

what was filed. Furthermore, even if the agreement were signed, the agreement does not go into effect until after the Commission submits its opinion and recommended decision, and the Governors of the United States Postal Service provide their approval. Thus, the actual signatures have very little effect on the Commission's proceeding and will not be required.

The intent of the Commission is to make the actual contracts publicly available on the Commission's Web site. The Postal Service should take this into consideration while constructing its contracts by avoiding use of what might be considered proprietary information. Public disclosure is necessary to curtail any claim of discrimination or secret dealing, to make the operations of the Postal Service more transparent, and most importantly, to provide other similarly situated mailers the opportunity to seek similar negotiated service agreements. Any request for protective conditions being placed on the contract itself will have to meet a high burden before being granted.

Subsection (c) requires the Postal Service to provide a statement describing and explaining the proposed changes to the domestic mail classification schedule and any associated rate schedule. This includes the actual proposed changes to the text of the domestic mail classification schedule, and any associated rate schedule, presented in legislative format. The requirements of this rule do not differ from similar rules that the Postal Service currently complies with when filing rate, fee, or classification requests.

Subsection (d) requires the Postal Service to describe the operative components of the negotiated service agreement. For instance, the Capital One NSA contained two operative components, the declining block discount component, and the return mail/address correction component. The level of detail provided with the Capital One NSA request and associated testimony was appropriate for meeting this requirement. This subsection generally requires the Postal Service to explain how the components work. There should be a detailed explanation of the actions required by the Postal Service and the actions required by the other co-proponents in implementing the agreement. There also should be an explanation of why each action has a benefit to each party, and an explanation of any risks. This is necessary to provide a fuller understanding of the benefits and risks of proceeding with the agreement.

This subsection also requires an explanation of the reasons and bases for including particular components in the agreement. In the case of agreements based on multiple components, it is expected that there be an explanation of why the components are proposed to be grouped together, and not offered separately. There also should be a discussion of any interactions between the components, where necessary. For example, with the Capital One NSA the block discount acted as an incentive to increase mail volume and as a method of returning to Capital One a portion of the savings earned through the address correction component.

Subsection (e) requires the Postal Service to provide a financial analysis of the proposed agreement. Several concepts are important in the proposed rule. The analysis is to be performed over the duration of the agreement, and for each year that the agreement is in effect. The analysis is to use mailer-specific information, where practical. Both before implementation and after implementation financial conditions must be analyzed. Finally, the proposed rule requires an analysis of the agreement's effect on institutional cost contributions.

In the Capital One NSA case, the Commission had no established guidelines for presenting a classification and rate request premised on a negotiated service agreement. There, the Postal Service used a test-year analysis method. Test-year analysis provides probative estimates for omnibus rate cases, however, it proved ill-suited to requests based on negotiated service agreements where the Postal Service is negotiating detailed custom agreements of specified duration.

The Postal Service is expected to understand the ramifications of its contract negotiations. One of the important issues that the Postal Service should be considering when entering into a new agreement is whether it will be financially better or worse off by entering into the agreement. Positive cash flow in the test-year, especially where the test-year is chosen to be the first year of a multi-year agreement, is not necessarily indicative of cash flow in the subsequent years. The test-year approach is the best way to estimate the vast number of aspects of national economic activities. For a limited participation, limited duration contract, good business practice dictates a more focused analysis. The Postal Service presumably will not make a determination based solely on a test-year analysis, nor should the Commission have to make a

recommendation based on the limited insight provided by such an analysis.

The proposed rule provides that the Postal Service use mailer-specific information in its analysis, where practical. Using mailer-specific information should result in an analysis that more accurately represents the actual before and after financial effects of the negotiated service agreement on the Postal Service. Using system average information is less likely to give a true representation of the financial effects of the agreement, especially in cases where the mailer's characteristics do not coincide with the system-wide averages.

Use of mailer-specific information becomes more important where a facet of the agreement is based on the mailer deviating from the averages. For example, part of the justification for the Capital One NSA was Capital One's higher than average return rate. This information was vital in analyzing the benefit of the agreement to the Postal Service. Even more mailer-specific information than presented by the Postal Service would have been helpful in accurately analyzing the true costs that the Postal Service incurs in handling Capital One's mail.

The rule proposes that the Postal Service provide an initial analysis of cost, volume, and revenue assuming the rates and fees in effect absent the implementation of the negotiated service agreement. A second analysis is then required that assumes the implementation of the agreement. Each component or feature of the agreement should be independently analyzed in evaluating the overall financial impact. The results of the individual analyses should then be combined to provide an indication of the overall impact of the agreement on the finances of the Postal Service. When used in conjunction with the data collection plan, discussed below, this analysis also can form the basis for tracking the performance of the agreement.

Finally, the rule proposes that the Postal Service provide an analysis of the effect of the negotiated service agreement on contribution. This analysis should verify that the Postal Service will be no worse off as a result of the agreement. It should consider the effect on contribution from mailers that are not parties to the agreement. This is necessary to evaluate concerns raised by Professor Panzar in docket no. MC2002-2. Panzar discussed a potential problem where contribution to the Postal Service received from parties to an agreement increases, but the system-wide contribution might decrease due to competitive effects in the marketplace.