

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

Complaint of Capital One Services, Inc. )

Docket No. C2008-3

PUBLIC REPRESENTATIVE NOTICE OF  
ERRATA TO INTERROGATORIES TO  
UNITED STATES POSTAL SERVICE  
(PR/USPS-18-24)  
April 20, 2009

---

On April 16, 2009, the Public Representative filed interrogatories PR/USPS-18-24. As filed, part a. of interrogatory PR/USPS-22 is stated incorrectly. It is hereby deleted, and parts b. and c. are designated as parts a. and b., respectively, in the revised copy of the interrogatories submitted with this notice.

Respectfully submitted,

---

EMMETT RAND COSTICH  
Public Representative

901 New York Avenue, N.W.  
Washington, D.C. 20268-0001  
(202) 789-6833; Fax (202) 789-6819  
e-mail: [rand.costich@prc.gov](mailto:rand.costich@prc.gov)

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

Complaint of Capital One Services, Inc.     )

Docket No. C2008-3

PUBLIC REPRESENTATIVE INTERROGATORIES TO  
UNITED STATES POSTAL SERVICE  
(PR/USPS-18-24)  
April 16, 2009

---

Pursuant to Rules 25 through 28 of the Rules of Practice of the Postal Regulatory Commission, the Public Representative hereby submits interrogatories and requests for production of documents. Instructions included with Public Representative interrogatories PR/USPS-1-7 dated August 11, 2008, are hereby incorporated by reference.

Respectfully submitted,

---

EMMETT RAND COSTICH  
Public Representative

901 New York Avenue, N.W.  
Washington, D.C. 20268-0001  
(202) 789-6833; Fax (202) 789-6819  
e-mail: [rand.costich@prc.gov](mailto:rand.costich@prc.gov)

PR/USPS-18.

- a. For Fiscal Year 2008, please provide the read and accept rates in the same format as provided in the response to PR/USPS-1 (“FY2008 read/accept rates are being compiled for the Annual Compliance Report (ACR) and will be submitted when finalized.”).
- b. For Fiscal Year 2008,
  - i. please provide for First Class Mail a single read and accept rate that represents the systemwide average of all the separate read and accept rates provided in your response to part a., above.
  - ii. please provide for Standard Mail a single read and accept rate that represents the systemwide average of all the separate read and accept rates provided in your response to part a., above.

PR/USPS-19. In its *Amended Answer of the United States Postal Service* (September 16, 2008), the Postal Service admitted Paragraph 42 of the Capital One Complaint. Paragraph 42 states:

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.

- a. Please identify and discuss in detail the “changes in circumstances” that occurred *prior to* the date of implementation (April 1, 2008) that would justify the

changes in the baselines and discount schedules that would be applicable to the Capital One NSA as compared to the Bank of America NSA.

- b. Please confirm that the “changes in circumstances” referenced by Mr. Kearney are a consequence of the passage of time between the “first” adopter and a subsequent similarly situated mailer, such as Capital One Services, Inc. If not confirmed, please explain.
- c. Please explain in detail how any similarly situated mailer, such as Capital One Services, Inc., that seeks a NSA subsequent to the “first” adopter can satisfy all of the criteria, tests, conditions, etc., that have been identified by the Postal Service as being associated with the “first” adopter.

PR/USPS-20. Please refer to the Postal Service’s response to COS/USPS-11(c), which states, in part:

In this context, the value of Bank of America’s implementation does not depend on its impact on specific attributable acceptance, mail-processing, or delivery operations as they exist today, but rather on the information and experience the Postal Service has gained as a result of a controlled and measured early implementation of these systems and processes. This value is independent of the exact volume of mail sent by Bank of America, and any attempt to assign or attribute it on a per-piece basis is necessarily arbitrary, and would not provide a good indication of the value of additional "test" pieces.

- a. Please define “value” as used in the quote above, and explain the role of costs incurred by the Postal Service in the definition of value.
- b. Please confirm that the phrase “additional ‘test’ pieces” in the quote above refers to eligible mail pieces as defined pursuant to the Bank of American NSA on

which rebates (i.e., discounted rates) are paid by the Postal Service. If not confirmed, please explain.

- c. What is the cost (and the sources of those costs) to the Postal Service of obtaining the “information and experience the Postal Service has gained as a result of a controlled and measured early implementation of these systems and processes.” Please explain.
- d. Please estimate the “value” of the “information and experience the Postal Service has gained as a result of a controlled and measured early implementation of these systems and processes” in total and on a per piece basis. Please provide the estimate in Excel (or similar electronic spreadsheet format), showing all calculations and providing citations to all sources used. If an estimate is not provided, please explain the reasons why such an estimate is not being provided.
- e. Please explain in detail what qualitative or quantitative methods of evaluation, analysis, or measurement would “provide a good indication of the value of additional ‘test’ pieces.”
- f. Please explain why it would not be possible to estimate the unit (or per piece) costs associated with “value” as estimated in response to part d., above.

