

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

RATE AND SERVICE CHANGES TO IMPLEMENT
BASELINE NEGOTIATED SERVICE AGREEMENT
WITH LIFE LINE SCREENING

Docket No. MC2007-5

**INITIAL BRIEF OF THE
UNITED STATES POSTAL SERVICE**

UNITED STATES POSTAL SERVICE

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I. INTRODUCTION

The Life Line Screening NSA is the final negotiated service agreement submitted to the Postal Regulatory Commission under the Postal Reorganization Act. While the Postal Service, mailers, and the Commission are in the midst of transitioning to a new statutory and regulatory system, the Life Line Screening NSA contains tried-and-true features of prior NSAs. In short, this NSA provides declining block rates for Standard Mail letters soliciting customers for health screening services provided by Life Line Screening. Life Line Screening, much like the Bookspan NSA before it, features a multiplier effect through additional First-Class Mail correspondence.¹

The Commission's rules for NSAs provide that for all NSAs "it shall be the policy of the Commission to recommend Negotiated Service Agreements that are consistent with statutory criteria, and benefit the Postal Service, without causing unreasonable harm to the marketplace."² The record in this docket demonstrates that the co-proponents have met their burden of showing that the requested rates and classifications are consistent with applicable statutory criteria and will clearly benefit the Postal Service. The risk of miscalculation of such benefit is almost completely mitigated by various risk-mitigation provisions of this NSA, which were also featured in the Bookspan agreement. In addition, this NSA satisfies the parameters of the "Panzar" test.

¹ Additional information about Life Line Screening's business, its multiplier effect, and the provisions of the Life Line Screening NSA can be found in Life Line Screening's Initial Brief and are adopted by the Postal Service as background for its arguments herein.

² 39 C.F.R. § 3001.190(b).

The record evidence also demonstrates that, given Life Line Screening's unique place in the market, there is virtually no risk in regard to unreasonable harm. No participant has filed factual evidence or analyses that contradict the facts and analyses presented by the Postal Service and Life Line Screening and tested in written cross-examination. Therefore, on the basis of the record created, as well as applicable criteria in the Postal Reorganization Act, the Commission should recommend the changes requested to implement the NSA with Life Line Screening.

II. PROCEDURAL HISTORY

On August 8, 2007, the Postal Service filed its Request for a recommended decision to implement a baseline Negotiated Service Agreement (NSA) with Life Line Screening.³ On August 10, 2007, the Commission issued its Notice and Order on the filing of the Request. The Commission designated Kenneth E. Richardson, Acting Director of the Commission's Office of the Consumer Advocate (OCA), to represent the general interests of the public, and the Commission elected to sit *en banc* in this proceeding.⁴

The following parties intervened in the case: American Catalog Mailers Association; American Postal Workers Union, AFL-CIO; David B. Popkin; Pitney Bowes Inc.; Valpak Dealers' Association, Inc.; and Valpak Direct Marketing Systems, Inc.

³ Request of the United States Postal Service for A Recommended Decision on Classifications and Rates to Implement A Baseline Negotiated Service Agreement With Life Line Screening, Docket No. MC2007-5 (August 8, 2007).

Although the official date for the end of discovery on the proponents' direct cases was September 24, 2007, the conclusion of follow-up discovery was delayed due to a pending Joint Motion for protective conditions for responses to outstanding interrogatories from the OCA.⁵ Ultimately, the co-proponents withdrew the Joint Motion on October 26, 2007, and agreed to publicly file a response to the outstanding interrogatories.⁶ Follow-up discovery was further extended due to an outstanding interrogatory response, which was ultimately filed on November 30, 2007.⁷ The last round of follow-up interrogatories was completed on December 19, 2007.

Thereafter, no participant requested a hearing or filed testimony rebutting the co-proponents' cases. On January 4, 2008, the Commission issued a final procedural schedule in Docket No. MC2007-5, establishing a February 4, 2008, deadline for filing initial briefs, and a February 11, 2008, deadline for filing reply briefs. The evidentiary record closed on January 25, 2008.⁸

(...footnote continued)

⁴ Order No. 25, Docket No. MC2007-5 (August 10, 2007).

