

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

EXPERIMENTAL CHANGES TO IMPLEMENT
CAPITAL ONE NSA

Docket No. MC2002-2

MOTION OF UNITED STATES POSTAL SERVICE FOR WAIVER
(September 19, 2002)

In the Compliance Statement attached to its Request in the instant docket (Attachment F), the Postal Service has identified information contained in its testimony and supporting documentation intended to satisfy the filing requirements in pertinent provisions of the Commission's Rules of Practice and Procedure (Rules 54, 64, and 67). The Postal Service has supplemented materials developed specifically for this filing by incorporating documentation that was submitted by the Postal Service in connection with the most recently concluded omnibus rate proceeding, Docket No. R2001-1. In light of several considerations, the Postal Service believes that most of the specific requirements pertaining to classes of mail and special services are met by incorporating the materials submitted by the Postal Service in the recently concluded rate case. The Capital One NSA experiment proposes no material alterations to the rates, fees, and classifications that were proposed in that docket or that were established as a consequence of the Postal Service Governors' approval of the Commission's Recommended Decision. The costs, volumes, revenues, and relationships pertaining specifically to the Capital One NSA experiment are provided here in the testimony and supporting documents submitted with the instant Request.

As outlined in the testimony filed with the Request here, the Capital One NSA experiment would constitute a relatively minor and ancillary addition to the array of mail and special services comprehensively considered most recently in Docket No. R2001-1. As a consequence, there is substantial overlap between the information sought through general filing requirements and the materials provided in Docket No. R2001-1.¹ For example, certain filing requirements call for information pertaining to the full spectrum of postal products: *see, e.g.*, Rule 54(b)(3) (economic substitutability between classes and subclasses); Rule 54(d) (physical attributes of mail by class and subclass); Rule 54(f)-(h) (total historical and projected costs separated by postal and nonpostal services and distributed to classes, subclasses, and special services); Rule 54(j) (revenues and volumes projected for classes, subclasses, and special services); and Rule 54(l) (billing determinants for classes, subclasses, and special services). These requirements are adequately addressed through reference to information provided in the most recent

¹ The Postal Service fully acknowledges that the Commission's Recommended Decision and the Governors' Decision in Docket No. R2001-1 were founded on a settlement agreement, and that many issues that might have been raised by the materials submitted in that case were not litigated. Furthermore, the Postal Service appreciates the non-precedential status of the Commission's and the Governors' findings and conclusions in the rate case, as specified in the Stipulation and Agreement. In this regard, we must emphasize that our position on compliance in the instant docket is not based on the status of the rate case documentation as adjudicated fact, but rather on its character as material submitted that addresses the elements of the Commission's general filing requirements. In most instances, the rate case materials satisfying the general filing requirements pertain to matters that simply are not relevant to the issues raised by the Capital One NSA experiment, and that would not be affected if the experiment were recommended and approved. The actual relationships between the experiment and existing rates, fees, and classifications are fully explained in the testimony and supporting documentation provided with this filing. We further emphasize strongly that the Postal Service's filing here is not intended to create an opportunity for parties to raise issues avoided by settlement in the rate case, when they are essentially irrelevant to the instant proposal.

omnibus rate proceeding, especially where, as here, the proposal is for an experiment of limited duration affecting only a relatively small part of one existing mail class.

In assessing compliance in this regard, substantial weight should be given to the nature of the proposed Capital One NSA experiment and its operations, and the magnitude of its impact on costs, volumes, and revenues in total and for particular mail categories and services. For example, the Capital One NSA experiment involves mail entered by a single mailer and projects cost savings and new mail volume that would benefit all mailers. Furthermore, the physical attributes of mail or other services will not be affected. To the extent that the Capital One NSA experiment involves the establishment of new discounts, and to the minor extent that total cost-revenue relationships will be affected by their creation, the proposal would not result in significant changes to those relationships warranting amendment of the rate case testimony, beyond the addition of new information provided here.

In the Compliance Statement, we have addressed each filing requirement and indicated which parts of the Postal Service's filing satisfy each rule. We have also incorporated the Docket No. R2001-1 materials by reference. Specific direction to the rate case testimony addressing each rule can be found in the Compliance Statement filed with the Postal Service's Request in Docket No. R2001-1.² We have addressed the filing requirements applied in connection with requests made pursuant to Rules 54, 64, and 67.

If the Commission concludes that the materials imported from Docket No. R2001-1 to satisfy general filing requirements are not sufficient, and that strict construction of the rules regarding information pertaining to other mail and special services would

² Request of the United States Postal Service for a Recommended Decision on Changes in Rates of Postage and Fees for Postal Services and Request for Expedition, Docket No. R2001-1, Attachment G (Sept. 24, 2001).

require testimony that was developed specifically with reference to the proposed Capital One NSA experiment, the Postal Service respectfully moves that those requirements be waived, pursuant to 39 C.F.R. §§ 3001.22, 3001.54(r), 3001.64(h)(3) and 3001.67a.³

For the reasons stated above, the nature of the proposed Capital One NSA experiment, combined with its extremely small impact on total costs and revenues, and on the costs, volumes, and revenues of mail categories, do not warrant strict compliance with the filing requirements, and they should be waived.⁴

³ A similar approach to compliance with the filing requirements was proposed in the recently-concluded Confirm proceeding (Docket No. MC2002-1). See Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, Docket No. MC2002-1 (April 24, 2002). In that case, one party (American Postal Worker's Union, "APWU") opposed incorporation of the Postal Service's Docket No. R2001-1 testimony. APWU argued that the data and information were outdated, and that the settlement agreement in Docket No. R2001-1 limited use of the Postal Service's evidence in a subsequent proceeding. See Statement of American Postal Workers Union, AFL-CIO Concerning Statement of United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, Docket No. MC2002-1 (May 23, 2002). Alternatively, APWU supported the Postal Service's motion for waiver. The Presiding Officer granted the motion for waiver, based on the merits of that proposal. He did not, however, specifically reject the alternative proposal to incorporate the Docket No. R2001-1 testimony. Presiding Officer's Ruling Granting Waiver, No. MC2002-1/3, (June 13, 2002).

⁴ As reflected in the Compliance Statement, Attachment F to the Request, full or partial waivers are requested with respect to the following rules: 64(b)(3), 64(d), 64(h), 54(f)(2), 54(f)(3)(i and ii), 54(f)(3)(iii), 54(h)(1), 54(h)(2 and 3), 54(h)(4 and 12), 54(h)(5)-(h)(10), 54(h)(11), 54(i), 54(j)(1-4), 54(j)(5-7), and 54(l).

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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