

The Commission finds that this exchange raises issues of both law and fact relevant to whether or not the actions, or inactions, of the Postal Service rise to the level of undue or unreasonable discrimination among users of the mails, or to the granting of undue or unreasonable preferences to any such users in violation of 39 U.S.C. 403(c).

The pleadings raise several other mixed issues of law and fact. These include whether Capital One and Bank of America are "similarly situated," what constitutes a "functionally equivalent" agreement in this situation, and what, if any, harm Capital One has or will incur.

Capital One contends that because the Postal Service only addresses one of the six claims presented by Capital One, the claims that were not addressed are properly before the Commission. *Id.* at 14–15. For example, Capital One raises claims concerning the factor of the PAEA that encourages special classifications, available on public and reasonable terms to similarly situated mailers, which do not cause unreasonable harm to the marketplace. *See* 39 U.S.C. 3622(c)(10). The Postal Service does not specifically address these claims other than offering a denial. Motion to Dismiss at 3. The Commission shall hear all issues presented by the Complaint.

#### IV. Opportunity for Intervention

Any interested person may file a notice of intervention, consistent with the Commission's rules of practice, as a full or limited participant. *See* 39 CFR 3001.20 and 3001.20a. The notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site (<http://www.prc.gov>), unless a waiver is obtained for hard copy filing. *See* 39 CFR 3001.9(a) and 3001.10(a). Notices of intervention are due no later than August 13, 2008.

#### V. Discovery

Capital One, the Postal Service, and the Public Representative may begin discovery immediately. Discovery may begin upon intervention by others. *See* 39 CFR 3001.25–28.

#### VI. Prehearing Conference

A prehearing conference is scheduled for August 14, 2008, at 2:30 p.m. in the Commission's hearing Room. Capital One shall be prepared to discuss any additional time needed for discovery, and the time needed to prepare to present its case. In light of the representations made as to the potential for further negotiations (Motion to

Dismiss at 6), the parties are encouraged to search for common ground and report on any progress during the prehearing conference.

#### VII. Representation of the General Public

Pursuant to 39 U.S.C. 505, E. Rand Costich is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in the above-captioned docket.

##### *It is Ordered*

1. The Commission finds that the Complaint of Capital One Services, Inc., Regarding Discrimination and Other Violations of Law by the United States Postal Service, filed June 19, 2008, raises material issues of fact or law and shall begin proceedings in this Complaint.

2. The Motion of the United States Postal Service to Dismiss Complaint, filed July 21, 2008, is denied.

3. The Commission will sit *en banc* in this proceeding.

4. The deadline for filing notices of intervention is August 13, 2008. Notices shall indicate whether the intervening party intends to participate in the hearing and the nature of that participation.

5. A prehearing conference will be held in the Commission's hearing Room on August 14, 2008, at 2:30 p.m.

6. The Commission appoints E. Rand Costich as Public Representative to represent the interests of the general public in this proceeding.

7. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Steven W. Williams,**  
*Secretary.*

[FR Doc. E8–18292 Filed 8–7–08; 8:45 am]

**BILLING CODE 7710-FW-P**

#### SECURITIES AND EXCHANGE COMMISSION

##### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on August 5, 2008 at 5 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), 9(B) and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for August 5, 2008 will be: Institution and settlement of injunctive actions; and other matters related to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: August 5, 2008.

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8–18394 Filed 8–7–08; 8:45 am]

**BILLING CODE 8010-01-P**

#### UNITED STATES SENTENCING COMMISSION

##### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of proposed priorities.

**SUMMARY:** As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rule 5.2 of its Rules of Practice and Procedure, the Commission is seeking comment on possible priority policy issues for the amendment cycle ending May 1, 2009. **DATES:** Public comment should be received on or before September 8, 2008.

**ADDRESSES:** Send comments to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, South Lobby, Washington, DC 20002–8002, *Attention:* Public Affairs-Priorities Comment.

**FOR FURTHER INFORMATION CONTACT:** Michael Courlander, Public Affairs Officer, *Telephone:* (202) 502–4590.

**SUPPLEMENTARY INFORMATION:** The United States Sentencing Commission is