⁵ Joint Motion of the United States Postal Service and Life Line Screening for Protective Conditions for Materials Requested in OCA/USPS-T1-1-2 (September 21, 2007).

⁶ Joint Motion of Life Line Screening and United States Postal Service to Withdraw Motion for Protective Conditions in Response to Commission Order No. 39 (OCA/USPS-T1-1-2) (October 26, 2007).

⁷ Response of Postal Service Witness Yorgey to Interrogatory of the American Postal Workers Union, AFL-CIO (APWU/USPS-T1-5) (November 30, 2007).

⁸ Order No. 54, Docket No. MC2007-5 (January 4, 2008).

III. THE COMMISSION SHOULD RECOMMEND THE CLASSIFICATION AND RATE CHANGES NEEDED TO IMPLEMENT THE NSA

- A. The NSA Will Increase Mail Volume and Generate Revenues at Higher Levels than Would Be Achieved in its Absence

The Life Line Screening NSA is designed to provide incentives to Life Line Screening to increase its use of Standard Mail letters. Life Line Screening's Standard mail letter volumes are expected to decline in the absence of discounts.⁹ This NSA provides incentives to Life Line Screening via declining block rates for Standard Mail letters for selling health care screening services to a nationwide customer base.¹⁰ As explained by Postal Service witness Yorgey (USPS-T-1), the declining block rates will encourage Life Line Screening to mail additional solicitation letters, thereby increasing its customer base while maintaining its existing customer base.¹¹

For example, in Year 1 of the agreement, Life Line Screening's Before-Rates volume forecast is projected to be 90,000,000 Standard Mail letters. The Year 1 volume commitments require Life Line Screening to mail 95,000,000 Standard Mail letters before receiving any discounts. As shown in the table below, Life Line Screening will be provided with incrementally higher discounts based on increased Standard Mail letters volume.¹²

⁹ Direct Testimony of Michelle K. Yorgey on Behalf of the United States Postal Service, USPS-T-1 at 1-2.

¹⁰ USPS-T-1 at 1.

¹¹ USPS-T-1 at 2.

¹² USPS-T-1 at 2-3.

TABLE 1: DECLINING BLOCK RATE STRUCTURE – STANDARD MAIL LETTER-SIZE

Year 1 Structure		
LETTERS		
Before-Rates Volume Forecast:	90,000,000	
	LETTER Volume Blocks	Incremental Discount
	-	90,000,000
	0 cents	
	90,000,001	100,000,000
	1.0 cents	
	100,000,001	110,000,000
	2.0 cents	
	110,000,001	118,000,000
	3.0 cents	
Volume Commitment:	95,000,000	

Source: USPS-T-1 at 3

The Life Line Screening NSA generates revenue for the Postal Service from the additional contribution created by an increase in Life Line Screening's Standard Mail letters. As detailed by witness Yorgey's financial model, the total estimated net financial benefit to the Postal Service over the three-year period of this NSA is \$5.4 million. Moreover, through a "multiplier effect," the Life Line Screening NSA would generate additional revenue to the Postal Service via increased First-Class Mail correspondence sent to newly-obtained Life Line Screening customers.¹³ The Life Line Screening NSA is thus tailored to increase mail volume and generate revenue that would not be achieved in its absence.

¹³ USPS-T-1 at 2.

B. The NSA Is Structured to Mitigate Risk and Provide Maximum Protection to the Postal Service

Much like the Bookspan NSA, the Life Line Screening NSA incorporates several features which protect the Postal Service in the event of changed circumstances and any other unintended consequences.

1. Volume commitments

This NSA imposes volume commitments that must be met, in each year of the agreement, before discounts are paid. The volume commitments are set well above the first declining rate block threshold in order to reduce the risk of discount leakage from variations in before-rates forecasts.¹⁴

2. Volume commitment adjustments

In the event that volumes differ significantly from those forecast, the NSA provides mechanisms to adjust the subsequent year's volume commitment, based on a specified formula.¹⁵ For example, if at the end of Year 1, the actual volume of Standard Mail letters reached 107,000,000 pieces, the Year 2 volume commitment would increase from 93,000,000 to 100,000,000 letters. Thus, Life Line Screening would have to mail 100,000,000 letters in Year 2 in order to receive the discounts provided for volumes above 88,000,001 letters.

