

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION

Before

Chairman Goldway,
Vice Chairman Hammond,
Commissioners Acton, Blair and Langley

Station and Branch Optimization and
Consolidation Initiative, 2009

Docket No. N2009-1

ADVISORY OPINION CONCERNING THE PROCESS
FOR EVALUATING CLOSING STATIONS AND BRANCHES



Washington, DC 20268-0001
March 10, 2010

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I. EXECUTIVE SUMMARY

The Postal Service exercised its discretion to request an advisory opinion from the Commission before implementing a focused, systemwide application of its stations and branches discontinuance process. Initially, the process is being applied to more than 3,000 stations and branches nationwide, and the Postal Service states in its Request that it has no basis for estimating the number or percentage of stations and branches that might have their operations discontinued.

In response to this Request, the Commission promptly began the public review proceeding that led to this advisory opinion. This Postal Service initiative has sparked substantial public interest, and the Commission appreciates the contributions of numerous interested citizens.

The Commission also commends the Postal Service for starting the advisory opinion process. The Postal Service acknowledges that its decision to file this Request with the Commission was influenced by language in *Buchanan v. United States Postal Service*, 375 F. Supp. 1014 (N.D. Ala. 1974), a decision that it does not necessarily agree with. Notwithstanding that, the public proceeding that supports the Commission's conclusions is an example of how the Postal Service and the Commission can cooperatively use their complementary authority to develop policy and improve the process in an open and transparent manner.

The Commission finds that it is consistent with applicable public policy for the Postal Service to adjust its retail footprint to recognize changing customer needs and usage. However, the Commission also finds that a number of changes should be made to the current Postal Service process to assure that adequate and efficient service is maintained. Improvements in three areas are particularly important.

First, the Commission finds that the Postal Service should improve customers' opportunity to offer input. Currently, those served by a facility that may be closed receive limited notice and only 10 days to provide comments. Further, public comments often are not sought until after the initial decision to close the facility has already been made. Postal Service decision-making will be improved if it establishes a notice and comment period that provides an adequate opportunity for public input before an initial decision to close a facility is made.

Second, the Commission finds that the financial analysis used to estimate the cost savings if a facility closes should be improved. Currently, the Postal Service does not adequately reflect potential revenue declines and operational expenses that may result from closing a post office. Its treatment of personnel costs also has been questioned. An improved financial analysis model will allow more accurate evaluation of essential policy considerations.

Third, the Commission finds that the Postal Service should provide local managers responsible for developing proposals to close facilities with written guidance on how to obtain relevant information and how to apply the qualitative decision factors. This will allow consistent, nationwide application of relevant factors and produce more well-reasoned, and less arbitrary decisions.

It now appears that the initial application of the station and branch discontinuance process will affect a smaller number of facilities than originally proposed. A recent Postal Service filing indicates that only 162 stations and branches are currently under review. If the full impact of this program had been limited to 162 disparate facilities, it would be unlikely to constitute a nationwide change in service. However, the Postal Service has indicated that this program will continue to be applied in the future to numerous retail facilities. If the improvements identified by the Commission are adopted, the planned subsequent nationwide applications of this process will be consistent with public policy.

II. PROCEDURAL HISTORY

On July 2, 2009, the United States Postal Service (Postal Service) filed a request with the Postal Regulatory Commission (Commission) asking for a determination whether a plan to optimize the postal retail network by consolidating the operations of some retail stations and branches into nearby facilities constitutes a change in the nature of postal services, substantially on a nationwide basis, within the meaning of 39 U.S.C. § 3661(b).¹ The Postal Service describes the plan as the Postal Service Station and Branch Optimization and Consolidation Initiative (Initiative). Request at 1.

At first, the Initiative will focus on stations and branches that report to USPS Executive & Administrative Schedule level 24 (EAS-24) and above postmasters. *Id.* at 5. These facilities represent approximately two-thirds of the over 4,800 Postal Service classified stations and branches nationwide.² This initial focus will inform the Postal Service on decisions whether to use the Initiative as a national model and continue or expand the program to include a broader pool of stations and branches. *Id.* at 6.

If the Commission determines that the Initiative will likely generate changes in the nature of postal services on a substantially nationwide basis, the Postal Service then requests that the Commission issue an advisory opinion under section 3661(c), which concurs that such service changes would conform to the policies reflected in title 39 of the United States Code. *Id.* at 2.

¹ Request of the United States Postal Service for an Advisory Opinion on Changes in Postal Services, July 2, 2009; and Notice of the United States Postal Service of Filing Erratum to Request [Erratum], July 2, 2009 (Request).

² The Postal Service by regulation defines Post Offices as being associated with a city, town, or village. Stations are established within the corporate limits or boundary, and branches are established outside the corporate limits or boundary of the city, town, or village in which the Post Office is located. 39 CFR § 241.2(a)(1).

Commission rules require that a request for an advisory opinion be filed not less than 90 days in advance of the date on which the Postal Service proposes to make effective the change in the nature of postal services involved. The Commission appreciates the Postal Service's forbearance in moving ahead on this initiative until the release of this advisory opinion.

In support of its Request, the Postal Service filed two pieces of direct testimony: Direct Testimony of Alice M. VanGorder on Behalf of United States Postal Service (USPS-T-1), July 2, 2009; and Direct Testimony of Kimberly I. Matalik on Behalf of United States Postal Service (USPS-T-2), July 2, 2009 (errata filed July 17, 2009, August 28, 2009, September 16, 2009, and September 29, 2009). It also filed four library references, which provide both public and non-public versions of the official records for the closings of the Buhl, PA classified station³ and the Washburn, IA classified branch.⁴

The Commission issued Order No. 244 to establish this docket, announce filing of the Request, notice the proceeding in the *Federal Register*, and declare the Commission's intent to provide an opportunity for a formal, on-the-record hearing of the Request under the terms specified in sections 556 and 557 of title 5 of the United States Code.⁵ The order also established a deadline for intervention, set a date for a prehearing conference, and pursuant to 39 U.S.C. § 3661(c), designated an officer of the Commission to represent the interests of the general public.

³ USPS-LR-N2009-1/1 Official Record to Close the Buhl, PA Classified Station, Docket No. 16146 (Public Version); and USPS-LR-N2009-1/NP1 Official Record to Close the Buhl, PA Classified Station, Docket No. 16146 (Non-Public Version). The public version excludes the names of customers and postal patrons providing comments to the Postal Service.

⁴ USPS-LR-N2009-1/2 Official Record to Close the Washburn, IA Classified Branch, Docket No. 50706 (Public Version); and USPS-LR-N2009-1/NP2 Official Record to Close the Washburn, IA Classified Branch, Docket No. 50706 (Non-Public Version). The public version excludes the names of customers and postal patrons providing comments to the Postal Service.

⁵ Notice and Order Concerning a Postal Service Request for an Advisory Opinion on a Plan to Optimize the Postal Retail Network, July 10, 2009 (Order No. 244); see also 74 FR 35210 (July 20, 2009).

Eighteen users of the mail (as referenced in 39 U.S.C. § 3661(c)) intervened in this docket.⁶ A list of parties and associated counsel, including party name abbreviations used throughout this document, appears in Appendix A.

The prehearing conference was held on July 30, 2009, to elicit views regarding establishment of a procedural schedule, including the length of the discovery period, the need for a hearing, and the possibility of participants filing rebuttal testimony. Based upon this input, the Presiding Officer issued a scheduling ruling to provide direction to the proceeding.⁷

During the prehearing conference, the Commission also indicated its intent to hold public field hearings outside of Washington, D.C. “for the purpose of developing a record on the attitudes and needs of postal customers that might be impacted by station and branch consolidations.” Tr. 1/35; see *also* Order No. 244 at 3. Field hearings subsequently were held on September 16, 2009 at the Independence Civic Center, 6363 Selig Drive, Independence, Ohio and on September 23, 2009 at Fordham University, Rose Hill Campus, O’Hare Hall, 441 East Fordham Road, Bronx, New York. A list of panelists and public speakers referenced in the transcripts for each field hearing appears in Appendix B.⁸

A hearing to enter the Postal Service’s direct case and provide an opportunity for participants to orally cross-examine Postal Service witnesses was held on September 30, 2009. Near the close of the hearing, two participants, APWU and AUSPL, indicated

⁶ This total does not include the Postal Service (the requesting party) or the Public Representative (designated by the Commission).

⁷ Presiding Officer’s Ruling Establishing Procedural Schedule, August 14, 2009 (P.O. Ruling N2009-1/1).

⁸ The Postal Service questions the evidentiary status or the weight that may be given to testimony obtained through the field hearings. Tr. 4/804. The field hearings serve to inform the Commission of the concerns of members of the public that rely on mail, but whose views may not have been fully represented in Washington, D.C. as well as some who already felt directly impacted by the Initiative. Assertions of fact presented therein have not been relied upon in this Advisory Opinion unless otherwise supported by the official record.

their intent to file rebuttal testimony. Tr. 2/607. Subsequently, the Presiding Officer issued a ruling which extended the filing date for rebuttal testimony, as originally scheduled in P.O. Ruling N2009-1/1, and scheduled the remainder of this docket.⁹

Early in the proceeding, the Postal Service filed library reference USPS-LR-N2009-1/4, Current List of Stations/Branches Identified as Candidates for Discontinuance Study Under Station/Branch Optimization/Consolidation Initiative. This library reference, which the Postal Service has updated monthly, tracks the number of stations and branches under consideration over time. For most months, a public and a non-public version were filed, with the non-public version providing station and branch finance numbers. Table 1 shows the number of stations and branches remaining under consideration as of the filing dates of the library reference.

Table 1
Stations and Branches Under Consideration by Date

Date	Stations and Branches Remaining Under Consideration
July 30, 2009	759
September 2, 2009	413
October 9, 2009	371
November 20, 2009	241
December 14, 2009	168
January 29, 2010	162
February 26, 2010	162

⁹ Presiding Officer's Ruling Granting, in Part, Motion to Extend Schedule and Establishing Procedural Schedule, October 9, 2009 (P.O. Ruling N2009-1/11).

Two participants filed rebuttal testimony. APWU filed Rebuttal Testimony of Michael T. Barrett on Behalf of American Postal Workers Union, AFL-CIO (APWU-T-1), October 21, 2009, and Rebuttal Testimony of Anita B. Morrison on Behalf of American Postal Workers Union, AFL-CIO (APWU-T-2), October 22, 2009. In support of witness Barrett's testimony, APWU filed library reference APWU-LR-N2009-1/1: Labor Costs Spreadsheet. AUSPL filed Affirmative Rebuttal Testimony of Mario Principe on Behalf of Association of United States Postal Lessors (AUSPL-RT1), October 13, 2009 (errata filed October 14, 2009).

