

Before The  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

Rate and Service Changes to Implement )  
Functionally Equivalent Negotiated Service ) Docket No. MC2004-4  
Agreement with Discover Financial )  
Services, Inc. )

OFFICE OF THE CONSUMER ADVOCATE  
REPLY TO DISCOVER FINANCIAL SERVICES, INC  
COMMENTS ON LIMITATION OF ISSUES  
(August 5, 2004)

Presiding Officer's Ruling No. MC2004-4/1<sup>1</sup> established dates for submitting comments on the question of the limitation of issues (July 29, 2004) and for reply comments (August 5, 2004). On July 29, 2004, Discover Financial Services, Inc.(DFS) submitted Comments on the Requests for a Hearing of OCA and Valpak and on the Subject of the Limitation of Issues.<sup>2</sup> The Office of the Consumer Advocate (OCA) hereby submits its reply.

The thrust of DFS' Comments is that the litigation expenses of co-proponents should be minimized, and that this is particularly true of co-proponents in functionally equivalent NSA proceedings. OCA is largely in sympathy with that view. OCA willingly participated in several meetings with DFS and Postal Service representatives. At these meetings, a large amount of information was exchanged. In some instances, all participants were able to agree on abbreviated or expedited procedures for the DFS

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<sup>1</sup> "Presiding Officer's Ruling Establishing Procedural Schedule," issued July 20, 2004.

<sup>2</sup> Hereinafter "DFS Comments."

case. As well, a number of OCA's questions were answered informally, thereby obviating any need to pose the questions as interrogatories. OCA has not filed make-work interrogatories where questions were cleared up informally.

DFS also argues that OCA has not stated that facts are in dispute. This is not correct. Several disputed facts were described in detail in OCA's Request for a Hearing, filed July 23, 2004. Several more are becoming evident in the analysis that OCA has continued to perform throughout the discovery period. OCA submits that the appropriate time for the Commission to rule finally on OCA's request for a hearing and the opportunity to file testimony is August 17, after OCA has had an opportunity to review all of the answers to discovery questions and report to the Commission.

Respectfully submitted,

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SHELLEY S. DREIFUSS  
Director  
Office of the Consumer Advocate

EMMETT RAND COSTICH  
Attorney

1333 H Street, N.W.  
Washington, D.C. 20268-0001  
(202) 789-6830; Fax (202) 789-6819  
e-mail: [dreifusss@prc.gov](mailto:dreifusss@prc.gov)