

Before the
Postal Regulatory Commission
Washington, D.C. 20268-0001

Crescent Lake Post Office
Crescent Lake, Oregon

Docket No. A2010-4

**Response of the National Association of Postmasters of the United States
In Opposition to the United States Postal Service Motion to Dismiss Proceeding
(May 7, 2010)**

On May 6, the United States Postal Service (USPS) filed a motion to dismiss this proceeding. The National Association of Postmasters of the United States (NAPUS), a management association with a membership of approximately 39,000 active and retired Postmasters, opposes the requested dismissal and urges the Commission to proceed with the docket.

Argument

The USPS claims that the Commission lacks jurisdiction in this matter, since the community of Crescent Lake did not appeal the Final Determination within the prescribed time period. NAPUS suggests that the USPS' failure to comply with 39 U.S.C. §404(d) prejudiced the entire proceeding, precluding a timely appeal and, as a consequence, denied the Crescent Lake community due process rights under the law.

NAPUS believes that the Commission retains jurisdiction because proper notification was never provided to the postal customers of Crescent Lake and the extended "temporary emergency suspension" of the Crescent Lake Post Office prejudiced the process. A number of facts should be noted. The Crescent Lake Post Office was a rural Post Office that provided full service operations to a community of approximately 3,000. Since December 2005, the town has been denied full postal services and convenient access to a Post Office.

The USPS invoked its "temporary emergency suspension" authority on December 6, 2005. The correspondence sent to the USPS by the community, subsequent to the suspension, clearly indicates the citizens to be deeply interested in the future of their Post Office. (The Crescent Lake community submitted the letters to the PRC as part of this docket.) Regrettably, the USPS was nonresponsive or evasive.

Crescent Lake did not have a Post Office for 2½ years, prior to the USPS posting the July 21, 2008 notice that it intended to “discontinue” the Post Office. As the PRC noted in the Hacker Valley Docket (A2009-1), an extended suspension can prejudice the Post Office closing appeals process. The present case is a prime example.

The USPS decision to post the notice of its intention to close and its Final Determination at the Crescent Post Office was disingenuous. Crescent is a town far from the impacted community of Crescent Lake, and therefore, does not constitute the notification envisioned by §404(d). During good weather, the distance between Crescent and Crescent Lake is slightly less than 18 miles; during winter months, the distance is almost 29 miles. The Final Determination was posted on February 2, 2009, a time at which the 18-mile route may not have been safe or passable. In essence, the USPS could not have reasonably expected a community 18 or 29 miles away to respond to the posting. It is reminiscent of the timeless paradox about whether there is sound if a tree falls in the forest and no one is there to hear it. In the present case, the USPS posted two notices in a location where there was a reasonable probability that members of the affected would not see it, and as a consequence, could not appeal. The question for the PRC is whether that posting constitutes fair and just notification, or whether the means and the venue of notification prejudiced the process and violated the law. NAPUS believes the latter is true.

Conclusion

For the reasons outlined above, NAPUS believes that the PRC should set aside the USPS Motion to Dismiss.

Respectfully submitted,

/s/

Betty H. Eickler, Chairman
Post Office Closing and Consolidation Committee
National Association of Postmasters of the United States