

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Mark Acton, Vice Chairman;  
Nanci E. Langley; and  
Robert G. Taub

Francitas Post Office  
Francitas, Texas

Docket No. A2011-47

ORDER AFFIRMING DETERMINATION

(Issued December 5, 2011)

I. INTRODUCTION

On August 15, 2011, Carolina Jalufka filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Francitas, Texas post office (Francitas post office).<sup>1</sup> On August 17, 2011, Raymond Salinas also filed a petition seeking review.<sup>2</sup> After reviewing the record in this proceeding, the Commission affirms the Final Determination to close the Francitas post office.

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<sup>1</sup> Petition for Review received from Carolina Jalufka Regarding the Francitas, TX Post Office 77961, August 15, 2011 (Jalufka Petition). Petitioner Jalufka and Petitioner Salinas cited together will be referred to as Petitioners.

<sup>2</sup> Petition for Review received from Raymond Salinas, Jr., Regarding Francitas, TX Post Office 77961, August 17, 2011 (Salinas Petition).

## II. PROCEDURAL HISTORY

In Order No. 805, the Commission established Docket No. A2011-47 to consider the appeal, designated a Public Representative, and directed the Postal Service to file the Administrative Record and any pleadings responding to the appeal.<sup>3</sup>

On August 30, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>4</sup>

Petitioners Jalufka and Salinas filed participant statements in support of their petitions.<sup>5</sup> The Postal Service filed comments.<sup>6</sup> The Public Representative filed reply comments.<sup>7</sup>

## III. BACKGROUND

The Francitas post office, an EAS-55 level facility, provides retail service and lobby access from 8:00 a.m. to 12:00 noon, Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday. Administrative Record, Item No. 41 at 2. In addition to providing retail services, *e.g.*, sale of stamps, stamped paper, and money orders, it provides service to 66 post office box customers, with no general delivery or intermediate rural route customers. *Id.*

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<sup>3</sup> Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 16, 2011 (Order No. 805).

<sup>4</sup> The Administrative Record is attached to United States Postal Service Notice of Filing, August 30, 2011 (Administrative Record). The Administrative Record includes as Item 47 the Final Determination to Close the Francitas, TX Post Office and Continue to Provide Service by Rural Route Service (Final Determination).

<sup>5</sup> Participant Statement received from Ashley and Carolina Jalufka, September 13, 2011 (Jalufka Statement); Participant Statement received from Raymond Salinas, Jr., September 23, 2011 (Salinas Statement).

<sup>6</sup> United States Postal Service Comments Regarding Appeal, October 11, 2011 (Postal Service Comments).

<sup>7</sup> Public Representative's Reply Comments, October 25, 2011 (PR Comments).

The postmaster position became vacant when the Francitas postmaster was promoted on July, 19, 2008. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.*

Retail transactions averaged 4 transactions daily (5 minutes of retail workload). *Id.* Office receipts for the last 3 years were: \$4,105 in FY 2008, \$2,812 in FY 2009, and \$2,734 in FY 2010. *Id.* By closing this office, the Postal Service anticipates savings of \$19,896 annually. *Id.* at 7. There are no permit mailers or meter customers. *Id.* at 2.

The Postal Service has made a determination to close the Francitas post office and provide customers with delivery and retail services by rural route service under the administrative direction of the La Ward post office, located 8 miles away.<sup>8</sup> The La Ward post office is an EAS-11 level facility, with retail service hours from 7:45 a.m. to 3:45 p.m., Monday through Friday, and closed on Saturday. *Id.* Lobby hours are 24 hours a day, Monday through Saturday. Administrative Record, Item No. 18. One-hundred post office boxes are available. Administrative Record, Item No. 41 at 2.

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioner Jalufka argues that the closing will negatively impact customers and the Francitas community. Jalufka Petition; Jalufka Statement. Specifically, the closure will inconvenience seniors and residents that do not have the means to travel to obtain postal services, will result in loss of community identity, and will affect individual businesses and community services. Petitioner Jalufka further asserts that the Postal Service cannot close rural post offices solely due to financial reasons. Finally, Petitioner Jalufka asserts that every post office box holder was not mailed a Questionnaire, Notice of Proposal, and Final Determination. Petitioner Jalufka also expresses an opinion summarized as the Postal Service did not consider alternatives to closing the Francitas post office.

