representative's motion to compel a response to PR/USPS-15.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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