A hearing to enter the participants' rebuttal cases and provide an opportunity for participants to orally cross-examine rebuttal witnesses was held on November 18, 2009. Subsequent to the hearing, no participant indicated a need to file surrebuttal testimony.

Briefs were filed by APWU, AUSPL, the League, Popkin, the Postal Service, the Public Representative, and Valpak.¹⁰ Reply briefs were filed by APWU, the Postal Service, the Public Representative, and Valpak.¹¹

¹⁰ American Postal Workers Union, AFL-CIO Initial Brief, December 2, 2009 (APWU Brief); Submission of Brief on Behalf of Association of United States Postal Lessors (AUSPL) Regarding the U.S. Postal Service's Station and Branch Optimization and Consolidation Initiative (Docket N2009-1), December 1, 2009 (AUSPL Brief); Initial Brief of the National League of Postmasters, December 3, 2009 (League Brief); Initial Brief of David B. Popkin, December 2, 2009 (Popkin Brief); Initial Brief of the United States Postal Service, December 2, 2009 (Postal Service Brief); Initial Brief of the Public Representative, December 2, 2009 (Public Representative Brief); and Initial Brief of Valpak Direct Marketing Systems, Inc. and Valpak Dealer's Association, Inc., December 2, 2009 (Valpak Brief).

¹¹ American Postal Workers Union, AFL-CIO Reply Brief, December 17, 2009 (APWU Reply Brief); Reply Brief of the United States Postal Service, December 16, 2009 (Postal Service Reply Brief); Reply Brief of the Public Representative, December 16, 2009 (Public Representative Reply Brief); and Reply Brief of Valpak Direct Marketing Systems, Inc. and Valpak Dealer's Association, Inc., December 16, 2009 (Valpak Reply Brief).

III. COMMISSION LEGAL AUTHORITY

Section 3661(b) states:

(b) When the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change.

The Postal Service Request indicates that it “has determined in its discretion to request an advisory opinion before implementing any changes in the nature of postal services that may result from a focused, systemwide application of its longstanding discontinuance review process to a subset of postal stations and branches” within the scope of the Initiative. Request at 2, n.1. The Postal Service offers that the Initiative might result in a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.

The Postal Service indicates that the Initiative is a centrally directed program by Postal Service Headquarters that is being used to review the operations of over 4,800 stations and branches in the Postal Service’s national retail network. The Postal Service notes that the “initial” focus of the Initiative will be on stations and branches that report to EAS-24 and above postmasters. *Id.* at 5. The Postal Service continues that “[e]xperience with this initial focus will inform any decision whether to continue or expand the Initiative to include a broader pool of stations and branches.” *Id.* at 6. Additionally, Postal Service witness VanGorder testifies that although a facility currently has been removed from the list of potential candidates, it may again be considered for discontinuance in the future. Tr. 2/360. These assertions support the proposition that the Initiative is national in scope, and that the policies and procedures established through the Initiative will continue into the future.

At the time the Request was filed, the Postal Service asserted it had no basis for estimating the number of stations and branches that will in fact have their operations discontinued as a result. Request at 2, n.1. It also had no basis for quantifying the cumulative impact of the nature of any postal services, or whether any change will rise to the level of being substantially nationwide in scope.¹² *Id.*; USPS-T-1 at 12.

The Request also asks the Commission to review whether the Initiative constitutes a potential, substantially nationwide change in the nature of postal services that justifies invocation of section 3661 proceedings. As the Initiative involved thousands of facilities nationwide, and the Postal Service could not estimate its eventual impact, the Commission could not determine that such a change would not occur, and it proceeded to develop an advisory opinion as required by the statute.

On brief, the Postal Service states that only 241 facilities remain under consideration as of November 20, 2009, with the potential for only a subset of these facilities actually being discontinued.¹³ Postal Service Brief at 6. Because of the limited number of facilities under consideration, it argues that the potential service changes that could result from the Initiative are now insufficient to trigger the Commission's jurisdiction to issue an advisory opinion, and that the Commission is obligated to terminate the proceeding. *Id.* at 3.

Valpak also addresses the jurisdictional issue on brief. It argues that the Postal Service first must answer the threshold question as the Commission has no statutory authority to answer this question for them. Valpak Brief at 4 and 7. It contends that the Commission must either send the matter back to the Postal Service to make the

¹² The Postal Service acknowledges that in the past “the Commission has managed to issue constructive and thorough advisory opinions based upon a record reflecting the nature of service changes that might occur, even if the ultimate degree of change was not subject to precise quantification.” Tr. 2/114.

¹³ It states that this represents a fraction of 1 percent of the approximately 27,200 Post Office areas. *Id.* at 11.

threshold determination, or decide that the Commission is without authority to issue an advisory opinion and close the docket. *Id.* at 7. In any case, Valpak does not believe, given the current number of stations and branches under consideration, that the Initiative rises to the level of a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis required to trigger the requirement for an advisory opinion. *Id.* at 9-11.

Buchanan v. United States Postal Service, 375 F. Supp. 1014 (N.D. Ala. 1974), *affirmed in part, vacated in part*, 508 F.2d 259 (5th Cir. 1975) provides direction on advisory opinions concerning Postal Service proposals that potentially change the nature of postal services.¹⁴ In *Buchanan*, plaintiffs sought to enjoin the Postal Service from further implementation of three programs that might lead to changes in the nature of postal services until the Postal Service submitted the programs for review, hearing, and an opinion pursuant to 39 U.S.C. § 3661.¹⁵ In reaching its decision, the court characterized the central issue before it as “just what constitutes a change in the nature of postal service?” *Id.* at 1021. The court stated that “it is not necessary to decide that the challenged changes are in fact embraced in Section 3661. It is necessary to conclude, as the court has, that most likely they are....” *Id.* at 1022.¹⁶

¹⁴ “The Postal Service does not consider the *Buchanan* decision provides reliable guidance as to the proper construction of § 3661, or the intent of Congress in enacting it.” Request at 2, n.1.

¹⁵ The three programs were referred to as the: Postal District consolidation and elimination program; the retail analysis program or postal facilities deployment program; and the national bulk mail system program. *Buchanan* at 1016.

¹⁶ As a consequence of *Buchanan*, the Postal Service filed Docket No. N75-1, Retail Analysis Program for Facilities Deployment. In Docket No. N75-1, the Commission analyzes and offers guidance in regard to the jurisdictional issues associated with section 3661. Docket No. N75-1 Op. at 65-75. The jurisdictional issues encountered in Docket No. N75-1 are directly on point to the jurisdictional issues present in this case and lead the Commission to similar conclusions.

Following the guidance offered by *Buchanan*, the Commission finds that the Postal Service's Initiative falls under the ambit of 39 U.S.C. § 3661.¹⁷ The change in the nature of postal services broadly can be defined as changes to a customer's ability to access essential postal services that require a visit to a postal retail facility. As an indication of the scope of the Initiative, the Postal Service asserts that the Initiative is a nationwide program, that the policies and procedures established under the Initiative may be expanded and continue to be applied into the future, and that stations and branches no longer under consideration may in the future be reconsidered.¹⁸

The advisory opinion. The Postal Service Request asks the Commission to issue an advisory opinion concluding that the Station and Branch Optimization and Consolidation Initiative conforms to the policies in title 39, United States Code, if the Commission finds it has jurisdiction. The request is made in accordance with 39 CFR § 3001.71 *et seq.* and based upon the testimonies and materials otherwise reflected in the record of this proceeding. Request at 7.

The Commission finds that the Request for a 39 U.S.C. § 3661 review is appropriate. Therefore, section 3661(c) establishes these responsibilities:

(c) The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mail, and an officer of the Commission who shall be required to represent the interests of the general public. The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion

¹⁷ The League urges the Commission to issue a "conditional" opinion. It argues that because it can not be determined on the record the number of stations and branches that will be closed, it can not be determined whether the Initiative will lead to a nationwide change in the nature of postal services. League Brief at 4-5. The Public Representative supports this approach as an alternative to directly accepting jurisdiction and issuing an advisory opinion. Public Representative Brief at 11-12. Because the Commission accepts jurisdiction, it does not reach any conclusions on the merits of issuing a conditional opinion.

¹⁸ The first iteration of the Initiative now involves only 162 facilities, and that number may be reduced further. Yet, it is evident that continuing application of the Initiative will impact an unknown number of additional facilities. Thus, the Commission finds that proceeding under section 3661 was proper, and providing the results of that proceeding to the Postal Service is also proper.

that in his judgment the opinion conforms to the policies established under this title.

This advisory opinion is being issued after providing an opportunity for hearing on the record.¹⁹ It considers whether implementation of the Initiative will allow for provision of postal services in conformance with the policies of title 39, and whether the policies and procedures that the Postal Service employs to carry out the Initiative are sufficiently sound to enable the Initiative to meet that objective.²⁰

Commission authority over individual postal facilities. As a final comment on the Commission's legal authority, some commenters have the misconception that the Commission has final decision-making authority over closing or consolidating specific, individual postal facilities.²¹ The Postal Service alone possesses this authority. It has the statutory responsibility for establishing and maintaining "postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to postal services."²² See 39 U.S.C. § 403(b)(3).

¹⁹ Chairman Lynch urges the Commission to weigh public opinion and advise the Postal Service to execute the Initiative "in a manner that is fair and transparent" while being mindful of the need of the Postal Service to remove costs in its network. Letter from Stephen F. Lynch, Chairman, House of Representatives Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, October 5, 2009 (Lynch Letter).

²⁰ Docket No. N75-1 is informative as to the breadth of the inquiry that the Commission must undertake in the instant docket. The inquiry in Docket No. N75-1 focused on two questions: "(1) whether the program conforms, in terms of its stated objectives, to the policies of § 3661 and the remainder of title 39; and (2) whether the methodology employed in the program is sufficiently sound to enable the program to meet those objectives." Docket No. N75-1 Op. at 33-34.

²¹ See Postal Service comments on customer perception of Commission closing authority. Tr. 4/803-4.

²² The Postal Service recites what it views as its basic statutory obligations related to the Initiative in its Request at 3.

The Commission's authority is to ensure that policies and procedures established by the Postal Service governing consolidations and closures comport with title 39.²³ In addition, the Commission retains limited authority through an appeal process to review certain consolidations and closings.²⁴ The Commission may set aside Postal Service findings and conclusions concerning individual consolidation or closing determinations that are "(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 on the record." See 39 U.S.C. § 404(d)(5). In effect, this authority is used to ensure that the Postal Service adheres to a closing and consolidation policy that provides due process and minimum periods of meaningful notice to the public. If this policy is followed, the Commission does not intervene in Postal Service closing and consolidation decisions.

