

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 PUBLIC REPRESENTATIVE MOTION TO COMPEL
RESPONSE TO INTERROGATORY
(PR/USPS-12)
(September 16, 2008)**

The United States Postal Service hereby responds to the Public Representative Motion to Compel Response to Interrogatory to United States Postal Service, filed on September 9, 2008, regarding the following interrogatory: PR/USPS-12. The Postal Service herein incorporates its arguments presented in its Objection.¹ The objectionable interrogatory is reprinted verbatim below, and is followed by the Postal Service's response to the Public Representative's Motion to Compel.

PR/USPS-12. Please refer to the Postal Service's response to PR/USPS-3.

a. Pursuant to Rate Schedule 630A (First-Class Mail), please provide the value of the discounts earned by, but not paid to, Bank of America. Please provide an electronic spreadsheet showing the Postal Service's calculation of the discounts earned by Bank of America. If Bank of America has prepared a separate calculation of the discounts earned, please provide that calculation. Finally, please explain the differences between the Postal Service's and Bank of America's calculations.

b. Pursuant to Rate Schedule 630D (Standard Mail), please provide the value of the discounts earned by, but not paid to, Bank of America. Please

¹ Objection of the United States Postal Service to Interrogatory of Public Representative (PR/USPS-12), September 5, 2008.

provide an electronic spreadsheet showing the Postal Service's calculation of the discounts earned by Bank of America. If Bank of America has prepared a separate calculation of the discounts earned, please provide that calculation. Finally, please explain the differences between the Postal Service's and Bank of America's calculations.

The material requested in PR/USPS-12 is highly confidential and commercially sensitive. The Postal Service is currently subject to a Non-Disclosure Agreement (NDAs) with Bank of America. The NDA between the Postal Service and Bank of America (to which one vendor of Bank of America is also a party) protects the requested information. Disclosure would thus harm the Postal Service and Bank of America, along with its vendors, and would likely deter future NSA partners from engaging in NSAs with the Postal Service. Hence, the Postal Service opposes release of these data on the grounds of commercial sensitivity.

Additionally, the Postal Service fails to see how the requested data are relevant to the key issues in this case: 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). The minute details of how the Postal Service and Bank of America calculate the discounts under the Bank of America NSA do not address these key issues. This interrogatory is not reasonably calculated to the discovery of admissible evidence, and is merely focused on the minutia related to the Bank of America NSA.

Therefore, for the foregoing reasons, the Postal Service respectfully opposes the Public Representative's Motion to Compel regarding interrogatory PR/USPS-12.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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