

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

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO INTERROGATORIES OF AMERICAN POSTAL WORKERS UNION, AFL-CIO
(APWU/USPS-1-5)
(September 9, 2008)**

The United States Postal Service hereby provides its response to the following interrogatories of the American Postal Workers Union (APWU), AFL-CIO, filed on August 26, 2008: APWU/USPS-1-5.

Each interrogatory is stated verbatim, and is followed by the response.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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APWU/USPS-1. In its Answer, filed July 21, 2008, the Postal Service, admitted Paragraph 42 of the Capital One Complaint. This admission indicates that “first adopters” will be treated more favorably than other mailers in NSAs. Please describe in detail the exact process the Postal Service follows to determine which mailers will be given the opportunity of being “first adopters” and how a selection is made between similar mailers to assign one of them that role.

RESPONSE:

First, we do not share the view that first adopters are “treated more favorably than other mailers in NSAs.” Further, Paragraph 42 is not an admission to the statement that first adopters are treated more favorably. Rather, Paragraph 42 states as follows:

42. Mr. Kearney explained that the Capital One NSA would have to use mailer-specific baselines and that the discounts would have to be reduced to reflect that Capital One was not the “first” adopter. Mr. Kearney argued that the changes in the baselines and discount schedules were justified by changes in circumstances. When asked whether those changes had occurred since the date of implementation (April 1, 2008), he said that they had not.

Thus, this interrogatory makes representations about the answer that are incorrect.

That said, it is the Postal Service’s view that mailers’ abilities, strengths, and potential for contributing to improving postal finances and operations are considered on their own merits. The types of mailers best suited for this type of NSA are those that can motivate key industry players, such as software providers to large mailers, to transition into beneficial process improvements brought about by key features of the NSA, such as IMB and Seamless Acceptance. Those that cannot motivate the industry, or that cannot do so to the same degree as Bank of America, do not offer the same types of unquantifiable benefits to the Postal Service, and thereby reasonably merit differences in treatment.

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APWU/USPS-2. In Paragraph 21 of the Postal Service Answer, the Postal Service “denies that the Board of Governors approved the Bank of America NSA. [USPS] admits that the Governors approved the recommended decision of the Postal Regulatory Commission on the Bank of America NSA.”

- a). Does this statement imply that the Board of Governors did not approve of this NSA?
- b). Does this statement imply that the Board of Governors does not take responsibility for the approval of this NSA?
- c). Did the Board of Governors authorize Postal Management to file the Bank of America NSA?

RESPONSE:

- a. No. The Governors, not *the Board of Governors*, issued a Decision based on the PRC’s Recommended Decision to implement the Bank of America NSA. The Board of Governors approved the initial filing of the Bank of America NSA.
- b. No.
- c. Yes.

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APWU/USPS-3. The *Decision of the Governors on Docket No. MC2007-1* did not provide an estimate of the anticipated impact on postal revenues separate from the Commission's estimate but states on page 6 that the Offices of Finance and Marketing of the Postal Service did some analyses.

- a). Did these analyses by the Offices of Finance and Marketing include any recognition of potential added reductions in contributions from NSAs that were functionally equivalent to the Bank of America agreement?
- b). In a letter to the Board of Governors on October 15, 2007, the APWU expressed its concern that approval of the Bank of America NSA would leave the Postal Service vulnerable to reduced contributions due to requests from other mailers for comparable NSAs. Please describe any analyses that were done by the Postal Service between the Commission's issuance of a decision and the time the *Decision of the Governors on Docket No. MC2007-1* was published that addressed the potential impact on revenues of functionally equivalent NSAs.
- c). If such analyses were not done, why not?
- d). If such analyses were done, how many potential functionally equivalent NSAs were identified and what was the estimated potential financial impact of those on the Postal Service?
- e). Between the time of the PRC decision and the publication of the *Decision of the Governors on Docket No. MC2007-1*, did any member of Postal management make a decision to control the risks associated with functionally equivalent NSAs? If so, please identify the member of Postal Management, and the process considered to control these risks.

RESPONSE:

- a. No.
- b. No financial analyses were performed. However, there was an analysis performed covered by the attorney-client and attorney work product privileges, for which an objection has been filed.
- c. The Postal Service did not quantify any revenue risk.
- d. No particular NSAs were identified, and hence no financial estimate prepared.
- e. Postal management considered that the concept of functional equivalence would not require the exact same baselines for any new mailer, particularly given the Bank of America would be the first adopter of many of the NSA's requirements,

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and would move the industry forward. Thus, there was no decision to “control the risks” associated with any new NSAs based on the Bank of America NSA.

Rather, postal management’s practice was to consider each request for a functionally equivalent NSA on its own terms.

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APWU/USPS-4. Prior to its final agreement with Bank of America over the terms of the NSA, did the Postal Service ever discuss the possibility of using a more up-to-date baseline read rate in the agreement with Bank of America? If not, why not?

RESPONSE:

The baselines in the Bank of America NSA were negotiated, and were related to the most recent rate case, as applied to Bank of America's mailing profile. The Postal Service and BAC negotiated the baselines prior to filing, but the parties did not become aware of the newer, systemwide averages until the issue arose during the course of the litigation of Docket No. MC2007-1.

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AWPU/USPS-5. Page 6 of the *Decision of the Governors on Docket No. MC2007-1*, states that “notwithstanding any estimated impact on contribution, the benefits of advancing the use of the IMB and the other related programs and processes that will result from implementation of this NSA provide a compelling justification for our approval.”

- a). Please describe any other possible methods of obtaining the information related to the IMB program that the Postal Service considered before deciding to use a rate proceeding with an outdated baseline to achieve that goal.
- b). Was a direct contract with Grayhair software or similar software vendor considered?
- c). If not, why not?

RESPONSE:

- a. Please note that at the time Docket No. MC2007-1 was filed, Postal Service management believed that the baselines used in that filing were both the most recent available, and representative of the current state. Please see the response to APWU/USPS-4.

No other alternatives to a mailer agreement under the NSA were considered for attaining the goals of the Bank of America NSA. The Postal Service entered into the NSA with Bank of America because management believed that an agreement of this type was an appropriate method for accelerating the implementation of IMB and other production technologies.

- b. A direct contract with Grayhair software or any other similar software vendor was not considered as an alternative to the Bank of America NSA.
- c. Clearly, software vendors cannot perform all the same activities as a large mailer like Bank of America can, nor would it be expected that a software vendor such as Grayhair could influence mailers' or vendors' adoption of production technologies, such as Seamless Acceptance or the IMB, in the same way.