²³ For example, Chairman Lynch questions the sufficiency of the proposed 20-day public comment period under the Initiative. See Lynch Letter.

²⁴ The Commission has repeatedly rejected Postal Service argument that the title 39 section 404(d) approval process is applicable only to Post Offices. See Docket No. A2006-1, Order Denying Postal Service Motion to Dismiss and Remanding for Further Consideration, September 29, 2006, at 5-12.

IV. SUMMARY OF POSTAL SERVICE PROPOSAL

A. United States Postal Service Request

The Postal Service explains that it is instituting a process for conducting an in-depth examination and reconfiguration of its retail network. Request at 5. This undertaking is premised on the expectation that excess retail capacity can be identified and reduced. *Id.* at 5. The Postal Service presents a process it calls its Station and Branch Optimization and Consolidation Initiative, 2009, and asks the Commission to issue an advisory opinion which analyzes whether the Initiative conforms to the policies of title 39, United States Code. *Id.* at 7.

The objective of the Initiative is to “realign the postal retail network with current and future postal customer service needs, to reduce inefficiency and redundancy, and to capture the resulting cost savings.” *Id.* at 6. Citing the recent declines in mail volume and demand for retail service, the Postal Service proposes to identify opportunities for consolidation, but to carry out consolidations only after concluding that such changes would continue to provide “ready access to essential postal services.” *Id.* at 2.

The Postal Service states that the Initiative began in May 2009 with the examination of the portion of the retail network consisting of stations and branches that report to postmasters at or above the EAS-24 pay grade. USPS-T-2 at 8. It asserts that the stations and branches that meet this criterion are located primarily in urban and suburban population centers and comprise approximately two-thirds of the over 4,800 stations and branches nationwide. Request at 5-6. The Postal Service expects that the bulk of this review process and the resulting implementation of operational and service changes will be completed during fiscal year 2010. *Id.* at 6. The results of this initial analysis will be used to inform any decisions on whether to expand the Initiative to a broader pool of stations and branches. *Id.*

The Postal Service asserts that the reasons underlying the pursuit of this objective are explained in the Direct Testimony of Alice M. VanGorder (USPS-T-1) and the process to be employed in making decisions to achieve the objective is described in the Direct Testimony of Kimberly I. Matalik (USPS-T-2). These testimonies are summarized below.

B. Witness Alice M. VanGorder

Alice M. VanGorder is the Manager, Customer Service Operations, Delivery and Post Office Operations Group with the Postal Service. Her office is primarily responsible for developing policies and procedures related to managing the day-to-day operations of Post Offices, opening and closing facilities, and improving the customer experience when doing business with the Postal Service. She joined the Postal Service in 1979. USPS-T-1 at 1.

Through her testimony she explains how the Postal Service's implementation of the Initiative serves various policy goals. She explains that the Postal Service operates an extensive domestic retail network that encompasses more than 36,700 facilities primarily consisting of over 27,200 Post Offices and more than 4,800 stations and branches. *Id.* at 4. She describes a Post Office as the basic organizational unit of the United States Postal Service providing services within a specific geographic area. Stations and branches are subordinate units of a Post Office and directed by a Post Office's postmaster. Stations are located within the same corporate limits as the hosting Post Office, while branches are located outside the corporate limits of the city or town hosting the Post Office. She notes that these distinctions often do not matter to postal customers. *Id.* at 4, n.2.

Witness VanGorder testifies that historically, except for entering mail in collection boxes or receptacles, most retail transactions required a visit to a Post Office, station, branch, or contract postal unit (CPU). *Id.* at 4-5. She states that over past decades the locations of stations and branches were selected to provide customers with ready

access to these services at a time when alternative access channels were non-existent or nascent. *Id.* at 5.

Witness VanGorder argues that recently customer mailing patterns have changed and alternative access channels have emerged. She states that “[i]n the past decade, business and household mailers have increasingly turned to emerging electronic media to transmit messages that were formerly sent through the hard copy postal system.” *Id.* She also cites the ongoing economic recession as contributing to a decrease in activity at retail facilities, along with the introduction of the Forever Stamp, which further reduces the number of required visits to post offices. *Id.* at 6-7.

Witness VanGorder contends that more than a quarter of retail revenue now is generated through alternative access channels. *Id.* at 8. The alternative access channels that she refers to are:

- The Postal Service’s website at *www.usps.com*;
- The availability of stamps at non-postal retail locations;
- Privately-operated Approved Shipper locations;
- The use of Automated Postal Centers (APCs);
- Stamps by mail;
- The 1-800 ASK-USPS (275-8777) toll-free telephone service; and
- Carrier Pickup Service.

Id. at 5-10.

Witness VanGorder states that the Postal Service already has responded to long-term mail volume and revenue trends in many of its operations. *Id.* at 5-6. She contends that the shifts in mail volume to electronic alternatives, the availability of alternative access channels, and the ongoing economic recession now obligate the Postal Service to examine the station and branch segment of its retail network. *Id.* at 8.

She states that the Postal Service will begin by reviewing stations and branches that report to EAS-24 and above level postmasters, which she asserts are facilities that primarily serve urban and suburban customers. *Id.* at 8-9. She contends that these facilities “represent a substantial portion of the annual total operating expenses (including employee salaries and benefits, leasing costs and utilities) for the Postal Service.” *Id.* at 10. In Attachment A of her testimony, she identifies the cities under consideration which have “the greatest opportunity to achieve significant savings in retail operations while continuing to provide ready access to adequate and efficient postal services.” *Id.*

Witness VanGorder explains that the Postal Service has a longstanding process that is a critical component of the Initiative in which Districts examine stations and branches for consolidation, and submit proposals to Headquarters. *Id.* at 10. The decision-making process entails District offices developing information that Headquarters in turn uses to determine whether ready access to adequate and efficient service will be maintained after a proposed consolidation. *Id.* She asserts that “the objective of the Initiative is to concentrate field management’s application of a venerable analytical process for studying components of the retail network to determine if it can more efficiently serve the needs of the mailing public,” with the expectation “that the resultant retail network will continue to provide ready access to adequate service and that efficiency gains will have the effect of mitigating the constant pressure to raise postal prices.” *Id.* at 12.

She asserts that the Postal Service has not established any targets for the number of stations or branches that will be consolidated, or targets or goals for cost savings. *Id.* at 11. She states that the overall impact on the nature of any particular postal service or customer group can not be predicted. However, “[n]o facility will be consolidated unless a study demonstrates an opportunity for efficiency gains while maintaining ready access to adequate service.” *Id.*

Witness VanGorder cites several areas of potential changes in service. First, she discusses the relocation of Post Office Boxes once a facility is closed, which will require customers to pick up their mail at new locations. *Id.* at 12-13. Retail customers also will experience a change in service because retail services will no longer be available at a closed facility. She states that customers will be directed to neighboring retail units and encouraged to make use of alternative access channels. *Id.* at 13. She acknowledges that customers will no longer be able to pick up accountable mail at a discontinued facility, and assuming other delivery options are not selected, will have to pick up accountable mail at a different location. *Id.*

C. Witness Kimberly I. Matalik

Kimberly I. Matalik is an Operations Specialist in the Retail Operations, Delivery and Postal Office Operations Group with the Postal Service. Currently, she is the Program Manager for the Post Office Discontinuance Program and is responsible for managing the Station and Branch Optimization and Consolidation Initiative. She joined the Postal Service in 1981. USPS-T-2 at 1.

Through her testimony she describes the longstanding stations and branch discontinuance review process. She then describes the facility-specific study and review process used under the Station and Branch Optimization and Consolidation Initiative, including the prioritization process used in determining which stations and branches will be examined first. *Id.* at 2.

Witness Matalik explains that there is a longstanding process whereby District offices routinely initiate studies at the direction of the District Manager, and submit proposals to Headquarters to consider discontinuing operations in particular retail stations and branches. *Id.* at 3-4. From the time a study is initiated, she states that it averages four months before a proposal might be submitted to the Vice President, Delivery and Post Office Operations at Headquarters for a final decision on closure. *Id.* at 6. It then may take more than 60 days from the date of a final decision to effect a

closure. *Id.* She cites to this “bottom-up” process being used to close 21 stations or branches since FY 2005. *Id.* at 7.

She states that the review process studies a facility’s business activities, including a facility’s:

- Mail volume trends;
- Retail transaction trends;
- Proximity to other retail service facilities;
- Space requirements and capabilities;
- Customer wait-time-in-line and retail window service capacity;
- Impacts on employees at the facility under study;
- Customer concerns as expressed in response to questionnaires or in a community meeting;
- Cost savings that could result from closure or consolidation;
- Alternate retail window and delivery service options;
- The ability of nearby postal facilities to handle retail service and mail processing workload that may shift to their locations;
- The ability of the community served by the facility to access nearby postal facilities or alternate access channels; and
- Other factors as may be deemed appropriate.

Id. at 4.

Other factors unique to a particular facility also are considered; for example, location in proximity to a major Internal Revenue Service center, or customer-specific needs, such as high concentrations of elderly, economically disadvantaged, limited mobility, or non-English-speaking customers. *Id.* at 5.

Witness Matalik states that if District management concludes from the above analysis that customers will continue to have ready access to essential postal services

after a closing and the proposal to close the facility is otherwise deemed worthy of further consideration, the District then proceeds with customer notification and solicitation of customer comments.

Notices are posted in the facility's lobby and also may be published in local newspapers. Customer comments are obtained either through a public meeting or through customer questionnaires. Questionnaires may be placed in Post Office Boxes, mailed to delivery customers, or made available to window service customers. *Id.* Districts are provided with standard templates and instructions for the above notices and questionnaires, which then may be adapted to fit local circumstances. Any public comment or questionnaire responses obtained are reviewed at the District level. After a proposal is submitted to Headquarters, this information is again reviewed at the Headquarters level. *Id.* at 6.

Witness Matalik explains that under the Stations and Branch Optimization and Consolidation Initiative, the Postal Service will employ a two stage process. The first stage is a prescreening process which prioritizes stations and branches for immediate analysis. *Id.* at 7. She notes that a facility eliminated from consideration at this stage is not necessarily eliminated from future consideration under the Initiative. *Id.* at 9. The second stage entails a facility-specific study to generate a foundation for a District recommendation to Headquarters for discontinuance or consolidation of the retail facility. *Id.* at 7. This process is to be used as a model under the Initiative to ensure that important considerations, including the concerns of customers, will be examined. *Id.* at 13.