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<sup>8</sup> *Id.*; MapQuest estimates the driving distance between the Francitas and La Ward post offices to be approximately 7.55 miles (9 minutes driving time).

Petitioner Salinas contends that, contrary to Federal law, the Postal Service is closing the Francitas post office because it is operating at a financial deficit. Salinas Petition; Salinas Statement. He alleges several procedural deficiencies such as only providing 15 days to comment, removing required postings within days of presentation, and providing inadequate information in the Final Determination concerning the appeal process. In addition, he argues that customers are at a disadvantage because the alternate service facility, La Ward post office, also is being studied for closure. Salinas Statement at 1. Petitioner Salinas further contends that the closing limits access to postal services for senior citizens and disabled patrons who are unable to travel the distance to the alternative post office location. *Id.*

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Francitas post office. Postal Service Comments at 13. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services, and (2) the impact on the Francitas community. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes the determination to discontinue the Francitas post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Francitas post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload, low and decreasing office revenue;
- variety of delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact upon the community; and
- expected financial savings.

*Id.* at 3-4. The Postal Service contends that it will continue to provide regular and effective postal services to the Francitas community when the Final Determination is implemented. *Id.* at 4.

The Postal Service also addresses the concerns raised by Petitioners regarding the effect on postal services, effect on the Francitas community, economic savings, and effect on postal employees. *Id.* at 4-12.

*Public Representative.* The Public Representative maintains that this proceeding raises concerns about whether the Postal Service should clarify the record to confirm its compliance with closing procedures. She states that the Administrative Record may not reflect appropriate responses to Petitioners questions as to whether proper notice of the closing was given and contends that uncertain economic savings indicate that the Commission should require the Postal Service to clarify that it has met statutory requirements. PR Comments at 7-8.

The Public Representative questions the Postal Service's projected economic savings because the record does not include certain expenses associated with the closing, *e.g.*, costs of installation of cluster box units (CBUs), postmaster salary, revenue generated by the post office, and disposition of the building after closing. *Id.* at 6-7.

The Public Representative also references Petitioners claim that the alternative La Ward post office is closing. *Id.* at 7-8.

The Public Representative maintains there may be procedural deficiencies, inaccuracies in the record, or other factors that may justify a remand or cause the Commission to reiterate the need for conformity with procedural requirements under the law. *Id.*

## V. COMMISSION ANALYSIS

The Commission's authority to review post office consolidations is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the

law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to consolidate any post office, the Postal Service must provide notice of its intent to consolidate. Notice must be given 60 days before the proposed consolidation date to ensure that patrons have an opportunity to present their views regarding the consolidation. The Postal Service may not take any action to consolidate a post office until 60 days after its determination is made available to persons served by that office. 39 U.S.C. § 404(d)(4). A decision to consolidate a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On March 1, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Francitas post office. Administrative Record, Item No. 41 at 2. A total of 66 questionnaires were distributed and 43 were returned. On March 15, 2011, the Postal Service held a community meeting at the Francitas post office to address customer concerns. Forty-five customers attended. *Id.*

The Postal Service posted the proposal to close the Francitas post office with an invitation for comments at the Francitas and La Ward post offices for approximately 60 days, from April 20, 2011 through June 21, 2011. Administrative Record, Item No. 36 at 1A, 1B. The Final Determination was posted at the Francitas and La

Ward post offices for approximately 30 days, from July 13, 2011 through August 14, 2011. Final Determination at 1, 2.

Petitioner Salinas alleges that the Postal Service only provided 15 days for comment, did not post documents for the required time periods, and provided inadequate information on the right to appeal. However, the Administrative Record indicates that at least 60 days were provided for comment, and documents were posted for the required periods. Furthermore, notification of the right to appeal appears both in the proposal to close and in the Final Determination.

Petitioner Jalufka asserts that every post office box holder was not mailed a Questionnaire, Notice of Proposal, and Final Determination. The Administrative Record indicates that all items were made available to Francitas post office customers. The Postal Service asserts that Questionnaires were provided to all post office box customers and were also available over the counter. The Postal Service has posted and provided access to the Notice of Proposal and Final Determination.