PR/USPS-21. Please refer to *Answer of United States Postal Service in Opposition to Motion of Capital One Services, Inc. for an Order Bifurcating Proceedings or for an Expedited Schedule* (June 26, 2008), at 6-7, which states, in part, that the:

knowledge [the Postal Service] gained by undertaking regulatory and internal reviews of the BAC NSA can and should inform its judgment regarding any functionally equivalent NSA negotiated on that foundation.

Separately identify and describe the Postal Service knowledge gained from the “regulatory and internal reviews of the BAC NSA” referenced in the quote above, and explain how that knowledge has informed the Postal Service’s judgment regarding a functionally equivalent NSA with Capital One Services, Inc.

PR/USPS-22. Postal Service response to COS/USPS-33, 34 and 35 references the response to Commission Information Request (CIR) No. 5, Question 7 in Docket No. ACR2008. Please refer to the Postal Service’s Supplemental Response to CIR No. 5, Question 7 (March 16, 2009), the Zip file, CIR.5Q.7.Financ.Impact.zip, and the Excel files therein.

- a. Please refer to the Excel file, BACQ12Value.xls, worksheet USPS Value. In line [9], the Postal Service reports Total Cost Savings of (\$550,390). Please confirm that Total Cost Savings that are negative represent an increase in costs to the Postal Service of \$550,390. If not confirmed, please explain. If confirmed, please explain for each of the negative cost savings how the incentives provided in the NSA caused an increase in the costs of Bank of America’s mail.
- b. Please refer to the Excel file, BACQ12Value.xls, worksheet DPS Summary FC STD.
  - i. For the First-Class Mail and Standard Mail categories Automation Mixed AADC, Automation AADC, Automation 3-Digit, and Automation 5-Digit, please confirm that the percentages in Column C represent the systemwide average DPS percentages at acceptance. If not confirmed, please explain.

- ii. For the First-Class Mail and Standard Mail categories Automation Mixed AADC, Automation AADC, Automation 3-Digit, and Automation 5-Digit, please confirm that the percentages in Column D represent the Bank of America's average DPS percentages at acceptance. If not confirmed, please explain.
- iii. Please explain why Bank of America's total weighted average DPS percentage at acceptance for First-Class Mail and Standard Mail (90.39% and 89.99%, respectively) is less than the total systemwide weighted average DPS percentage at acceptance for First-Class Mail and Standard Mail (90.68% and 90.88%, respectively), given that Bank of America's mail processing read and accept rates exceed the systemwide average read and accept rates for First-Class Mail and Standard Mail.

PR/USPS-23. In Docket No. ACR2008, please refer to the Postal Service's response to CIR No. 5, Question 7 (March 6, 2009), the Excel workbook CIR.5.Q.7.BAC\_DATA\_COLLECTION\_FY08.xls, and worksheet Rebate Calcs. Consider the following scenario: Assume, for the quarterly period 10/1/08 thru 12/31/08, the "Rate" in column E for Schedule 630A, 630B, 630D and 630E is less "favorable" than the previous quarterly period, i.e., 7/1/08 thru 9/30/08, as shown in the following table:

			<b>Period</b>	<b>Period</b>
			7/1/08 - 9/30/08	10/1/08 - 12/31/08
<b><u>Schedule</u></b>	<b><u>Description</u></b>	<b><u>NSA Baseline</u></b>	<b><u>Rate</u></b>	<b><u>Rate</u></b>
630A	Scan Rate 1st	96.8%	98.8%	98.4%
630B	Return Rate 1st - Sch B	2.7%	2.5%	2.6%
630D	Scan Rate Std	96.9%	98.5%	98.0%
630E	UAA Std	6.4%	3.0%	4.0%

Please confirm that Bank of America would receive rebates for its eligible mail pieces in the quarterly period 10/1/08 thru 12/31/08. If not confirmed, please explain.

PR/USPS-24. Please refer to 39 USC 3622(c)(10), and Section 3001.196 of the Commission's Rules.

- a. Please confirm that pursuant to Section 3622(c)(10), the applicable legal standard is that the Postal Service must make NSAs available "on public and reasonable terms to similarly situated mailers." If not confirmed, please explain.
- b. Please confirm that Section 3001.196 of the Commission's Rules, concerning "functionally equivalent" NSAs, is a procedural standard for the expedited review of a NSA proffered as "functionally equivalent" to an existing NSA. If not confirmed, please explain. The explanation should address how the procedural standard of Section 3001.196 of the Commission's Rules has a bearing on the legal standard of Section 3622(c)(10).