3. Automatic termination

By its own terms, and without the need for action by the Postal Service, the NSA automatically terminates if Life Line Screening's Standard Mail letters volume exceeds

¹⁴ USPS-T-1 at 2-3.

¹⁵ USPS-T-1 at 5.

10,000,000 pieces above the top tier in any year.¹⁶ For example, if Life Line Screening were to experience a change in circumstances which unexpectedly increased its Standard Mail letter volume to 128,000,000 in Year 1, incentives would be deemed to be no longer needed and discounts would no longer be payable.

4. Unconditional withdrawal

Each party has an unencumbered right to terminate the agreement, upon thirty days' written notice to the other party.¹⁷ This protects the Postal Service from any unintended outcomes, and provides an opportunity to foreclose loss of revenue that would otherwise be obtained.

C. Witness Yorgey's Financial Model Demonstrates that the NSA Will Benefit the Postal Service and Therefore All Ratepayers

Using the volume projections developed by Life Line Screening and reviewed by the Postal Service, witness Yorgey performed a financial analysis, which demonstrates the value of the NSA to the Postal Service to be approximately \$5.4 million over the three years of the agreement.¹⁸ In addition, witness Yorgey performed a sensitivity analysis which demonstrates that the risks of financial loss from swings in estimated volumes are extremely low.¹⁹

Moreover, as is consistent with the financial model used in the Bookspan NSA, witness Yorgey's financial model does not include the benefits of Life Line Screening's multiplier effect. The additional First-Class Mail and other revenues generated from this

¹⁶ USPS-T-1 at 6.

¹⁷ *Id.*

¹⁸ USPS-T-1, Appendix A.

¹⁹ USPS-T-1, Appendix C.

agreement would be in addition to the \$5.4 million estimate. Finally, USPS-LR-L-1, MC2004-3 Opinion and Further Recommended Decision Analysis for the Life Line Screening NSA, demonstrates that the proposed NSA satisfies the parameters of the “Panzar” test.

D. The Requested Rates and Classifications are Consistent with the Statutory Criteria

As witness Yorgey details, the proposed changes in classifications and rates satisfy the rate and classification criteria of the Postal Reorganization Act.²⁰ As demonstrated by the financial model, the rates resulting from the NSA cover attributable costs and make a reasonable contribution to the other costs of the Postal Service, thus benefiting all mail users.²¹ By negotiating directly with a customer, the rates may more accurately represent the value that the user places on the service provided, which is desirable to both the mailer and the Postal Service.²² Finally, the rates and classifications are fair and equitable, and no customer or competitor is harmed.²³

E. There Is No Unreasonable Harm to Competition

Witness Yorgey examined the market within which Life Line Screening operates, including its competitors’ use of various marketing media. Life Line Screening is unique among its health care screening industry competitors in that it relies on the mail as a primary means of marketing. Any competitor of Life Line Screening that intends to increase its use of advertising mail may negotiate a comparable agreement to this NSA.

²⁰ USPS-T-1 at 12-14; 39 U.S.C. §§ 3622(b) and 3623(c).

²¹ §§ 3622(b)(3), (4); 3623(c)(4).

²² §§ 3622(b)(2), 3623(c)(5).

²³ USPS-T-1 at 14.

Therefore, this NSA is not expected to have any significant effect on competition in Life Line Screening's marketplace.²⁴ Moreover, competitors of the Postal Service are not affected by this agreement.²⁵

F. No Discrimination Results from this Agreement Because Functionally Equivalent Agreements Are Available to Any Similarly Situated Customer

Although Life Line Screening is a relatively unique business offering healthcare screenings to a nationwide customer base, there is the possibility that other mailers might qualify for a functionally equivalent agreement. In that case, the Postal Service would seek to negotiate NSAs that reflect such mailers' circumstances and provide benefits similar to those in the Life Line Screening NSA.

IV. CONCLUSION

For the reasons set forth above, the Postal Service respectfully urges the Commission to recommend the proposed NSA and adopt the classification language and rates set forth in Attachments A and B to the Postal Service's Request.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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²⁴ USPS-T-1 at 10-11.

²⁵ USPS-T-1, at 11.

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