

ORDER NO. 1472

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

George A. Omas, Chairman;  
Dawn A. Tisdale, Vice Chairman;  
Ruth Y. Goldway; and  
Tony Hammond

Extension of Capital One Services, Inc.  
Negotiated Service Agreement

Docket No. MC2006-6

NOTICE AND ORDER ON FILING OF REQUEST  
SEEKING RECOMMENDATION OF AN EXTENSION TO THE  
CAPITAL ONE NEGOTIATED SERVICE AGREEMENT

(Issued July 27, 2006)

On July 26, 2006, the United States Postal Service filed a request seeking a recommended decision from the Postal Rate Commission approving a one-year extension to the duration of the Negotiated Service Agreement with Capital One Services, Inc.<sup>1</sup> The Capital One Negotiated Service Agreement was first recommended by the Commission on May 15, 2003,<sup>2</sup> and ordered into effect for a period of three years ending September 1, 2006 by the United States Postal Service Board of Governors.<sup>3</sup> The Request, which includes seven attachments, was filed pursuant to Chapter 36 of

---

<sup>1</sup> Request of the United States Postal Service for a Recommended Decision to Extend the Duration of the Previously Recommended Negotiated Service Agreement with Capital One, July 26, 2006 (Request).

<sup>2</sup> PRC Op. MC2002-2, May 15, 2003.

<sup>3</sup> Decision of the Governors of the United States Postal Service on the Opinion and Recommended Decision of the Postal Rate Commission Recommending Experimental Rate and Service Changes to Implement Negotiated Service Agreement with Capital One, Docket No. MC2002-2, June 2, 2003.

the Postal Reorganization Act, 39 U.S.C. § 3601 *et seq.*<sup>4</sup> The Postal Service asks that this case proceed under the Commission's rules for requests to renew previously recommended Negotiated Service Agreements with existing participants. Rule 197 [39 CFR § 3001.197].

The Postal Service has identified Capital One Services, Inc. (Capital One), along with itself, as parties to the Negotiated Service Agreement. This identification serves as notice of intervention by Capital One. It also indicates that Capital One shall be considered a co-proponent, procedurally and substantively, of the Postal Service's Request during the Commission's review of the Negotiated Service Agreement. Rule 191(b) [39 CFR § 3001.191(b)].

In support of the direct case, the Postal Service has filed Direct Testimony of Jessica Lowrance on Behalf of the United States Postal Service, July 26, 2006 (USPS-T-1). The Request further relies on record evidence entered in Docket No. MC2002-2. The Postal Service's Compliance Statement, Request Attachment E, identifies the Docket No. MC2002-2 material on which it proposes to rely.

Rule 197(b) [39 CFR § 3001.197(b)] requires the Postal Service to provide written notice of its Request, either by hand delivery or by First-Class Mail, to all participants in the Commission docket established to consider the original agreement, Docket No. MC2002-2. This requirement permits an abbreviated intervention period by providing additional time for the most likely participants to decide whether or not to intervene. A copy of the Postal Service's notice was filed with the Commission on July 26, 2006.<sup>5</sup>

---

<sup>4</sup> Attachment A to the Request contains proposed changes to the Domestic Mail Classification Schedule; Attachment B contains the current rate schedules, which have not been modified from Docket No. MC2002-2; Attachment C is a certification required by Commission rule 193(i) specifying that the cost statements and supporting data submitted by the Postal Service, which purport to reflect the books of the Postal Service, accurately set forth the results shown by such books; Attachment D is an index of testimony and exhibits; Attachment E is a compliance statement addressing satisfaction of various filing requirements; Attachment F is a copy of the amendment to the Negotiated Service Agreement and the Negotiated Service Agreement itself; and Attachment G contains the decision of the Governors for the original Negotiated Service Agreement.

<sup>5</sup> Notice of the United States Postal Service of Filing Request for a Recommended Decision to Extend the Duration of the Previously Recommended Negotiated Service Agreement with Capital One, July 26, 2006.

The Postal Service submitted a contemporaneous filing requesting the expedited issuance of a recommended decision.<sup>6</sup> The Motion further requests that participants in this docket accompany their notices of intervention with detailed pleadings responding to an order to show cause why the term extension should not be recommended as proposed.

The Postal Service's Request, the accompanying testimony of witness Lowrance (USPS-T-1), the original Docket No. MC2002-2 material, and other related material are available for inspection at the Commission's docket section during regular business hours. They also can be accessed electronically, via the Internet, on the Commission's website ([www.prc.gov](http://www.prc.gov)).

I. Background: The Capital One Negotiated Service Agreement, Recommended in Docket No. MC2002-2

The Capital One Negotiated Service Agreement includes two significant mail service features that form the bases of the agreement — an address correction service feature, and a declining block rate volume discount feature.

The address correction service feature provides Capital One, at certain levels of volume, electronic address corrections without fee for First-Class Mail solicitations that are undeliverable as addressed (UAA). In return for receipt of electronic address correction, Capital One will no longer receive physical return of its UAA First-Class solicitation mail that cannot be forwarded. Capital One will also be required to maintain and improve the address quality for its First-Class Mail. PRC Op. MC2002-2, ¶ 2004.