Based on a review of the record, the Commission finds that the Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

#### B. Other Statutory Considerations

In making a determination on whether to consolidate a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

*Effect on the community.* Francitas, Texas is an unincorporated community located in Jackson County, Texas. Administrative Record, Item No. 41 at 6. Police protection is provided by the Edna Sheriff Department. Fire protection is provided by the Francitas Fire Department. The community is comprised of farmers/retirees and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See

*generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Francitas post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Proposal to Close and the Final Determination.

For example, Petitioner Jalufka raises the issue of the effect of the closing on the Francitas community. Jalufka Petition; Jalufka Participant Statement. The Postal Service contends that it considered this issue and explains that the community identity will be preserved by continuing the use of the Francitas name and ZIP Code. Administrative Record, Item No. 41 at 3.

The Commission finds that the Postal Service has taken the effect on the community into account.

*Effective and regular service.* The Postal Service contends that it has considered the effect the closing will have on services. Postal Service Comments at 5. Customers expressed concerns regarding having to travel further to obtain services, dependability of rural route service, seniors and the disabled access to postal services, installation of mailboxes, mail security and other issues. Administrative Record, Item No. 41, Proposal to Close at 2-5. The Postal Service explains that after the Final Determination is implemented, service will be available from the carrier at roadside mailboxes located in close proximity to customer residences, which provide secure individually locked mail compartments. The carrier may also provide retail service including the sale of stamps, envelopes, post cards and envelopes. Postal Service Comments at 5. Senior citizens and persons requiring additional assistance may benefit from carrier service and in hardship cases, delivery can be made to the customer's home. *Id.* Customers also

may obtain Post Office Box service at the La Ward post office or access other options such as *USPS.com* and Stamps By Mail. *Id.*

The Petitioners and the Public Representative are concerned that the La Ward post office is on the Retail Access Optimization (RAO) initiative list for study of possible discontinuance. The RAO list is an initial feasibility study on possible closings.

The Postal Service argues that the RAO initiative is not germane to the instant proceeding because (1) the Commission's review in this instance is limited to the Administrative Record, with the RAO initiative not part of the Administrative Record, and (2) there has been no change in operations in the La Ward post office.

While the Commission agrees that merely being included on the RAO list with no further indication of action is not an issue in this appeal, the Commission notes that the recent closing of the Francitas post office must be taken into consideration in any discontinuance study concerning the La Ward post office. The record demonstrates that the La Ward post office currently is operational. In the future, if the La Ward post office is considered for discontinuance, patrons of the La Ward post office would have the same appeal process available to them to review the Postal Service's compliance with the required statutory factors.

The Commission, however, disagrees with the Postal Service's conclusion that because elements of the RAO initiative do not appear in the Administrative Record of this proceeding, the Commission cannot consider the effect of the RAO initiative. In some instances, the omission of RAO initiative information could be found to be a deficiency in an Administrative Record warranting remand.

Upon review of the record in this proceeding, the Commission concludes that the Postal Service has considered its ability to provide a maximum degree of effective and regular service. 39 U.S.C. § 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$19,896. Administrative Record, Item No. 33 at 7. It derives this figure by summing the following costs: postmaster salary and benefits \$30,738; and \$0 annual lease costs, minus the cost of replacement service \$10,842. The Postal Service also notes an

additional one-time expense of \$5,746 for moving the post office. This amount reduces the savings during the first year, which the Postal Service does not indicate in its projected savings.

The Public Representative notes that the Postal Service costs savings analysis fails to disclose the future use or sale of the facility. PR Comments at 7. She also states that the record is unclear as to costs associated with salary for the non-career Postmaster Relief (PMR) and costs of the installation of CBUs. *Id.* at 6.

The analysis of economic savings may be improved by including the costs/profits associated with disposition of the building. The Commission suggests that these costs or profits be included in the analysis, when available.

The Francitas postmaster was promoted on July 19, 2008. Since that time, the post office has been run by a temporary OIC, a non-career PMR. Administrative Record, Item No. 41 at 2. The non-career PMR may be separated from the Postal Service and no other employees will be adversely affected. *Id.* at 7.

The Postal Service's consideration of estimated cost savings needs to be improved. By its own admission, the OIC currently serving as PMR may or may not be terminated. Without any assurance that the OIC will be terminated, the salary and related benefits identified in the Final Determination as economic savings might not be realized. In future cases, the Postal Service should either confirm that salary and benefit savings will be realized, or provide a more complete discussion of why such salary and benefit costs should be considered savings.