Witness Matalik states that in May 2009, Headquarters directed each District office to begin prescreening stations and branches that report to Post Offices managed by postmasters at or above the EAS-24 pay level to prioritize consolidation opportunities for further study. *Id.* at 8. The prescreening process established by Headquarters relies upon the following factors:

- Existence of other postal-operated retail facilities within five miles of the candidate; or within five-to-ten miles;
- Alternative retail access channels within a one-mile proximity of the station/branch (Post Offices, stations, branches, contract postal units, and consignment stamp purchase locations);
- Availability of space in nearby postal facilities of any type necessary for carrier operations now located in the candidate station/branch; (Any nearby facility that already occupies greater than 80 percent of capacity for existing carrier operations is eliminated from consideration as a gaining facility *Id.*, n.7).
- The ability of the candidate facility and any potential gaining facility to accommodate current and future customer, postal and employee vehicle parking needs;
- The space necessary to accommodate transfer of the candidate facility's operations is located in one or more suitable nearby facilities;
- The building housing the station/branch being considered for discontinuance is structurally designed to meet future postal needs; and
- Imminence of a forthcoming lease termination opportunity for the candidate facility.

Id. at 8-9.

After the above factors are considered, the following retail service issues are considered:

- The availability of retail windows and staffing to avoid unreasonable wait-time-in-line at potential gaining location(s);
- Retail revenue trends at the station/branch being considered for discontinuance compared to the same period last year; and
- Retail visits trends at the station/branch being considered for discontinuance compared to the same period last year.

Id. at 9.

Witness Matalik explains that candidate stations and branches identified for possible discontinuance through the prescreening process are then subjected to the

facility-specific discontinuance study process. *Id.* She states that a discontinuance study analyzes:

- Retail transaction trends;
- Proximity to other retail service facilities and the ability of customers to access them;
- Space requirements and capabilities;
- Wait-time-in-line and retail window service capacity;
- Impacts on employees at the facility under study;
- Customer concerns as expressed in response to questionnaires or in a community meeting;
- Postal financial savings that could result from closure or consolidation;
- Alternate retail service and delivery options;
- The ability of nearby postal facilities to accommodate retail, delivery and mail processing workload that may shift to their locations;
- What kinds of non-postal service requirements exist at the station or branch being analyzed for discontinuance; and
- Other factors as may be deemed appropriate. (This stage is where such needs as those of non-English-speaking, elderly, economically disadvantaged, or limited-mobility customers are introduced into decisions. *Id.*, n.8).

Id. at 9-10.

Witness Matalik states that after compiling and analyzing the above, the District manager next decides whether or not to submit a written decision package to Headquarters for review and approval. *Id.* at 10. Decision packages that are submitted are reviewed by Headquarters Retail Operations to validate the information contained therein and to assess whether the District provided customers with information related to any potential address changes, neighboring retail units, hours of operations and lobby hours of the gaining office(s), and any alternate retail location(s) and access. *Id.*

at 10-11. After this vetting process is complete, the last step is the submission of a recommendation to the Vice President, Delivery and Post Office Operations, for a final agency decision.

Witness Matalik explains that decisions to discontinue a station or a branch approved by Headquarters are transmitted to the corresponding Area and District offices responsible for the issuance of notices to affected postal employees, customers, and employee organizations. The discontinuance is implemented no earlier than 60 days after the date of the final decision by the Vice President, Delivery and Post Office Operations. Witness Matalik provides a flow diagram of the discontinuance process in her testimony. *See id.* at 12.

V. PARTICIPANT TESTIMONY

A. American Postal Workers Union, AFL-CIO

Michael T. Barrett (APWU-T-1) and Anita B. Morrison (APWU-T-2) testify on behalf of the American Postal Workers Union, AFL-CIO.

1. Michael T. Barrett Testimony

Witness Barrett is a career postal employee with 24 years of service. His current assignment is Distribution-Sales Service Associate at the West Seneca Branch. He also is the APWU steward for the West Seneca (NY) Branch. He asserts that through his postal experience he is familiar with management data systems and reporting on customer service functions, as well as staffing and scheduling tools. APWU-T-1 at 3-4.

Witness Barrett describes his testimony as detailing how the Postal Service can better measure the 11 factors identified by witness Matalik that are considered in a discontinuance study. Specifically, he considers: (1) labor costs associated with retail transactions likely to move to other facilities; (2) labor costs associated with distribution of box and other mail, (3) the cost of forwarding mail; (4) the ability of nearby facilities to accommodate any migrating business; and (5) the identification of ways customers use a facility. *Id.* at 5.

Witness Barrett contends that the Postal Service does not appear to consider the labor cost of retail transactions that will migrate to other stations and branches. *Id.* at 6. He demonstrates how this might be considered by using revenue transaction data stored in the Enterprise Data Warehouse, which he asserts is retrievable through reporting in the Retail Data Mart. He cites two reports of particular use: the Top-Bottom Products by Walk-In Revenue or Items Sold, and the Same Period Last Year (SPLY) Product Revenue Performance Reports. *Id.*

He also contends that certain non-revenue transactions also should be evaluated in determining costs. *Id.* at 7. He suggests that a report referred to as the Window Operations Survey (WOS) Customer Tally Sheet might be used to record these transactions. *Id.* at 9.

Witness Barrett shows how he includes box and unit distribution costs in his calculations. *Id.* He also examines costs associated with undeliverable-as-addressed mail due to relocation of box sections that he contends are not considered by the Postal Service. *Id.* at 11.

In concluding his cost arguments, witness Barrett contends that the current cost savings analysis performed by the Postal Service is cursory at best. His criticism is that the Postal Service considers the total salary and fringe benefit costs associated with a discontinued station or branch employee as savings to the Postal Service. However, he contends that these costs still exist within the Postal Service and should not be ignored. *Id.* at 9-10.

Witness Barrett further suggests that retail transaction data also can be used to analyze what services are being utilized by individual stations and branches. He suggests that this can be combined with demographic data to give an indication of the availability of alternative service available to affected (or especially disadvantaged) customers. *Id.* at 10.

Finally, witness Barrett discusses methods to evaluate the customer experience. He comments on the limitations of using Mystery Shopper Program wait-time-in-line data in providing an accurate picture of the customer experience at a particular facility due to the frequency of sampling. He suggests that better insight can be provided by using a WOS Earned—Actual Staffing Graph. *Id.* at 11-13.

2. Anita B. Morrison Testimony

Witness Morrison is a Founding Principal of Partners for Economic Solutions. She describes Partners for Economic Solutions as an economic consulting firm which focuses on development (including market and financial analysis), economic revitalization strategies, and impact analysis. She cites 32 years of personal experience in evaluating and developing community and business district economic impact studies. APWU-T-2 at 3-4.

In her testimony, witness Morrison discusses her evaluation of the postal facilities²⁵ being studied for closure to determine whether the process used adversely impacts low-income, elderly, and/or minority persons. She also considers the impact of closings on economic development, postal patrons, and the communities in which they are based. She concludes by recommending improvements to the process to properly mitigate impacts on these communities. *Id.* at 5.

Her analysis uses demographic characteristics drawn from Environmental System Research Institute, Inc. and U.S. Census data associated with the facilities being studied.²⁶ She compares these characteristics to national averages to determine disparities between impacted populations and the general population.

Witness Morrison states her analysis suggests the following:

- The 371 facilities still currently being studied serve a diverse selection of areas and neighborhoods, including a large number of areas with concentrations of low-income, minority and elderly populations;
- The process favors maintaining facilities in more affluent neighborhoods, thus creating an undue burden on low-income residents;

²⁵ Witness Morrison uses the terms “station,” “branch,” and “post office” interchangeably throughout her testimony. *Id.* at 5, n.1.

²⁶ Witness Morrison’s analysis incorporates a comparison of the 371 facilities still being considered as of October 16, 2009 and the 42 facilities eliminated from consideration between October 9 and 16, 2009.

- The Initiative's focus on major cities appears to favor closures in neighborhoods with high percentages of households dependent on walking, biking or public transit, causing greater hardship than in more suburban locations where the rate of car ownership is greater;
- Clusters of residents age 65 and over may suggest that a facility's closure will cause undue burdens;
- Closures being considered appear to have a disproportionate impact on minority populations; and
- 39 stations being studied have concentrations of low-income households, minorities and households with no vehicles. These populations are shown to be unduly burdened.

Id. at 7-12.

Witness Morrison's analysis reveals that there are more than 245,000 businesses and 3.16 million employees located within a one-half mile radius of the 371 facilities under consideration for closure. *Id.* at 12. Examining the economic and community development impact of postal facilities, she argues that the facilities anchor many business districts across the country and serve as activity generators drawing customers from broad areas. *Id.* at 12-13. She contends that the loss of a facility can create a significant void in the local business environment, which may result in dislocations for individual businesses and for local business districts as a whole. *Id.* at 13-14.

Witness Morrison discusses potential burdens that customers may experience because of a postal facility closing. *Id.* at 15. She states that there may be a real burden on those who do not own cars in getting to an alternative facility. In certain instances, she suggests that the Postal Service should be required to demonstrate pedestrian accessibility to another postal station or branch within one-half mile, or to consider mitigation strategies where this is not possible due to distance or barriers. *Id.* at 20. She discusses low-income residents with limited access to banking services who rely on postal money orders having to travel further to obtain this service. *Id.* at 15. She comments that in many low-income, inner-city neighborhoods, it is not a viable

option to leave a package to be collected by a postal carrier, thus requiring a visit to a postal facility. *Id.* She contends that the on-line postal service option is constrained for low-income households lacking internet access. *Id.* at 15-16. Finally, she asserts that for businesses, the loss of time spent accessing another postal facility has a real cost. *Id.* at 16.

Witness Morrison argues that the Postal Service should consider additional factors in its review process. *Id.* at 16-17. She suggests including the following:

- A demographic profile to identify low-income residents, households without cars, and elderly residents;
- An assessment of the physical landscape to assess walkability to the nearest alternative facility;
- A review of money order sales to identify low-income residents with limited access to bank accounts, credit cards, or internet service; and
- Meeting with area planners and government staff to better understand the general activity of development in the area.

Id. at 17-18.

Witness Morrison comments on the Postal Service's methods of soliciting customer feedback contending that they are reactive rather than proactive, and that the Postal Service does not have a specified forum for sharing initial feedback with the public. *Id.* She suggests the use of additional survey methods, including methods that account for language and demographics, such as providing easier access to existing survey forms, the use of web-based survey tools, and the use of telephone surveys. *Id.* at 18. She discusses the use of postcards, letters and press releases to local newspapers to provide customers with notice of Postal Service actions. *Id.* She argues for the establishment of a website page for each facility under consideration to provide updated information and access to on-line surveys, etc. *Id.* Finally, she discusses the expanded use of public meetings and workshops for gathering customer input. *Id.* at 19. In response to the customer feedback gathered above, she suggests posting the

survey and comment results and providing the opportunity to further reply to this input. *Id.*

Witness Morrison concludes by asserting that there is “statistical evidence that the study process discriminates against communities with high percentages of low-income, minority and transit-dependent residents” and that “[c]losure of a branch post office can have significant negative impacts on local business districts, particularly in the walkable neighborhoods critical to reducing America’s dependence on the automobile and associated carbon emissions.” *Id.* at 20.

