

UNITED STATES OF AMERICA  
Before The  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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U.S. POSTAL SERVICE  
OFFICE OF THE CONSUMER ADVOCATE

Experimental Changes to Implement )  
Capital One NSA )

Docket No. MC2002-2

OFFICE OF THE CONSUMER ADVOCATE  
COMMENTS IN RESPONSE  
TO ORDER NO. 1346  
October 17, 2002

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The Office of the Consumer Advocate (OCA) hereby responds to Order No. 1346. In that order, the Commission directed participants to respond to various motions of the Postal Service and Capital One. Those motions requested, *inter alia*, that this case proceed under the experimental rules and that certain filing requirements be waived. The OCA does not oppose the motions.

After several weeks of study, the OCA has been unable to discern why the features of the negotiated service agreement (NSA) proposed in this case were not simply presented as separate experiments. Perhaps, as the case proceeds, the need for an NSA will become apparent. However, the OCA urges the Commission to be prepared to view the features of the proposed NSA as traditional experiments and to recommend the separate features as separate experiments. The OCA has not finalized its position with regard to separate treatment of different features of the proposed NSA but does wish to inform the Commission of its current views so that those views can be considered when deciding whether to set the case for hearing. At present there

appears to be enough uncertainty over the proper estimates of cost savings and the need for an NSA instead of several experiments to make a hearing necessary.

The agreement between the Service and Capital One seems to involve the bundling of three separate features. These are (1) discounts in exchange for increased volume, (2) free electronic address change service (eACS) for forwarded pieces, and (3) free eACS for returned pieces in lieu of physical returns. The volume discounts, as structured in the agreement, will generate a negative contribution to institutional costs of \$4.889 million. See Response of witness Crum to Interrogatory OCA/USPS-T1-2. The free eACS feature for forwarded pieces appears to require the Service to incur new costs to provide eACS without receiving any cost reductions. At least no such cost reductions have been included with the filing. The only money-making feature of the agreement is the replacement of 85 percent of Capital One's physical returns with eACS, which generates a positive contribution to institutional costs of \$13.094 million. See Response of witness Crum to Interrogatory OCA/USPS-T1-3.

With respect to the feature of substituting eACS for physical returns whenever possible, Capitol One will also reduce its costs of processing returns. See Response of witness Jean to Interrogatory OCA/COS-T1-3. Thus, it would seem that this feature presents a win-win situation for the Service and Capitol One—both parties obtain cost reductions. It also appears that the same win-win situation would apply with any other mailer who receives a significant volume of physical returns. According to witness Crum, for every physical return that can be converted to eACS, the Postal Service saves 20.28 cents. See USPS-T-3 at 5, line 17. The derivation of this saving does not depend on the characteristics of any particular mailer. See USPS-LR-1. Accordingly,

the offering of free eACS to *any* First-Class mailer who receives a certain volume of returns would appear to be a legitimate experiment, the determination of an appropriate minimum volume being one aspect of the experiment.

Even if the free eACS feature for returns did not generate net savings for Capital One or did not generate *enough* savings for Capital One, a more direct approach than an NSA is available to encourage mailers to accept eACS in lieu of physical returns. The Postal Service could rebate to customers some portion of the savings it realizes—say, five cents per piece returned via eACS. This would provide a \$3.1 million dollar per year incentive to a mailer with Capitol One's volume of returned solicitation pieces.

The concept of NSAs remains controversial. If the beneficial features of the proposed NSA can be implemented as traditional experiments, then litigation over the legality of NSAs can be avoided—or, at least, postponed.

Respectfully submitted,



SHELLEY S. DREIFUSS

Director

Office of the Consumer Advocate

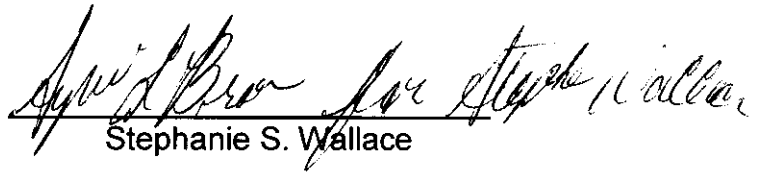
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Rule 12 of the rules of practice.

  
Stephanie S. Wallace

Washington, D.C. 20268-0001  
October 17, 2002