

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Tony L. Hammond, Vice Chairman;
Mark Acton;
Dan G. Blair; and
Nanci E. Langley

Cranberry Post Office
Cranberry, PA 16319
(The Committee for Citizens and Customers
of Cranberry, PA 16319, Petitioners)

Docket No. A2010-1

ORDER ON APPEAL OF CRANBERRY, PENNSYLVANIA
POST OFFICE CLOSING

(Issued February 1, 2010)

I. INTRODUCTION AND SUMMARY

On October 6, 2009, the Committee for the Citizens and Customers of Cranberry, PA 16319 Post Office (Petitioner) petitioned the Commission seeking review of the Postal Service's actions regarding the Cranberry post office. The Commission gave notice of this appeal in Order No. 342, issued November 19, 2009.¹ The Postal Service subsequently filed a responsive pleading, indicating that no administrative record would be forthcoming because the post office had not been studied for discontinuance.²

¹ Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 19, 2009 (Order No. 342).

² Notice of United States Postal Service, December 1, 2009 (Notice).

Petitioner's Participant Statement filed on December 9, 2009 contains the reasons why Petitioner believes that the citizens of Cranberry have been denied the opportunity to help save their post office.³ Comments were filed by the Public Representative suggesting that the Commission incorporate the issues and pleadings of this case into the record and proceeding of Docket No. PI2010-1.⁴

This case involves two questions: (1) whether the Postal Service has by its actions closed the Cranberry post office; and (2) if that office is closed, did the Postal Service follow the appropriate procedures before closing the Cranberry post office. The Commission finds that the Cranberry post office has been closed temporarily, but the proper procedures for doing so have not been completed.

II. PROCEDURAL HISTORY

Notice of the suspension was provided to patrons of the Cranberry, PA post office by a July 31, 2009 "Dear Postal Customer" letter, explaining that the lease for the building housing the post office would expire on September 18, 2009, requiring the suspension of services on September 11, 2009.

On August 19, 2009, a community meeting was held in Seneca, PA to address patrons concerns. On September 11, 2009, operations at the Cranberry post office were suspended. The Commission received on October 6, 2009 the petition for review from the Petitioner providing a short description of the Village of Cranberry. The filing included a petition with over 500 signatures opposing closing or consolidation of the Cranberry, PA post office.

The Commission noticed and established a procedural schedule for the appeal on November 19, 2009. On December 1, 2009, the Postal Service filed its responsive pleading contending that the Commission does not have jurisdiction over this matter

³ Participant Statement from the Committee for the Citizens and Customers of Cranberry, PA 16319, December 9, 2009 (Participant Statement).

⁴ Public Representative's Comments in Lieu of a Reply Brief, January 12, 2010 (Public Representative's Comments).

because the Cranberry post office has not been discontinued. Notice at 1. The Postal Service notes that suspension of operations in a post office must be followed within 90 days by a District decision whether to study an office for discontinuance, or whether operations may be restored. *Id.*

III. PARTICIPANT PLEADINGS

Petitioner contends that the Postal Service is attempting to circumvent its guidelines in suspending and closing the Cranberry post office. Petitioner's Participant Statement includes a statement on behalf of the committee; a "Dear Customer" letter signed by Junius J. Johnson, Manager, Post Office Operations; and an article entitled *Cranberry post office to Close Sept. 12* from a local newspaper.

Petitioner argues that this temporary suspension does not meet the requirements for an "emergency suspension."⁵ Handbook PO-101 Section 213.2 defines "emergency suspension" as the cancellation of a lease or rental agreement when no suitable alternate quarters are available in the community. *Id.* Petitioner states that at least three local vacant buildings were available for the relocation of the Cranberry post office. *Id.* Petitioner adds that the Postal Service had advance notice that the owner of the building housing the Cranberry post office desired to sell the facility and would not want to renew the lease. *Id.*

Petitioner further contends that the Postal Service had no intent to look for alternative locations. Petitioner states that at the August 19, 2009 community meeting, patrons of the Cranberry post office were informed that the Postal Service could not look at other sites to house the Cranberry post office. *Id.*

IV. CONTROLLING STATUTORY PROVISIONS

The Postal Service is required to "provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices

⁵ Participant Statement at 2.

are not self-sustaining.” 39 U.S.C. 101(b). Congress specified that no post office may be closed solely for operating at a deficit, *id.*, and established a statutory procedure that the Postal Service must follow prior to closing or consolidating a post office.

