

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

Rate and Service Changes to Implement)
Baseline Negotiated Service Agreement)
With Washington Mutual Bank)

Docket No. MC2006-3

OFFICE OF THE CONSUMER ADVOCATE
RESPONSE TO ORDER NO. 1458
(April 25, 2006)

Commission Order No. 1458, "Notice and Order on Filing of Request Seeking Recommendation of a Baseline Negotiated Service Agreement," established the captioned docket and directed participants to be prepared to detail any objections to the Postal Service's proposal to limit issues in this proceeding, and to set forth reasons to support any request to hold hearings on particular issues. The Office of the Consumer Advocate (OCA) hereby objects to the Postal Service's motion to exclude issues from consideration and states that hearings on relevant issues may need to be scheduled, depending on the Postal Service's cooperation in responding to OCA's discovery requests.

OCA opposes the Postal Service's attempt to exclude the following issues from consideration in the instant proceeding:

- (1) That a niche classification should not be preferred over an NSA;
- (2) The utility of declining block rates; and
- (3) The appropriateness of the general methodology used in Docket No. MC2002-2, to calculate the benefits to the Postal Service.

Commission Rule No. 195(a)(1) specifically provides for, “A written justification for requesting a Negotiated Service Agreement classification as opposed to a more generally applicable form of classification. . . .” This requirement makes evident that the Commission views the justification of a one-mailer benefit over a multi-mailer benefit as an important issue that participants are welcome to explore (and oppose) in every baseline case.

The “utility of declining block rates” certainly remains a matter of debate in NSA proceedings, at least with respect to the specific declining block rates proposed in a specific case. The Commission’s Opinion and Further Recommended Decision in Docket No. MC2004-3, issued on April 21, 2006, necessitates scrutiny of the Postal Service/Washington Mutual Bank NSA to see whether the particular declining block rates presented in this proceeding conform to the principles articulated by the Commission in its recent Opinion.

Exclusion of the “general methodology” used in Docket No. MC2002-2 is unwarranted and unwise, since there have been important operational changes in the forwarding and return of First-Class Mail since the evidence presented in late 2002, approximately 3 ½ years ago. OCA intends to submit discovery to the Postal Service to test the validity of the “old” assumptions. In addition, it is OCA’s view that the Data Collection Reporting provisions common to all of the credit card company NSAs (including the instant proposal) must be reviewed to see whether the Postal Service is in full compliance with these requirements. OCA has had several opportunities to review reports issued pursuant to these provisions, and we now have a basis to evaluate whether the requirements are eliciting the information needed to evaluate thoroughly the

financial impact of the credit card NSAs. If it is the Postal Service's position that this line of inquiry must be barred, then OCA opposes it.¹

At the present time, OCA requests that discovery be permitted for several more weeks, and that the Commission establish a schedule that provides for oral cross-examination of proponent witnesses. If OCA finds that responses to its written questions have proven sufficient, the hearings may not be necessary. OCA does not plan to file a "direct case" in this proceeding.

Respectfully submitted,

Shelley S. Dreifuss, Director
Office of the Consumer Advocate

901 New York Avenue, N.W.
Washington, D.C. 20268-0001
(202) 789-6837; Fax (202) 789-6891
e-mail: shelley.dreifuss@prc.gov

¹ In PRC Op. and Further Recommended Dec. No. MC2004-3, April 21, 2006, at para. 5032, the Commission observes that the amount of data collected for volume discount NSAs will grow over time and may serve to provide more specialized elasticity estimates. This is true of all of the types of data collected for credit card solicitation NSAs – data collected allow for the adjustment of cost estimates to reflect real-world experience, thereby improving the accuracy of many of the "assumed" figures used in the original Capital One NSA case.