

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

an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

The Commission provides this notice to identify tentative priorities for the amendment cycle ending May 1, 2009. The Commission recognizes, however, that other factors, such as the enactment of any legislation requiring Commission action, may affect the Commission's ability to complete work on any of the tentative priorities by the statutory deadline of May 1, 2009. Accordingly, it may be necessary to continue work on some of these issues beyond the amendment cycle ending on May 1, 2009.

As so prefaced, the Commission has identified the following tentative priorities:

(1) Continuation of its work on federal sentencing policy with the congressional, executive, and judicial branches of the government, and other interested parties, in light of *United States v. Booker* and subsequent Supreme Court decisions, possibly including (A) an evaluation of the impact of those decisions on the federal sentencing guideline system, (B) development of amendments to the federal sentencing guidelines, (C) development of recommendations for legislation regarding federal sentencing policy, and (D) a study of statutory mandatory minimum penalties;

(2) Consideration of alternatives to incarceration, including preparation and dissemination of information and materials from the "*Symposium on Crime and Punishment in the United States: Alternatives to Incarceration*," hosted by the Commission on July 14–15, 2008, in Washington, DC;

(3) Implementation of crime legislation enacted during the 110th or 111th Congress warranting a Commission response, including (A) the Court Security Improvement Act of 2007, Public Law 110–177; and (B) any other legislation authorizing statutory penalties or creating new offenses that requires incorporation into the guidelines;

(4) Continuation of its work with Congress and other interested parties on cocaine sentencing policy to implement the recommendations set forth in the Commission's 2002 and 2007 reports to

Congress, both entitled *Cocaine and Federal Sentencing Policy*, and to develop appropriate guideline amendments in response to any related legislation;

(5) A multi-year study of the definition of "crime of violence" used in both statutes and guidelines;

(6) Continuation of its efforts, in light of recent Supreme Court jurisprudence and pursuant to the Commission's ongoing authority and responsibility under 28 U.S.C. 995(a)(17), (18), and (21), to receive feedback and provide expanded training on the federal sentencing guidelines, including possibly holding regional public hearings;

(7) Resolution of circuit conflicts, pursuant to the Commission's continuing authority and responsibility, under 28 U.S.C. 991(b)(1)(B) and *Braxton v. United States*, 500 U.S. 344 (1991), to resolve conflicting interpretations of the guidelines by the federal courts; and

(8) Consideration of miscellaneous guideline application issues regarding (A) offenses involving counterfeit bearer obligations of the United States, (B) application of § 3C1.3 (Commission of Offense While on Release), and (C) other miscellaneous issues coming to the Commission's attention from case law and other sources.

The Commission hereby gives notice that it is seeking comment on these tentative priorities and on any other issues that interested persons believe the Commission should address during the amendment cycle ending May 1, 2009. Further, with respect to item (7), the Commission requests specific comment regarding what circuit conflict issues it should address. To the extent practicable, public comment should include the following: (1) A statement of the issue, including scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to a proposed priority; (2) citations to applicable sentencing guidelines, statutes, case law, and constitutional decisions; and (3) a direct and concise statement of why the Commission should make the issue a priority.

**Authority:** 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 5.2.

**Ricardo H. Hinojosa,**  
Chair.

[FR Doc. E8–18288 Filed 8–7–08; 8:45 am]

**BILLING CODE 2211–01–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending July 18, 2008

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT–OST–2008–0211.

*Date Filed:* July 16, 2008.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* August 6, 2008.

*Description:* Amended Application of Spirit Airlines, Inc. requesting (1) a certificate of public convenience and necessity for scheduled combination foreign air transportation between points in the United States via intermediate points to Manaus, Brazil and beyond to points in Argentina, Uruguay, Paraguay, and Chile; (2) an exemption for a minimum of two years or until the grant of certificate authority to operate such service; (3) an allocation of seven (7) weekly frequencies for this service to commence in the Fall, 2009; and (4) a designation to the Government of Brazil for this service. Spirit further requests any further relief that the Department may deem necessary.

*Docket Number:* DOT–OST–2008–0228.

*Date Filed:* July 16, 2008.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* August 6, 2008.

*Description:* Application of Centurion Air Cargo, Inc. ("Centurion") requesting a certificate of public convenience and necessity to the extent necessary to permit it to engage in scheduled foreign air transportation of property and mail between a point or points in the United States, via intermediate points, and the Brazilian co-terminal points Manaus, Brasilia, Rio de Janeiro, Sao Paulo, Recife, Porto Alegre, Belem, Belo