Under the terms of 39 U.S.C. 404(d)(1), prior to any decision as to the necessity for closing or consolidating any post office, the Postal Service must provide adequate notice so that persons served by the post office will have an opportunity to present their views. The law further requires the Postal Service to consider five enumerated factors in making a decision on whether to close a post office, the first of which is “the effect of such closing or consolidation on the community served by such post office.” 39 U.S.C. 404(d)(2)(A).

These statutory provisions establish a national policy that citizens should have the opportunity to convey their concerns to the Postal Service before their local post office is closed and, most important, that the Postal Service will fairly consider those concerns prior to making a decision to close that facility.

V. COMMISSION ANALYSIS

The July 31, 2009 “Dear Postal Customer” letter assures the patrons of the Cranberry post office that the suspension would not lead to a formal proposal to permanently close the post office, unless it was concluded that the community would still be afforded the maximum degree of regular and effective services. The letter concludes indicating that in the near future the patrons of Cranberry would be contacted with an explanation of the long-term plans for the office.

The Petitioner and patrons of the Cranberry post office believe that their post office was temporarily suspended and subsequently closed. While the Postal Service contends that no such closure has taken place, its actions have left the citizens of Cranberry without a post office.

The Postal Service states that the procedural posture of the Cranberry post office is identical to that of the Hacker Valley, WV post office that was the subject of Docket No. A2009-1. Notice at 1-2. Based on the information filed by the Postal Service, the

Commission is not in a position to agree or disagree with this statement. In the Hacker Valley case, the Postal Service provided additional information to the Commission on the subsequent steps required to be taken by the Postal Service after a post office is suspended. In response to Commission Information Request No. 1⁶ the Postal Service states:

Section 141 of Handbook PO-101 further provides that a 'plan of action should be sent to the Headquarters Post Office review coordinator through the vice president, Delivery and Retail, within 90 days after the suspension occurs.)' Specifically, under section 617 of Handbook PO-101:

[t]he district manager, Customer Service and Sales, must determine a plan of action to restore service, secure suitable alternate quarters, take other necessary corrective action, or initiate a discontinuance study within 90 days (3 months). That plan of action must be sent in writing to the vice president, Delivery and Retail, no later than the 90th day.

Hence, in most circumstances, it is reasonable to expect a decision to be made within 90 days of the suspension.

Id., Question 12.

In its Notice, the Postal Service states it did not know how best to respond to the docketed proceeding. Notice at 2.

According to the Postal Service's regulations, since suspension of service at the Cranberry post office occurred on September 11, 2009, by December 10, 2009 (90 days after the suspension), a written plan of action should have been sent to Postal Service Headquarters for review. The record does not indicate that any such written plan of action was sent.

⁶ Docket No. A2009-1, Response of the United States Postal Service to Commission Information Request No. 1, August 14, 2009 (Response to CIR No. 1).

The Petitioner claims that vacant buildings in the area were available to house the Cranberry post office.⁷ Petitioner adds that representatives from the Postal Service informed patrons that the Postal Service could not look at other sites to house the Cranberry post office. *Id.* Section 141 of Handbook PO-101 lists nine measures⁸ which must be taken by the Postal Service when suspending a post office. One of the measures is conducting and documenting a search for alternate quarters. Based on the record before the Commission, it does not appear that the Postal Service took such action.

