

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

**Complaint of Capital One
Services, Inc.**

Docket No. C2008-3

**EMERGENCY MOTION OF THE
AMERICAN POSTAL WORKERS UNION, AFL-CIO TO
CLARIFY PROCEDURES FOR CLOSED DEPOSITION
OF JESSICA DAUER LOWRANCE
(August 28, 2008)**

The American Postal Workers Union, AFL-CIO (APWU) seeks a ruling confirming that, pursuant to Ruling No. C2008-3/3 and Ruling No. C2008-3/4 counsel for Intervenor APWU may be present for the closed session questioning of Jessica Dauer Lowrance.

Ruling No. C2008-3/3 sets out a process enabling Ms. Lowrance to answer questions that have been objected to by the Postal Service on the basis of a claim of privilege or exemption and not answered in the open session of the deposition. The Commission's ruling states in pertinent part, "if there are objections to the presence of counsel [in the closed deposition proceedings], the parties shall attempt to arrange mutually satisfactory protective conditions. If that proves impossible, counsel may be excluded."

At the commencement of the deposition of Ms. Lowrance, conducted August 27, 2008, counsel for the present participants, including United States Postal Service, Capital One, Inc., Discover Financial Services, Valpak, the Public Representative, and APWU, discussed the procedure to be used during the closed session and who would be allowed to remain for that portion of the deposition. All parties agreed that counsel for the participants could remain, as well as professional staff employed by counsel for the parties and subject to the control and supervision of counsel. It was further agreed that the respective clients would not be permitted to be present for the closed

deposition questioning. After the agreement was reached, each person requesting to remain in the room executed a Statement of Compliance with Protective Conditions (Attachment A of Ruling No. C2008-3/4). Katja Eichinger, the officer assigned to preside over the deposition, collected the signed statements and the matter was deemed resolved.

However, prior to the conclusion of the deposition for the day, counsel for the Postal Service stated that it might object to the presence of counsel for intervenors during the closed session questioning. APWU, therefore, respectfully requests confirmation that counsel for intervenors are permitted to be in the room for the closed session deposition and, consistent with available time and the Commission's other rulings on procedures, to ask questions of the witness.

The APWU is an intervenor in this case and has a direct interest in the proceedings before the Commission in this docket. There is no reason for excluding intervenors' counsel from this questioning. Ms. Lowrance will be leaving the Postal Service on Friday, August 29, 2008, and may not be available for future questioning thereafter. Counsel for the APWU must be allowed to remain for the closed session questioning to ensure that the APWU's interests are properly represented.

Respectfully submitted,

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