The record indicates the cost of installing CBUs is \$5,746. Administrative Record, Item Nos. 15, 41. The Postal Service characterizes this as a moving expense.

Finally, Petitioner Jalufka argues that the Postal Service has not considered offers to assist with savings at the Francitas post office by having patrons pay box fees or obtaining reduced rent. Jalufka Statement at 2. The Postal Service responds that the labor costs outweigh the savings offered by Petitioners and that carrier service is more effective than maintaining the facility and postmaster position. Postal Service Comments at 12.

The Commission finds that the Postal Service has taken economic savings into account.

*Section 101(b)*. Section 101(b) prohibits closing any small post office solely for operating at a deficit. Both Petitioners mention this provision of the law in their pleadings.

To be sure, economics plays a role in the Postal Service's decision. Having examined the record, however, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Francitas post office (revenues declining and averaging only four retail transactions per day), the Postal Service took into account other factors: the postmaster position is vacant, and the availability of alternative service. *Id.* at 3-4. Regular and adequate postal services will be provided to customers in Francitas.

## VI. CONCLUSION

Based on the review of the record, the Commission concludes that the Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Francitas post office is affirmed.

*It is ordered:*

The Postal Service's determination to close the Francitas, Texas post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

## DISSENTING OPINION BY CHAIRMAN GOLDWAY

I dissent for the reasons enunciated by Commissioner Langley.

Francitas residents reported in the Administrative Record that the receiving administrative office identified by the Postal Service to manage this area (La Ward, Texas) is identified for closure review in the Retail Access Optimization Initiative. The Postal Service's explanation that adequate service will be maintained is therefore called into serious doubt. The Postal Service's ambiguous statement that no decision has yet been made to close or consolidate La Ward serves to underscore the uncertainty in this case.

Furthermore, I also find the Administrative Record inadequate.

Patron letters included in the Administrative Record express great concern about the security of important mail left on rural routes. It does not appear that the Postal Service has fully addressed this legitimate concern.

The cost savings calculated by the Postal Service assume the displacement of a postmaster, even though this post office has been managed by a postmaster relief or officer-in-charge (OIC) rather than a postmaster for more than three years. As a result, the cost savings identified in the economic analysis appear inaccurate.

The letter sent by the Postal Service to customers (Administrative Record, Item No. 21) states that the La Ward post office will continue to provide Francitas residents with retail service on Saturdays. But the Postal Service's public online post office locator, reproduced elsewhere in the Administrative Record (*id.*, Item No. 4), indicates that the La Ward post office does not provide Saturday retail service. While the Postal Service is able to modify retail service hours as needed, this important factual

discrepancy calls into question the accuracy of the Administrative Record presented by the Postal Service.

Finally, the Administrative Record recites a declining revenue figure for Francitas over the past three years. However, postal customers identified poor service by the OIC at Francitas as being a significant concern that may have affected this trend. This concern was not addressed by the Postal Service at all.

I conclude that a remand is warranted. I am disappointed that the Postal Service has moved forward with changes that are so poorly considered and reviewed on a matter of such significance to the residents of Francitas.

Ruth Y. Goldway

## DISSENTING OPINION BY COMMISSIONER LANGLEY

It appears that the Postal Service has not adequately considered all requirements of 39 U.S.C. § 404(d), in particular, the effect of closing the Francitas post office on the Francitas community, and I vote to remand the decision to close this post office.

I disagree with the Postal Service that the inclusion in the Retail Access Optimization Initiative (RAOI) of the La Ward post office, which it has designated as the administrative office to provide post office box delivery and other retail to Francitas, Texas, is not germane. Postal Service Comments at 6. The Postal Service approved the Final Determination on July 8, 2011, (Administrative Record, Item No. 47, page 4) and submitted its request for review of its RAOI to the Commission on July 28, 2011. I find this issue is germane given that the La Ward post office is subject to a discontinuance review under the RAOI.

39 U.S.C. § 404(d)(5)(A) requires the Commission to set aside any determination, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law. It is an abuse of discretion for the Postal Service to not take into consideration that it designated the La Ward post office to fulfill the Francitas community's postal service needs without consideration of the fact that the La Ward post office also could be discontinued within a few months.

The Postal Service should include within its discontinuance process a mechanism to ensure that due consideration is given to the impact on the community of the receiving administrative post office immediately being reviewed for discontinuance.

Nanci E. Langley