The Public Representative states that “it would be consistent with the interests of the general public if senior postal management would fully commit to a review of the consistency of its regulations and actions thereunder with the spirit of accountability and customer service....” Public Representative Comments at 6. There is the chance that the Postal Service has taken such measures since suspending the post office and has not informed the Commission of such actions. Nevertheless, based on the record before the Commission, it appears that the Cranberry, PA post office has been indefinitely suspended, and the guidelines for suspensions were not followed by the Postal Service.

The Postal Service’s failure to follow its regulations for suspensions leads the Commission to conclude that the Cranberry post office is effectively closed. Attached to the “Dear Postal Customer” is a summary of post office change regulations illustrating the closing process. The procedures set out in the attachment have not been followed by the Postal Service.

⁷ Participant Statement at 2.

⁸ Section 141 of Handbook PO-101 Suspensions states “the following must be done/accomplished: (a) Provide sufficient valid reason to suspend; (b) Provide sufficient documentation justifying suspension; (c) Involve Postmaster organization; (d) Notify and adequately explain reason for suspension to customers; (e) Identify most likely recommended permanent service as temporary alternate service; (f) Conduct timely investigations and follow-up. (A plan of action should be sent to the Headquarters Post Office review coordinator through the vice president, Delivery and Retail, within 90 days after the suspension occurs.); (g) Notify Headquarters; (h) Conduct and document search for suitable alternate quarters; (i) Conduct and document a search for qualified personnel.”

VI. POTENTIAL REMEDIES

Congress provided for the Commission to hear timely appeals of Postal Service decisions to close or consolidate post offices. 39 U.S.C. 404(d). By statute, the Postal Service may not close a facility while the process, including any appeal, is ongoing. In this way, Congress preserves service while the statutory process is followed.

In the event that the Postal Service decides to proceed with the closing of the Cranberry post office, the patrons of Cranberry may file a petition for review with the Commission. While the Commission may remand a decision to close for failure to adhere to the statutory process, it may not modify a decision to close a post office and require that the post office remain open. 39 U.S.C. 404(d)(5). While that process is underway, no Postal Service retail outlet will be located within Cranberry. Even if the Postal Service decides not to close the Cranberry post office, it will have to obtain a new post office site, and the citizens of Cranberry will have suffered needless disruption.

The Postal Service has not adhered to its own regulations with regard to providing retail services within Cranberry. The Postal Service is in the best position to evaluate whether one or a combination of options might be employed to provide an alternative retail presence within Cranberry while a “plan of action” is being considered and during the discontinuance study, if one ensues. Therefore, the Postal Service is to consider what action can be taken to provide the citizens of Cranberry with a level of continuity of service consistent with the stated expectations of 39 U.S.C. 101(b) and 404(d).

The Postal Service indicates in its “Dear Postal Customer” letter to the patrons of the Cranberry post office that in the near future, an explanation of the long term plans for the post office would be provided. The record does not indicate that this has occurred. Until the Postal Service has reopened the Cranberry post office or made a determination to close it, the Postal Service is to provide the Commission every 45 days from the date of this order with reports describing its progress in producing a “plan of action” regarding the Cranberry post office, and if a discontinuance study is authorized, a report detailing the progress of the study.

The Commission will incorporate the findings on this matter into Docket No. PI2010-1 docket regarding suspended post offices.

VII. ORDERING PARAGRAPH

It is ordered:

1. The record on appeal will be incorporated into any subsequent appeal of final Postal Service decision to close or consolidate the Cranberry, Pennsylvania post office.
2. The record on appeal will be incorporated into Docket No. PI2010-1 regarding post office suspensions.
3. The Postal Service is to file reports with the Commission as described in the body of this order.

4. The Postal Service is to consider what actions can be taken to provide the citizens of Cranberry, Pennsylvania with a level of continuity of service consistent with the stated expectations of 39 U.S.C. 101(b) and 404(d).

By the Commission.

Shoshana M. Grove
Secretary