Use of the address correction service feature is a prerequisite to use of the second feature of the Negotiated Service Agreement, a declining block rate volume discount. This feature provides Capital One with a per-piece discount for bulk First-Class Mail volume above an annual threshold volume. The per-piece discount varies from 3 to 6 cents under a "declining-block" rate structure.

---

<sup>6</sup> Motion of the United States Postal Service for Expedited Issuance of a Recommended Decision, July 26, 2006 (Motion).

The Commission's analysis of the Capital One Negotiated Service Agreement focused on assuring that the agreement would not make mailers other than Capital One worse off. *Id.*, ¶ 8006. To meet this condition, the Commission's recommendation of the Capital One Negotiated Service Agreement included the addition of a provision establishing a cumulative three-year stop-loss limit on rate discounts of \$40.637 million. *Id.*, ¶¶ 5116, 8011. The Commission found that the estimates of before-rates volumes for Capital One were so unreliable that without a stop-loss provision there would be no reasonable assurance that the Postal Service would not lose money on the Capital One Negotiated Service Agreement. *Id.*, ¶ 8013.

## II. The Request to Extend the Duration of the Capital One Negotiated Service Agreement

The Postal Service proposes to extend the duration of the ongoing Negotiated Service Agreement with Capital One by one year while the parties develop a new Negotiated Service Agreement to be filed in the upcoming year. The Postal Service asserts that the Capital One Negotiated Service Agreement has proven successful, benefiting both the Postal Service and the mailing community as a whole. The Postal Service and Capital One propose no other modifications to the currently in effect Negotiated Service Agreement and indicate their intent to terminate the ongoing agreement once a subsequent agreement is reached. Request Attachment F at 2.

The Postal Service states that it is probable that no discounts will be earned in the third year of the agreement, but continuation of the agreement will serve two policy objectives. First, Capital One will be provided with an incentive to increase solicitations during the extension period. Second, Capital One will maintain its contractual obligation to employ worksharing practices related to Address Correction Service (ACS) as well as its agreement to participate in mail quality programs.

The Postal Service asserts that the value from extending the current agreement will primarily occur from the use of electronic ACS notices to replace manual notices.

The estimated savings from marketing pieces converted to electronic ACS notices in the extension period is \$5.1 million. USPS-T-1 at 6.

### III. Commission Response

*Applicability of the rules for requests to renew previously recommended Negotiated Service Agreements.* For administrative purposes, the Commission has docketed the instant filing as a request predicated on the extension of a previously recommended Negotiated Service Agreement which is currently in effect. A final determination regarding the appropriate characterization of the request and application of the expedited rules, rule 197 [39 CFR § 3001.197], will not be made until after the prehearing conference.

*Representation of the general public.* In conformance with section 3624(a) of Title 39, the Commission designates Shelley S. Dreifuss, Director of the Commission's Office of the Consumer Advocate, to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

*Intervention.* Those wishing to be heard in this matter are directed to file a notice of intervention on or before August 14, 2006. The notice of intervention shall be filed using the Internet (Filing Online) at the Commission's website ([www.prc.gov](http://www.prc.gov)), unless a waiver is obtained for hardcopy filing. Rules 9(a) and 10(a) [39 CFR §§ 3001.9(a) and 10(a)]. Notices should indicate whether participation will be on a full or limited basis. See rules 20 and 20a [39 CFR §§ 3001.20 and 20a]. No decision has been made at this point on whether a hearing will be held in this case.

*Prehearing conference.* A prehearing conference will be held August 15, 2006, at 2:00 p.m. in the Commission's hearing room. Participants shall be prepared to address whether or not it is appropriate to proceed under rule 197 [39 CFR § 3001.197],

and to identify any issue(s) that would indicate the need to schedule extended discovery or a hearing. Rule 197(c) [39 CFR § 3001.197(c)].

Participants intending to object to proceeding under rule 197 [39 CFR § 3001.197] shall file supporting written argument, if any, by August 14, 2006. Participants also shall file statements identifying issues that would indicate the need to schedule a hearing by August 14, 2006. The Commission intends to make a decision on these issues shortly after the prehearing conference.

*Motion for expedition.* The Postal Service's motion for expedition and to show cause is denied. Rule 197(d) [39 CFR § 3001.197(d)] already provides for expedited treatment of requests to renew Negotiated Service Agreements. Likewise, rule 197(c) [39 CFR § 3001.197(c)] already requires participants to plead whether or not any material issues of fact exist that require discovery or evidentiary hearings at the time of the prehearing conference.

It is ordered:

1. The Commission establishes Docket No. MC2006-6 to consider the Postal Service Request referred to in the body of this Order.
2. The Commission will sit *en banc* in this proceeding.
3. Shelley S. Dreifuss, Director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.
4. The deadline for filing notices of intervention is August 14, 2006.
5. A prehearing conference will be held August 15, 2006 at 2:00 p.m. in the Commission's hearing room.

6. Participants shall file written statements identifying issues that would indicate the need to schedule a hearing, and/or objecting to proceeding under rule 197 [39 CFR § 3001.197] by August 14, 2006.
7. The Motion of the United States Postal Service for Expedited Issuance of a Recommended Decision, filed July 26, 2006, is denied.
8. The Secretary shall arrange for publication of this Notice and Order in the *Federal Register*.

By the Commission.

(S E A L)

Steven W. Williams  
Secretary