

UNITED STATES OF AMERICA
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

RESPONSES OF OFFICE OF THE CONSUMER ADVOCATE
WITNESS JAMES F. CALLOW TO INTERROGATORIES OF
UNITED STATES POSTAL SERVICE (USPS/OCA-T1-17-18)
(September 26, 2006)

The Office of the Consumer Advocate hereby submits the responses of James F. Callow to interrogatories USPS/OCA-T1-17-18, dated September 12, 2006. Each interrogatory is stated verbatim and is followed by the response.

Respectfully submitted,

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RESPONSES OF OCA WITNESS JAMES F. CALLOW
TO INTERROGATORIES USPS/OCA-T1-17-18

USPS/OCA-T1-17.

On page 24, lines 22 to 24, of your testimony, you state, "The Panzar analysis does not consider the Postal Service's...costs of litigation to obtain regulatory approval."

- a) To your knowledge, has the Postal Rate Commission ever considered a party's costs of litigation to obtain regulatory approval in a rate and classification proceeding? If yes, please provide examples.
- b) Please confirm that, as a general matter, the USPS's NSA litigation and negotiation costs are likely to increase when an intervenor files testimony. If you cannot confirm, please explain.
- c) Please confirm that, as a general matter, the USPS's NSA litigation and negotiation costs are likely to increase when the Commission alters the terms of the NSA. If you cannot confirm, please explain.

RESPONSE TO USPS/OCA-T1-17.

(a) Not to my knowledge. That said, while a negotiated service agreement is presented in a mail classification proceeding, it is not a "typical" mail classification. In a "typical" mail classification proceeding, the Postal Service proposes a cost coverage that includes a reasonable contribution to institutional costs based upon the rates and fees in its request to the Commission. Under such circumstances, litigation costs are considered at least indirectly by the Commission in determining the appropriate cost coverage. Unlike "typical" mail classification proceedings, however, the Postal Service does not propose a cost coverage based upon the discounted rates contained in a negotiated service agreement. To date, negotiated rates have simply been required to generate an estimated increase in institutional contribution to the Postal Service greater than \$0 for the agreement as a whole. The net present value analysis I propose attempts to establish a reasonable basis for estimating at what point the Washington

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Mutual NSA will make a reasonable contribution to the institutional costs of the Postal Service. As suggested by the Commission in PRC Op. MC2005, paras. 4014, fn 50, and 4015, fn 51, I propose a positive return on the Postal Service's investment at least equal to the Postal Service's "cost of money."

(b) – (c) In general, litigation expenses are likely to increase in response to intervenor testimony or Commission action. However, litigation associated with active participation by an intervenor or Commission action is a cost to obtain regulatory approval and, as such, that cost should be included in any estimate of litigation expenses. By contrast, negotiation expenses would be relatively fixed in amount as they are associated with developing and concluding an agreement, and for the most part occur prior to litigation before the Commission.

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USPS/OCA-T1-18.

Please refer to page 25, lines 15 and 16, and page 26, line 1, of your testimony. You state, "I estimate the Postal Service's investment in negotiating and litigating the Washington Mutual NSA at \$250,000 each...or \$500,000."

- a) Please provide the quantitative analysis on which you relied to develop this estimate.
- b) Please confirm that you used either the penalty figure from section II(J) of the Washington Mutual NSA ("Solicitation Mail Volume Guarantee") or the penalty figure from section III(D) of the agreement as a proxy for your estimate of the USPS's costs for negotiating and litigating the agreement. If you cannot confirm, please explain.
- c) Please confirm that, to your knowledge, the USPS has never represented that either of the penalty figures referenced in subpart (b) serves as a proxy for the USPS's costs for negotiating and litigating the agreement. If you cannot confirm, please explain.

RESPONSE TO USPS/OCA-T1-18.

(a) See my response to WMB/OCA-T1-4(a) – (b) for the basis of my estimate of the costs of negotiation. See my response to part (c), below, for the basis of my estimate of litigation costs.

(b) Confirmed, for the Postal Service's costs of litigation.

(c) I interpreted the testimony of witness Ayub on oral cross-examination to mean the litigation costs of the Postal Service:

I think [the transaction penalty cost of \$250,000] is supposed to cover the transaction costs of pursuing the NSAs. Tr. 2/184