

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

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U.S. DEPT. OF JUSTICE

**EXPERIMENTAL CHANGES TO
IMPLEMENT CAPITAL ONE NSA**

DOCKET No. MC2002-2

**PETITION OF
CAPITAL ONE SERVICES, INC
FOR LEAVE TO INTERVENE
IN THE ABOVE-CAPTIONED PROCEEDING,
AND TO JOIN UNITED STATES POSTAL SERVICE MOTION
FOR JOINT SPONSORSHIP OF PROPOSALS**

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Dated: September 19, 2002

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Pursuant to Section 3001.21 of the PRC Rules of Practice and Procedure, Capital One Services, Inc ("Capital One") petitions to be admitted as an intervenor in the above-captioned proceeding, and moves for leave to file the testimony of Capital One that supports the changes in the DMCS and rate schedules needed to implement the Negotiated Service Agreement between Capital One and the Postal Service. Capital One also moves for leave to join the United States Postal Service's motion for joint sponsorship of its proposals.

There is no rule that allows intervention by a party and the filing of testimony by that party simultaneously with the filing of the Postal Service's request and prepared testimony. In the past, parties have typically moved for intervention under Rule 20 (39 C.F.R. § 3001.20), pursuant to the Commission's notice of the proceeding required by Rule 17 (39 C.F.R. § 3001.17). Read together, Rules 17 and 20 suggest that intervention prior to Commission notice would be premature.

Rules 53 and 63 require the Postal Service to file with its requests for recommendations on changes in rates and classifications all testimony on which it proposes to rely as support for its proposals. Rule 30(e)(1) authorizes participants other than the Postal Service to file direct evidence. While Rule 30 does not dictate the timing of filing intervenors' testimony, its

reference to rebuttal to “the initial proponent's case-in-chief” contemplates that the intervenor evidence will be filed some time after the Postal Service's Request and its submissions referenced in Rules 53 and 63. Nowhere do the rules explicitly authorize or contemplate the filing of intervenor testimony directly supporting the Postal Service's proposals at the time the Postal Service's Request is filed. In practice, intervenor testimony in Commission proceedings has almost always been filed after discovery and cross-examination directed at the Postal Service's case-in-chief.

As explained in the Postal Service's Request and in its motion for joint sponsorship filed today, the proposals for an experimental classification change presented in this proceeding implement an NSA between the Postal Service and Capital One. Data and information supporting the proposals comes from both the Postal Service and Capital One, as independent parties to that agreement. As the Commission is aware, the above-captioned proceeding is novel in that it is, to the best of our knowledge, the first time a request has been based on an agreement between the Postal Service and an individual mailer. Currently, the Commission's rules do not explicitly accommodate such a filing, although the Commission has indicated that such a request may be made to the Commission.

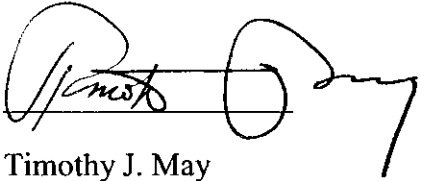
In light of the above, Capital One respectfully requests that it be given leave to intervene prior to publication of notice of the proceeding required by Rule 17. Capital One moves that it be granted status as a full participant, that it be given leave to present testimony at this time supporting the Postal Service's request, and that it be allowed to join in sponsoring the Postal Service's proposals, in accordance with the motion for joint sponsorship filed today by the Postal Service. Capital One also moves that it be permitted to join the Postal Service in other motions it has filed today in support of its request. As noted in those motions, Capital One's motions for joint sponsorship are conditioned on Commission approval of its status as an intervenor.

Capital One is a major user of the services of the United States Postal Service, making extensive mailings of First-Class Mail and Standard Mail.

Capital One does not request a hearing, but, since this is a request for an experimental change, to the extent that the Commission determines that there are genuine issues of material fact that require trial type hearing procedures, the Petitioner will actively participate in such hearings.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy J. May', written over a horizontal line.

Timothy J. May

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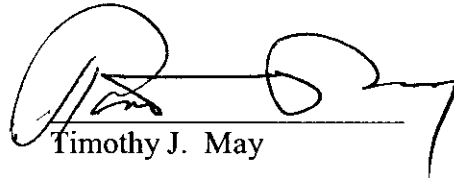
Fax: 202 457 3315

Counsel for Capital One Services, Inc

Dated: September 19, 2002

CERTIFICATE OF SERVICE

I hereby certify that I have this date served six (6) copies of the foregoing document upon the United States Postal Service by hand in accordance with Section 12 of the Rules of Practice.



Timothy J. May

Dated: September 19, 2002