

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

Rules Applicable to Renew or Modify)
Previously Recommended)
Negotiated Service Agreements)

Docket No. RM2005-3

OFFICE OF THE CONSUMER ADVOCATE
COMMENTS IN RESPONSE TO COMMISSION ORDER NO. 1430
(March 14, 2005)

In Order No. 1430,¹ the Commission established a rulemaking proceeding for the purpose of soliciting comments on new rules for modifying or extending previously recommended Negotiated Service Agreements. The rules applicable to Negotiated Service Agreements (NSAs) are codified at 39 C.F.R. § 3001.195 *et seq.*

OCA understands one of the primary purposes of the NSA rules to be expedition. OCA believes that the Commission has, with one exception, properly balanced the goal of expedition against the duty to ensure that ratepayers not party to an NSA are protected against loss. As the OCA noted in its comments in response to Order No. 1429,² the use of identical spreadsheets in a renewal or modification case as were used in the original request greatly enhances the ability of participants to evaluate the financial effect of new proposals.

¹ "Notice and Order Establishing Rulemaking Docket for Consideration of Proposed Rules Applicable to Requests to Renew or Modify Previously Recommended Negotiated Service Agreements," issued February 10, 2005.

² Office of the Consumer Advocate Comments in Response to Commission Order No. 1429 at 3.

As NSA cases have been presented, litigated, and resolved, it has become clear that there are major uncertainties with respect to valuing an NSA from the point of view of the Postal Service. For example, the Commission has been troubled by the lack of a Capital-One-style stop-loss cap in Docket No. MC2004-3, remarking that the Bank One NSA “did not provide for adequate protection of mailers not party to the agreement.”³

The OCA submits that the NSA request in a renewal or modification case should remove as much uncertainty as possible—as opposed to injecting additional uncertainty—based on actual experience. OCA believes that rules 197(a)(5) and 198(a)(5) as modified above accomplish this result.

Respectfully submitted,

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³ Id.