B. Association of United States Postal Lessors

Mario Principe (AUSPL-RT1) testifies on behalf of the Association of United States Postal Lessors. He is the Director of Lessor Affairs for the AUSPL, and also serves as Post Office Continuance Coordinator for the National League of Postmasters. He has held various field and Headquarters positions as a Postal Service employee for more than 30 years, retiring in 1991. AUSPL-RT1 at 3-5.

Witness Principe argues that as far as the public is concerned, a station or a branch is the same as a Post Office, and that the public has no knowledge of the difference between the closing procedures used by the Postal Service for a station or a branch versus those used for a Post Office. *Id.* at 7, 14-15.

He refers to several provisions related to Post Office closings that are not applied when closing a station or a branch. He states that there is a federal law concerning a Post Office closing which requires that the facility may not be discontinued solely because it is not self-sustaining. *Id.* at 8. For a Post Office, he states that the Postal Service must consider the postal and non-postal needs of the community, whereas for a station or a branch, this consideration is only a formality. *Id.* at 9. For a Post Office, a written proposal must be posted for 60 days with an invitation for public comment, and that all written documentation must be available to the public. *Id.* Finally, with a final

decision to close a Post Office, a Final Determination must be posted which provides specific information on the closing and informs the public of its right to appeal to the Postal Regulatory Commission. *Id.* at 10.

Witness Principe also is concerned that Headquarters will “rubber stamp” any discontinuance proposals it receives to save money and because there is no right to appeal. He bases this on witness Matalik’s testimony that not one proposal that reached Headquarters during FY 2005 through FY 2008 was disapproved. *Id.* at 11.

He discusses the business practices of the Postal Service, especially concerning the lack of a requirement to notify lessors that a facility is being considered for closure. *Id.* at 12. He also questions the various Postal Service policies concerning leased property. *Id.* at 13.

Finally, witness Principe comments on the effect removing some 150,000 collection boxes from service may have on alternative access to postal services. *Id.* at 12-13.²⁷

²⁷ Witness Principe also requests that the Commission ask the Postal Service what criteria are used when deciding to establish a new branch versus a new Post Office. This is in light of the different services that may be provided by each type of facility and the different treatment afforded customers should either type of facility eventually close. *Id.* at 14. Although this may be an interesting policy question, it appears beyond the scope of the instant proceeding.

VI. FIELD HEARINGS

Field hearings were held on September 16, 2009 at the Independence Civic Center, 6363 Selig Drive, Independence, Ohio, and on September 23, 2009 at Fordham University, Rose Hill Campus, O'Hare Hall, 441 East Fordham Road, Bronx, New York.²⁸ The Commissioners found the field hearings very helpful in eliciting the views of local Postal Service customers who may be directly impacted by station and branch closings. The insight they provided brought into focus the concerns of local communities that need to be considered when evaluating the Postal Service's Initiative.²⁹

Both field hearings followed similar formats, with two panels of witnesses appearing at each hearing and presenting testimony. After presenting testimony, each panel was questioned by the Commissioners. The hearings concluded with a comment period open to the audience. The panelists and public speakers appearing at each field hearing are identified in Appendix B.

A. Independence, Ohio

The first panel at the Independence, Ohio field hearing included five witnesses presenting the local views of the Mayor of Independence, Ohio; American Greetings Corporation; AmeriMark Direct; and the Postal Service.³⁰ The second panel included

²⁸ Transcripts memorializing each field hearing appear on the Commission's website at www.prc.gov.

²⁹ The Commission also takes this opportunity to thank the many elected officials at each hearing location for facilitating and making possible these informative events.

³⁰ Wayne Benos, Past President of the Cuyahoga Valley Chamber of Commerce, submitted written comments but was unable to attend the field hearing.

four witnesses presenting the local views of the Councilman, Ward 21, Cleveland City Council; APWU; Policy Matters Ohio, and AUSPL.³¹

Witnesses from the first panel explained that the Independence Branch provides critical service for residents, and that its loss would have a dramatic impact on both residents and businesses. This loss would result in further decline in the use of postal services as a result of services not being accessible. They described the limited opportunity for customer input into the Postal Service's existing discontinuance process and provided examples based on the process used to discontinue the Akron, Ohio Rolling Acres Finance Unit. They urged the Commission to consider the combined impact on "citizen mailers" of reducing access to postal services from the potential loss of Saturday service, the removal of corner collection boxes, and the closing of post offices. Finally, they explained when evaluating consolidation of operations, it is necessary for the Postal Service to balance the needs of its customers and potential reductions in mail volumes.

Commissioner Blair asked members of the first panel if they could describe the difference between stations, branches, and Post Offices. While some of the panelists were aware that there may be a technical difference, only Mr. Lipker from the Postal Service could provide any definition. Mr. Lipker did add that the services offered by each are the same.

Commissioner Blair also asked members of the first panel about their personal experience with paying bills over the internet, and their frequency of visits to their local post offices. The responses varied widely; however, the opinion was expressed that the convenience of a facility would play a role in the frequency of visits. In response to a question from Commissioner Langley, it was confirmed that if a convenient post office

³¹ Witness Principe appeared on this panel. His field hearing testimony is consistent with his written testimony, which is summarized in section V.B.

was closed, current customers would be likely to use a more convenient competitor's outlet.

Witnesses from the second panel explained that local post offices are a vital part of the community. They urged that the demographics of the community be taken into consideration. They discussed the disproportionate impact of closures, and the reduction in access to postal services, on low-income communities.

Commissioner Acton asked Councilman Keane if his office had any interaction with the Postal Service about the discontinuance process. Councilman Keane stated his office had not been contacted. The APWU witness described notification of local APWU presidents as hit or miss.

Finally, the AUSPL witness responded to questioning that he thought it would be a good idea to follow the same discontinuance procedures that the Postal Service uses for Post Offices when evaluating stations and branches.

B. Bronx, New York

The first panel at the Bronx, New York field hearing included six witnesses presenting the local views of the New York State Senator, 34th District; the Deputy Bronx Borough President, the District Manager, Bronx Community Board 7; Fulfillment and Postal Affairs Publisher's Clearing House; Rosehill Housing Management Corporation; and the Postal Service. The second panel included five witnesses presenting the local views of the Association of Independent Colleges and Universities in Massachusetts; the Joint Military Postal Activity-Atlantic Military Postal Service Agency; United States Postal Service International Service Center; APWU; National Association of Postal Supervisors; and National Association of Letter Carriers.

Witnesses from the first panel explained that post offices are the heart of their neighborhoods. They commented that alternate internet service is unrealistic for low-income households, and that the purchase of money orders is an important financial

service in low-income areas. They discussed potential hardships that may be felt by the senior population of the area, and the need to consider demographics in the process. The benefits of optimizing the station and branch network to maintain the Postal Service's viability were recognized.

Chairman Goldway asked the Rosehill Community Management Corporation witness if her organization had been contacted about any future Postal Service consolidation plans. She stated the community board had not been contacted.

Chairman Goldway also asked the Postal Service whether or not there is an obligation for all Post Offices to provide a full range of services. The Postal Service replied that there is no such obligation, and that services may vary among different Post Offices.

Witnesses from the second panel discussed the impact of closures on large college campus communities, and highlighted problems with communicating accurate information to local military facilities. Many of the issues identified by previous panels were re-emphasized, such as the importance of money orders to the community, the lack of internet availability as a limitation of this alternative access channel, and the impact on senior communities.

Commissioner Hammond asked the Joint Military Postal Activity-Atlantic Military Postal Service Agency witness whether active duty personnel and their families would receive worse service if the Initiative goes forward. Commander George stated that he thought there was a real potential that the Initiative could cause a faulty distribution of mail service at military bases.

VII. COMMISSION ANALYSIS

This advisory opinion evaluates (1) whether implementation of the Initiative (conceptually) will allow for provision of postal services in conformance with the policies of title 39, and (2) whether the policies and procedures that the Postal Service employs to carry out the Initiative conform with the law and are sufficient to enable the Initiative to meet that objective.

The Commission finds that the Initiative, *i.e.*, rationalizing the postal retail network, is in direct furtherance of the Postal Service's statutory obligations under 39 U.S.C. §§ 403(b)(3) and 404(a)(3). The Commission further finds that rationalizing the retail network can be accomplished while allowing for provision of postal services in conformance with the policies of title 39. However, the Commission finds the policies and procedures that the Postal Service currently is employing to carry out its Initiative require significant modifications to ensure the uniform provision of postal services in conformance with the policies of title 39 on a nationwide basis.

- A. A Rational Process That Allows Meaningful Public Input and Ensures Adequate Public Access to Essential Postal Services as Required by Title 39
 - 1. It is Appropriate for the Postal Service to Evaluate Its Retail Network

The Postal Service is charged with operating “as a basic and fundamental service provided to the people” with “its basic function the obligation to provide postal services to bind the Nation together.” 39 U.S.C. § 101(a). In doing so, “[i]t shall provide prompt, reliable, and efficient services to patrons in all areas and render postal services to all communities.” *Id.*

To meet the above overarching requirements, the Postal Service “shall plan, develop, promote, and provide adequate and efficient postal services at fair and

reasonable rates and fees.” 39 U.S.C. § 403(a); see *also* 39 U.S.C. § 3661(a). It shall “maintain an efficient system of collection, sorting, and delivery” (39 U.S.C. § 403(b)(1)), and “establish and maintain postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.” (39 U.S.C. § 403(b)(3)). It has specific power to “determine the need for post offices.” 39 U.S.C. § 404(a)(3). It has authority “to maintain the efficiency of the operations entrusted to it” (39 U.S.C. § 1001(e)(4)), and “to determine the methods, means, and personnel by which such operations are to be conducted.” (39 U.S.C. § 1001(e)(5)).

The Postal Service shall comply with the above requirements while not making “any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preference to any such user.” 39 U.S.C. § 403(c).

The Commission finds that as long as the Postal Service provides ready access to essential postal services nationwide in a nondiscriminatory manner, the Postal Service has the statutory authority to review and make adjustments to its network of retail facilities.

