

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

EXPERIMENTAL RATE AND SERVICE CHANGES  
TO IMPLEMENT NEGOTIATED SERVICE AGREEMENT  
WITH CAPITAL ONE SERVICES, INC.

Docket No. MC2002-2

**COMMENTS OF UNITED STATES POSTAL SERVICE ON CAPITAL ONE'S NOTICE  
OF INTENTION TO OBJECT TO ADMISSION OF OCA TESTIMONY  
AND REQUEST FOR DECLARATORY RULING**

The United States Postal Service hereby provides its comments on Capital One Services, Inc.'s Notice of Intention to Object to Admission of OCA Testimony and Request for Declaratory Ruling, filed on January 8, 2003. In that pleading, Capital One gave notice of its intention to oppose the introduction of testimony outlining the Officer of the Commission's (OCA) alternative proposals in this docket, and requested a declaratory ruling that would prevent the Commission's consideration of them. For a variety of reasons, the Postal Service strongly agrees that the Commission's consideration of the Postal Service's request in this docket should be limited to the Postal Service's own proposals seeking recommendations of rates and classifications based on the Negotiated Service Agreement (NSA) with Capital One.<sup>1</sup>

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<sup>1</sup> . The Postal Service believes there is merit in Capital One's argument that the *Dow Jones* case (*Dow Jones & Co. v. United States Postal Service*), 656 F2d 788 (D.C. Cir. 1981)) applies in this situation. The Postal Service believes, however, that other important considerations dictate that, as a practical and procedural matter, recommendation of the OCA's specific proposal in this docket would be inappropriate.

Most importantly, the Postal Service could not implement the OCA's proposal. We do not mean to imply that there is no merit to what the OCA proposes. To the contrary, the Postal Service has considered and will continue to consider ways to improve the efficiency of the ACS program. There are, however, practical problems in expanding no-fee address correction that must be worked out before the Postal Service could propose revamping the system along the lines of the OCA's testimony. In these circumstances, affirmative consideration or recommendation of the proposal would be an imprudent use of the Commission's and the participants' time.

The Postal Service's decision to enter into an NSA with one mailer was not ill-conceived or accidental. As the Postal Service and its witnesses have said, the NSA allows for a limited test both of the NSA concept and of the specific novel proposals it embodies. The Postal Service did not seek and is not interested at this time in either declining block rates or waiver of address correction fees on any basis other than that proposed here, as part of a broader service agreement limited to one unique mailer. These concepts surely have merit, but cannot be entered into precipitously.

The Postal Service also believes that the notice issue should keep the Commission from allowing this proceeding to be expanded beyond its natural contours. There can be no doubt that the OCA's proposal has much broader implications for mailer participation, for effects upon mailers who do not currently participate, and on postal operations and finances, than does the NSA. The OCA argues that potential parties who saw the original notice of a case considering an NSA with Capital One "could have anticipated the possibility of the Commission's recommending classification

language that differed from that requested by the Postal Service.”<sup>2</sup> The OCA is simply wrong to assert that this means that parties should also have assumed that a case considering an NSA with one mailer actually would end up being about a broad rate and classification proposal affecting thousands of mailers.

The Postal Service agrees with Capital One that, in the interests of administrative efficiency, the Commission should state that it will not consider or recommend the OCA’s proposal at this time. The Postal Service has proposed, for the first time, rate and classification changes to implement a negotiated service agreement. That should remain the focus of this proceeding, one which the Commission has endeavored to expedite. Consideration of the OCA’s proposal and responses to it will significantly distract from the proposals that are within the confines of the Postal Service’s request and the issues noticed in this docket.

Accordingly, the Postal Service supports Capital One’s request for a declaratory ruling on this matter.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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<sup>2</sup> Office of Consumer Advocate Comments on Need for Public Notice of OCA Proposals, at 1-2. (January 13, 2003).

January 15, 2003

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

Scott L. Reiter

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January 15, 2003