2. The Postal Service’s Efforts at Providing Alternative Access are Commendable

Postal Service witness VanGorder justifies proposing the Initiative at this time because of the existence of alternative access channels that previously were not available or previously were only in early stages of development. USPS-T-1 at 6-9. She highlights access channels such as *www.usps.com*, stamps at nonpostal retail locations, approved shipper locations, Automated Postal Centers, stamps by mail, 1-800 ASK-USPS (275-8777), and Carrier Pickup Service. USPS-T-1 at 5-10. Currently, the Postal Service claims that revenue from what it considers alternative access channels is approaching 30 percent of retail revenue. Tr. 2/268, Tr. 4/814.

Furthermore, one or more alternatives exist for obtaining many postal services. Tr. 2/253-56 (see chart displaying access channels for a variety of postal services).

Valpak supports the use of alternative access channels through which the Postal Service can provide cost effective, adequate and efficient postal services. Valpak Brief at 18-19. It contends that Postal Accountability and Enhancement Act (PAEA) section 302(d) calls for the Postal Service to move away from postal facilities and towards alternative access channels. *Id.* at 26-28. However, Valpak is critical of the Initiative for not explicitly requiring a study of the feasibility of bringing neighborhoods alternative access arrangements.³² This criticism includes not giving consideration to establishing franchise community post offices as part of the Initiative as a cost effective and economical way to provide postal services in areas that can not support a Postal Service-operated facility. Valpak Reply Brief at 6; see *also* Valpak Brief at 25-26.

One alternative access option, Mobile Retail Vans, garnered significant interest in this docket. Tr. 2/230, 278-85, 296-99, 594. The Postal Service operates 179 vans in 97 metropolitan areas. Tr. 2/279. The Postal Service states that the availability of Mobile Retail Vans declined from 224 to 204 from 2000 to 2009. Tr. 2/285. Some vans have designated routes and operate year round, while others are used for special occasions such as holidays or for emergencies. The vans provide many essential postal services, but the services are somewhat limited due to security and data transmission issues. Valpak argues that these vans provide convenient alternative access to many postal services and are less costly to operate than postal retail facilities. Valpak Brief at 22-24. Valpak suggests that lower cost access alternatives, such as vans, be considered in the Postal Service's decision-making process. *Id.* at 32.

³² *Id.* at 29; see *also* Public Representative Reply Brief at 13-14 (concurring with Valpak's suggestion to study the feasibility of bringing alternative access to neighborhoods affected by potential closures).

The Postal Service indicates that the availability of Mobile Retail Vans is declining. The record does not fully explore the operational aspects of Mobile Retail Vans, but the Commission suggests consideration be given to the usefulness of vans where hours of operation are being reduced or facilities discontinued as a method of ameliorating reductions in service.

The Public Representative is supportive of Postal Service innovations concerning alternative access channels, but is critical that “reliance on alternative access channels as a means to justify the replacement of station and branch post offices does not comport to the policies of title 39.” Public Representative Brief at 27. He argues that PAEA section 302(d) shows congressional intent to use alternative access channels as a supplement to stations and branches, not as a replacement. *Id.* at 28. He contends that the alternate access channels are far from perfect substitutes for retail window and post office access for a number of services, citing additional customer costs and delays in obtaining services, among other differences. *Id.* at 28-30. He further contends that use of alternative access channels degrades service to certain customer groups, and that the Postal Service has not provided a complete picture of the costs associated with providing service through alternative access channels. *Id.* at 31-34.

The Postal Service agrees with the Public Representative that alternative access channels can supplement the operations of stations, branches, and Post Offices, but disagrees that PAEA section 302(d) in any way immunizes these facilities from consolidation or closure. Postal Service Reply Brief at 33-34.

Currently the Postal Service is increasing the availability of alternative access channels to its services. The Postal Service should continue to innovate in this area, including improving access channels that already exist. For the typical customer, alternative access channels augment, and sometimes may even eliminate, visits to postal facilities. The Postal Service is encouraged to make these alternative access channels available and transparent to customers.

However, the Commission finds that in many instances, the alternative access channels that the Postal Service promotes can not replace an actual visit to a post office. Certain important services, such as money orders and parcel pickup or mailing, may not be feasible except at a staffed retail facility. APWU witness Morrison states the Pew Internet and American Life Project's April 2009 survey reports that "only 35 percent of residents living in households with income at less than \$20,000, 30 percent of Americans over 65 and 46 percent of African Americans have home broadband access." APWU-T-2 at 15-16. These statistics imply that the alternative of accessing postal services through the internet may be severely limited for these demographic groups.

The Postal Service also is cautioned against relying too heavily on Automated Postal Centers as alternative access in terms of closing a station or branch. The Postal Service testifies that "[a]lmost without exception, Automated Postal Centers are located in postal retail lobbies and serve as an alternative to a window transaction at that location." Tr. 2/155. Thus, APCs extend access to services; however, if the retail location is discontinued, the APC is likely to become unavailable. Furthermore, APCs also do not offer a full range of mailing services.

3. The Postal Service's Initiative Should Consider All Facilities in an Area

Evaluating the retail network from time to time provides the Postal Service with the opportunity to remove retail facilities from areas where they are no longer required to provide essential postal services. This has the potential benefit of reducing Postal Service costs. Funds can then be redirected to providing services in areas where it is more needed.

The initial focus of the Initiative has been on stations and branches that report to an EAS-24 postmaster and above. The Postal Service should develop a comprehensive review plan, which considers all Postal Service retail outlets. Such a

review plan would allow consideration to be given to whether it might be more advisable to close a facility administratively designated as a Post Office and move its operations to a nearby station or branch, and re-designating the station or branch as the new Post Office. The Commission finds that the Postal Service should consider all area facilities when it evaluates its retail footprint.

Valpak comments that “closing some retail facilities, although painful, is reasonable, prudent, and unavoidable.” Valpak Brief at 16. It contends that doing so is an economic imperative, necessitated by plummeting mail volume and Postal Service losses. *Id.* at 11. While the Commission agrees with the premise that review of the retail network is necessary, the Commission cautions against focusing too much on current economic conditions. The statute emphasizes the adequate provision of essential postal services. The Postal Service must balance short-term economic considerations with other public policy considerations such as the importance of maintaining an accessible and reliable government institution that provides postal services to all communities.

AUSPL does not question the Postal Service’s right to discontinue a facility where necessary. However, it expects the Postal Service, when doing so, to follow Federal law and its own rules and guidelines developed to ensure compliance with applicable law. AUSPL Brief at 3. This observation is on point. The Postal Service should use its authority to review its retail network, but it should do so in a manner that complies with the law, and its published procedures.

Criticisms of the Initiative concentrate on the limited protections afforded to customers, and the details of the process used to evaluate stations and branches to ensure provision of ready access to essential postal services nationwide in a nondiscriminatory manner. APWU and the Public Representative argue that because of flaws in these areas the Initiative does not comport with the policies of title 39. APWU Brief at 3, Public Representative Brief at 42.

The Commission addresses these criticisms in the following sections and recommends additions and modifications to the Initiative to ensure that the policies and procedures that the Postal Service employs will be consistent with the requirements of title 39. The Commission finds that the Initiative will be consistent with the requirements of title 39 if the Postal Service adopts these recommendations.

- B. Findings Concerning the Initiative’s Policies and Procedures to Ensure Provision of Postal Services in Conformance with the Policies of Title 39
 - 1. Postal Headquarters Should Develop and Disseminate Guidance for Local Managers

The Postal Service explains the concept of optimizing the retail network, the Initiative, emerged in April 2009 during a bi-weekly Area Vice Presidents meeting. It was not part of the pre-determined agenda. Tr. 2/207-13. Three months later, on July 2, 2009, the Postal Service filed its Request. At that time, the only document known to detail the scope and potential stages of the Initiative was an overview PowerPoint presentation. Tr. 2/144; see *also* Tr. 2/117-138. Discovery directed at uncovering documents that detailed the potential scope of the Initiative met with limited success. See Tr. 2/146, 148-49. Some information disseminated by Headquarters was presented through the Discontinuance of Classified Stations and Branches Training Slides, USPS-LR-N2009-1/5, and the Stations and Branch Optimization and Consolidation Initiative Community Input Field Guidelines as of July 15. Tr. 2/437-39.

Postal Service Headquarters has not provided any guidance documents, briefings, directives, or instructions to Districts that discuss how to determine whether a particular closure or consolidation of a branch or station will ensure that there is “ready access to essential postal services” or “ready access to adequate service.” Tr. 2/159. This includes not providing Districts with a definition of “adequate” service.

The Postal Service describes using a local management focus to make decisions when undertaking prescreening and discontinuance studies. Tr. 2/317, 363-64. It

argues that much of the process is subjective and qualitative in nature versus quantitative. Tr. 2/364. For example, the Postal Service contends that what constitutes an adequate level of service can vary from place to place. Thus, it relies on the judgment of local management to make this determination. Tr. 2/330. The Postal Service asserts that local management knows the customers, knows the community, and knows the local issues. Tr. 2/508, 519.

The Public Representative is critical of the lack of documentation explaining the Initiative and the lack of national guidance available to Districts at the time the Request was filed. Public Representative Brief at 6-8. He argues that the factors provided by Headquarters to Districts for the prescreening process are too subjective and will lead to inconsistency and unfairness. *Id.* at 17. He calls for Headquarters to provide more objective metrics for Districts to use in determining which facilities to study and which to close. *Id.* at 17-18. Additionally, he suggests that Districts be provided with relative weights to apply to each factor, or at the least, Districts should be informed which factors are to be considered more important. *Id.* at 18.

Pointing out another reason for providing clearer guidelines to District managers, Popkin asserts that a District manager's compensation, in part, is based on his/her financial performance. Thus, District managers are not disinterested parties in deciding whether or not to discontinue a facility. Popkin Brief at 2-3.

The Commission is well aware of the effort required to develop and implement a national program as broad in scope as the Initiative. It is understandable why, in the less than three months from conception of the Initiative to the filing of the Request, the Postal Service had not developed extensive documentation for this program.

The Commission also appreciates the need for local management's input into the decision making process. Local management generally is a part of the community being served by a station or branch under consideration, and it should understand the needs of the customers and add value to any study that is undertaken.

The Commission agrees that what is adequate may vary from place to place and involves the application of judgments. Tr. 2/198-99. The Postal Service properly may rely on its local managers to understand the needs of their areas. Even so, local managers would greatly benefit from guidance from Headquarters to assure that discrimination between facilities of the type prohibited by 39 U.S.C. § 403(c) does not occur. Tr. 2/309-8. Furthermore, the system of rotating regional assignments may cause a manager not fully familiar with the local community to be in charge.

The Postal Service has provided Districts with factors to consider when evaluating potential closures of stations and branches. See summary of Postal Service witness Matalik's testimony in section IV.C. However, it does not provide guidance or instructions either for gathering relevant and material information on those factors, or guidance for how to evaluate such information when applying those factors. No measures of importance are assigned to the factors that each District must consider. Tr. 2/474 and 479. No criteria are directed to District managers to ensure no discrimination results from their recommendations. Tr. 2/518.

The Commission finds that the Postal Service should develop and disseminate national guidance to Districts, both explaining all factors to be considered and identifying any particularly important factors. Such guidance can reduce confusion and help ensure that local managers provide consistent, well-reasoned decisions.

The Commission also finds that the Postal Service should develop and disseminate guides for developing relevant information on the factors that should be considered. It is not enough merely to identify a set of factors for District managers to consider. Further reviews will be more effective and efficient if managers are provided with tools and references to sources of information so that relevant factors will be researched and applied consistently on a nationwide basis.

The Commission further finds that the Postal Service should formalize and document its process for reviewing decision packages submitted by Districts to

Headquarters to ensure that all relevant factors have been properly considered by local management. Very little evidence of this process is described on the record other than assertions that Headquarters reviews all decision packages. As an example of the types of problems that may be encountered, cross-examination of Postal Service witness Matalik probed the discretion of a District manager to report or not report a factor to Headquarters. Tr. 2/520-21. She states that unless a customer subsequently brings an unreported factor to the attention of the Postal Service, it will not be recognized. The Commission finds that unless the process is understood, it is unlikely that a customer would ever discover whether a relevant factor has been omitted or know how to rectify the situation.

2. The Postal Service Should Articulate the Objectives of the Initiative More Clearly

The Postal Service begins its request by stating that the overall objective of the Initiative “is to identify and take advantage of opportunities for increased efficiency.” Request at 1. It later lists three consistent objectives: (1) “to realign the postal retail network with current and future postal customer service needs;” (2) “to reduce inefficiency and redundancy;” and (3) “to capture resulting cost savings.” Request at 6. Witness VanGorder’s testimony expands upon the “efficiency” theme depicted in these objectives. See USPS-T-1 at 6, 9, n.6, 10, 11, 12, 14.

Discovery further clarified what is meant by efficiency. Postal Service witnesses VanGorder and Matalik use the term “efficiency gains” to refer to the reduction in postal costs. Tr. 2/244, 490. Witness VanGorder states that efficiency gains may be obtained through potential station and branch consolidations. Tr. 2/265. Both witnesses essentially describe net savings or efficiency gains as cost savings from no longer having to pay rent, utilities, or salaries and benefits. Tr. 2/329, 490.

Witness VanGorder explains that while the objective of efficiency gains is most easily quantified by cost savings, the objective of the Initiative is not only realizing

savings, and that savings are just a resulting impact. She asserts that the Initiative is really being done to provide an opportunity to look at the infrastructure, and then adds that the Postal Service must react as mailing patterns change. Tr. 2/307-8, 344.

The Postal Service's notices of potential consolidation rely on the need for cost savings in its message to its customers: "Current economic conditions require that we review all postal operations for opportunities to streamline processes and provide service more efficiently." Tr. 2/403. This indicates that the economic downturn and the need to reduce costs is the driving force behind the Initiative.

The Public Representative observes the apparent lack of consistency in the Postal Service's statements of the Initiative's objectives. Public Representative Brief at 8-9. He contends that this may lead to problems because a local manager may analyze a candidate station or branch differently and come to a different conclusion if the goal is to save money rather than realign the retail network. He also argues that customers may not be able to provide meaningful input into the process if they do not know why a station or branch might be closed. This, he argues, does not comport with the policy of title 39 to increase the transparency of the Postal Service to the public.

The Postal Service contends that the Public Representative just does not understand that what is being observed is tension between competing goals. Postal Service Reply Brief at 25. If the Public Representative is unclear about the competing goals the Postal Service is trying to balance, members of the public, and potentially Postal Service employees, also may not fully understand the Postal Service's motives.³³

The Commission finds that the Postal Service should attempt to clarify and better articulate the objectives of the Initiative to its internal management, to its customers, to

³³ The Postal Service's position likely is influenced by the 39 U.S.C. § 101(b) policy which prohibits closing small post offices solely for operating at a deficit. The Commission makes no inferences as to whether the closing prohibition of 39 U.S.C. § 101(b) is or is not applicable to any station or branch currently under consideration.

Congress, and to the Commission. This program requires balancing a variety of objectives, some of which are potentially in conflict. It is incumbent upon Headquarters' management to clearly explain what its objectives are, and how those objectives are balanced and applied.

3. The Method Used for Evaluating Proposals for Consolidations and Closures Should Include a Separate Category for Community Issues

Postal Service witness Matalik describes the various factors that the Postal Service considers in the prescreening process and in the discontinuance study process. These factors are itemized in the summary of her testimony. See section IV.C.

The Postal Service explains how it takes several of the factors into account, providing the following examples: Mail volume trends reflect retail counter transactions, but do not analyze the volume of mail received over the counter or mail associated with hold-for-pickup. Tr. 2/475. Projected future volumes are not a factor. Tr. 2/407. The box section of a gaining facility is analyzed to determine whether or not it can absorb the box section of a consolidated facility based on workhours, as opposed to volume. Tr. 2/475. Certain volume trends are analyzed, such as three-year walk-in revenues, average daily retail transactions (12 month period), total retail transactions (current year and same period last year), and total customer visits (current year and same period last year). Tr. 2/476. On a case-by-case basis, additional data such as high money order transactions revenue, or high levels of international mail/customer transactions may be analyzed. *Id.*

The Postal Service also analyzes wait-time-in-line data available from the Mystery Shopper and Customer Service Measurement System. Tr. 2/477. The Postal Service notes the limitations of this analysis, as not all stations and branches are Mystery-Shopped. Tr. 2/478. Furthermore, Mystery Shopper data is not statistically reliable at the facility-specific level. Thus, it is used in combination with local knowledge. Tr. 4/808-9.

The Postal Service provides several examples of the tools that it has available to analyze the various factors under consideration. The Retail Optimization Access Management System (ROAM) is a mapping tool used to visually display postal retail units, alternative access sites, and competitor locations. Tr. 2/142, 447. The Facilities Management System and Mapping Tool is an additional resource used to locate retail units. Tr. 2/143. The Facilities Database provides facility-specific operational data such as hours of operation, lobby hours, finance numbers, and EAS grade levels. Tr. 2/143, 447. The Post Office Discontinuance and Emergency Suspension System is a document generation system which provides standard forms and language used in discontinuance studies. Tr. 4/843-46.

The Commission finds that the Postal Service has selected appropriate factors for consideration, and appears to have data available for analyzing certain relevant factors. However, one area that requires more attention is assessment of the distinctive needs of each community. APWU witness Morrison's testimony is directed at the issue of identifying the needs of the local community.

Consideration of community needs appears to fall within the "other factors as may be deemed appropriate" category for discontinuance studies. This is where the Postal Service considers the concentrations of non-English-speaking, elderly, economically disadvantaged, or limited-mobility customers." USPS-T-2 at 10, n.8. The Postal Service relies on retail transaction data and local postmaster knowledge to assess the particular needs of the community. This is augmented with data from ROAM. Tr. 2/480-81, 507, 510. The Postal Service provided an excellent example of the data obtained from ROAM for the record. See Tr. 4/832-41.

One issue that first arose during the Bronx, New York field hearing and was subsequently explored on the official record is the Initiative's impact on military personnel. See Tr. 2/369-73. At the field hearing, Navy Commander Brian George, the commander of the Joint Military Postal Activity at the USPS Jersey City International

Service Center representing the Military Postal Service Agency and the Department of Defense, expressed the opinion that active duty military personnel and their families would receive worse service as a result of the Initiative. When questioned during oral cross-examination about this opinion, witness VanGorder stated that she has not “had any personal discussions with the military about this at all.” Tr. 2/370. Furthermore, she concurs that the addition of 3,000 more apartment units to an area, or the relocation of military bases, is not included in the analysis when determining adequate access to services other than through the community comment process. Tr. 2/372. However, witness Matalik did assert that the Postal Service works closely with military personnel. Tr. 2/577.

A second issue that arose during that hearing was the consideration given to a concentration of senior citizens. Testimony was received from witness Madigan concerning the removal of a collection box from in front of a low-income senior housing facility and the unsuccessful attempts to regain the collection box. These senior citizens are now faced with the possibility of their nearby postal facility being closed.

The Commission finds that the Postal Service has to assure that District managers take an active role in obtaining information related to current and future local conditions that should affect any decision to close stations and branches. The first step should be to take community issues out of the “other” category, and create a separate category to analyze the specific needs of the community surrounding a potential station or branch closing. Local decision-makers should be required to directly contact and seek input about community issues from people and organizations such as: elected local officials, representative of local military bases and large educational facilities, and organizations involved in community development and planning.

4. Public Notice Should Be Improved

Types of public notice. The Postal Service asserts that it solicits public views on closing a facility after the District Manager makes a preliminary decision to close that

office. Opinions are sought from customers who visit the facility during the comment period, customers who receive Post Office Box service in the facility under consideration, and customers whose mail is delivered via carrier operations out of the facility under consideration. Tr. 2/469. Comments on potential closings are received through questionnaires and/or a public meeting. A decision on whether to conduct a public meeting, use questionnaires, or both, is at the discretion of the District Manager. Tr. 2/399, 515, 551, 605.

Notices of potential closings and the opportunity to comment are provided through postings in the facility under consideration, hard copy notification delivered to Post Office Box and delivery customers, and/or notices published in local newspapers. USPS-LR-N2009-1/5 at 18-20. Notices published in newspapers are optional, and are most frequently used when a facility under consideration has a large carrier delivery operation. Tr. 2/399, 434, 466. The Postal Service summarizes the notification process as follows:

A customer who conducts retail window transactions at a particular station under consideration for discontinuance is notified by a posting in the retail lobby. If that same retail window customer rents a Post Office box at that location, that customer also receives an individual notice in his or her box. If that same station provides carrier delivery and the letter carrier serving the street address of that same retail window customer/boxholder operates from that location, the retail window/boxholder/carrier customer also either receives a notice that is either delivered by the carrier or posted in a local newspaper.

Retail window-only customers or P.O. box-only customers of that station may also be recipients of the newspaper notice.

Tr. 4/795.

Three commenters, APWU, the League, and the Public Representative contend that the notice provisions that the Postal Service has outlined are not sufficient. APWU contends that the “process for obtaining community input is deeply flawed and does not adequately protect vulnerable populations from the negative impacts of a facility closure.” APWU Brief at 6-8. The League argues that notices in newspapers of general circulation should be required, with actual Postal Service visits to newspaper publishers and editorial boards to explain the Postal Service’s intent. It suggests similar actions

directed towards cable and broadcast media channels. It further suggests the use of mailed scientifically-based surveys versus merely setting out postcards in lobbies. League Brief at 3.

The Public Representative questions the effectiveness of newspaper notices to reach their intended audience and the lack of guidance from Headquarters on placing newspaper notices. He emphasizes that lobby notices should be readily apparent and questionnaires should be readily available. Finally, he suggests that mailed notices not be limited to just Post Office Box holders and delivery customers, but expanded to customers living in close proximity to the facility under consideration because more than half of the facilities under consideration do not provide carrier delivery out of the facility. Public Representative Brief at 24-25.

The Postal Service has explained that local managers are expected to provide “legal” notices. “The Postal Service does not hold its customers to a standard different from that applied by other government agencies or the courts that publish legal notices in newspapers of general circulation.” Postal Service Reply Brief at 18. “Legal” notice differs from “actual” notice. Legal notice is passive and acts to bar a potential recipient from claiming that they were ever notified. Actual notice is proactive in that a reasonable attempt is made to personally notify a party, which then encourages that party to become involved in the process. The Commission finds legal notice insufficient to alert customers of potential changes in access to postal services. The Postal Service, by making reasonable assumptions, can identify likely customers of a particular facility and should provide those customers with actual notice.

The Commission finds the three methods of providing notice presented by the Postal Service, lobby postings, direct delivery of notification, and newspaper publication, may often provide reasonable notice. However, the Commission finds District managers should be advised to place greater emphasis on providing actual notice to customers.

For example, presently, a District manager may opt for newspaper notification “in place of” direct mail where there is a large delivery customer base served by a facility under consideration. The Commission finds that actual notice is more likely if newspaper notification is “in addition to” direct mail. An actual notice policy will avoid a District manager opting for less effective means of notification because of local budget concerns, to the detriment of affected postal customers.³⁴

Another concern is notification of delivery customers in the vicinity of a facility under consideration who receive delivery service from other facilities. The Postal Service does not provide direct delivery notification to these customers. Tr. 2/564. The Commission finds that the Postal Service should develop and implement a policy of providing actual notification to all nearby residents to the extent feasible. One way to easily improve notice would be to display the notice at other nearby postal facilities.

Duration of public notice and comment periods. The Postal Service asserts that it posts notices regarding public meetings at least 10 days prior to the meetings. Customers attending those meetings are informed they have 10 business days to submit additional written comments. Lobby notices regarding the availability of questionnaires are posted for at least 10 business days. Customers are provided 10 business days for the return of questionnaires. Finally, customers receiving notice of a potential closing through cards left in their Post Office Boxes or through the newspaper are informed they have 10 business days to provide written comments. Tr. 2/399-400, 472.

The Public Representative contends that 10 days is too short a period to provide actual notice or allow customers to provide meaningful comment. He points out there are many reasons why a customer may not visit a station or branch during a 10-day

³⁴ The cost of newspaper public notices is paid by the local Districts. Tr. 2/585.

window, and as a result, many customers may not find out about a potential closing until after the comment period has closed. Public Representative Brief at 23-24.

The Public Representative contrasts the 10-day period for stations and branches against the 60-day notice period required by 39 U.S.C. § 404(d)(1) for Post Office closings. He infers that in order for the Postal Service to comply with 39 U.S.C. § 404(d)(1), it also must provide 60 days notice when considering the status of stations and branches. APWU concurs that the notice of public meetings and solicitation of public comment time periods are not adequate. APWU Brief at 7.

The Postal Service contends that the Initiative's public input process ensures that customers potentially affected by a closure have adequate notice. It further argues that the statutory 60-day notice period applicable to Post Offices is not applicable to stations and branches. Postal Service Reply Brief at 16-17.

The Commission finds that 10-day time frames do not provide sufficient notice and do not provide an adequate opportunity for public comments.³⁵ The Commission finds that there should be no difference between the notice the Postal Service provides to patrons of stations, branches, or Post Offices. The Postal Service contention that the applicable statute does not specifically refer to stations and branches does not go to the merits of this decision. The 60-day notice period statutorily required by 39 U.S.C. § 404(d)(1) before post offices may be closed was established by Congress as an appropriate notice and response period for citizens whose retail postal facility may be closed. Customers do not recognize any difference between stations, branches, and Post Offices.³⁶ No reason has been advanced by the Postal Service, or anyone else, to

³⁵ The Commission recognizes that the Postal Service has no process for controlling whether comments received are representative. Tr. 2/469. The Commission's conclusion only addresses providing the "opportunity" for receiving comments that are representative.

³⁶ The inability of customers to differentiate stations, branches, and Post Offices was affirmed through questions posed by Commissioner Blair at the field hearings. See Transcript of Cleveland, OH Field Hearing, September 16, 2009, at 40-43. The Postal Service acknowledges this. Tr. 2/554.

treat patrons of stations, branches, and Post Offices differently. A uniform 60-day period will avoid confusion, reduce complaints that due process has been denied, and provide non-discriminatory treatment for all citizens.

Additionally, notices posted in facilities for 60 days are far more likely to provide actual notice to postal customers than notices posted for only 10 days. Thus, adopting a policy of providing 60 days for giving notice and allowing comments will ameliorate many of the concerns discussed in the preceding subsection.

Contents of public notice. The Postal Service provided a sample public notice for the record. See Tr. 2/403. The sample notice informs customers of (1) the name and location of the station or branch under consideration for closure; (2) the proposed new location that letter carriers will operate out of; (3) the proposed new location where parcel/signature items may be obtained; (4) the proposed new location for retail services, including box services; and (5) a solicitation of comments.

The information provided by this notice is significantly less than what the Postal Service has provided customers in the past. For example, in a letter informing customers of the Washburn (IA) Branch discontinuance study public meeting, the Postal Service also informs customers of (1) alternate access channels; (2) the distance to alternative facilities; (3) the days of the week and hours of operation of alternative facilities; (4) the number of Post Office Boxes available at alternative facilities; (5) a second alternative for access to retail services; and (6) a contact number to call in case of questions on curbside delivery. See USPS-LR-N2009-1/2, item no. 3, page 1.

The Commission finds the Initiative's proposed notice insufficient to properly inform customers of their alternatives. It does not allow customers a reasonable opportunity to weigh how their access to postal services will change if the facility under consideration is closed. The Commission finds that the Postal Service should include the additional information appearing in the Washburn Branch letter in all public notices.

Expanding methods of providing public notice. APWU witness Morrison suggests expanding the methods for soliciting customer input such as providing easier access to existing survey forms, the use of web-based survey tools, and the use of telephone surveys. USPS-T-2 at 17-19. She also would include survey tools that account for language and demographics. However, she cautions that low-income and minority households would be disadvantaged by a system that increasingly relied upon web-based communication. Tr. 3/665.

The Public Representative also contends that the Postal Service should expand the avenues by which it allows the public to voice its concerns. Public Representative Comments at 25-26. He suggests allowing comments by e-mail and telephone. He argues that this would be reasonable since the Postal Service claims that it is already catering to customer preferences by offering other services through these media.

The Postal Service argues that the feasibility of these alternatives requires further analysis. Postal Service Reply Brief at 20. Further, the Postal Service comments that e-mail and phone comments are not solicited or encouraged because it is difficult to assure such comments are properly directed to the employees undertaking a particular study. Tr. 2/433-34. It also notes the added costs associated with transcribing comments received by phone. *Id.* at 434.

The Commission finds that the Postal Service should explore expanding avenues for obtaining customer views. Any analysis should recognize both the benefits of obtaining comments from a broader cross-section of customers, and the costs associated with providing these alternatives. At a minimum, the Postal Service should refer customers to generic comment forms available online for printing, so that customers can develop thoughtful comments without having to go to the specific facility to obtain comment forms.

Timing of soliciting public comments. APWU and the Public Representative probe the timing within the Initiative of when the Postal Service seeks the views of its customers. The Postal Service states that:

[t]he community input stage of the process occurs after the Authorization to Study has been approved by the District Manager and the investigative stages where data is collected and service alternatives are analyzed. If it is determined by local management, after reviewing and analyzing the data collected, that the proposed change is warranted and customers have ready access to essential postal services, then customer input will be sought based on one or more of the following from the requirements in the USPS Handbook PO-101[.]

(Emphasis in original.) Tr. 2/437. Postal Service witness Matalik explains that prior to seeking customer input the Postal Service looks at business activity; retail, through the retail optimization access management system; and the neighboring stations, branches, Post Offices, contract postal units, approved shippers, and consignment locations to assess ready access for that facility's customers.³⁷ Tr. 2/602-3.

APWU questioned witness Matalik during oral cross-examination to establish “how it is determined that customers are going to have ready access to essential postal services before community input is sought[.]” Tr. 2/567. Stated differently, APWU was attempting to determine “how the Postal Service can determine what the customer needs before it's ever asked the customers what they need.” Tr. 2/569. The colloquy that followed did not shed light on this issue. Tr. 2/570-71.

APWU makes a valid point. If local management determines that customers have ready access to essential postal services before informing customers of their alternative access options and asking for comment, the Postal Service is devaluing the

³⁷ Witness Matalik's testimony on this issue is unclear. When discussing the longstanding discontinuance process upon which the Initiative's discontinuance process is based, she first indicates that the solicitation of comments is included in the list of factors that are initially considered during a discontinuance review. USPS-T-2 at 4. She then states that the solicitation of comments only occurs after consideration of the discontinuance factors that she identifies in the written testimony (one of which is obtaining customer input). *Id.* at 5. She further identifies obtaining customer input as a first step in the Initiative's discontinuance process, which again appears to contradict her later oral testimony summarized above. *Id.* at 10.

customer comment process and giving the appearance that seeking customer comment is merely an afterthought. Customers may be less likely to comment if they believe their comments do not matter. To increase the value of customer comments to the discontinuance process, and avoid a perception that comments are an afterthought, the Commission finds that the Postal Service should start the customer comment process immediately after the decision is made to initiate a full discontinuance study. This will allow customer comments to be considered while other data is being collected, and should provide more timely indications of special situations affecting the needs of communities served by the station or branch under consideration.

The Public Representative contends that customer views should be solicited even earlier, during prescreening, to facilitate the policy of transparency of postal operations and decision making. Public Representative Brief at 21-23. As an example of the benefit of soliciting early views, he argues that customers might provide insight into which facility, among potential facilities, might be closed before undertaking facility-specific discontinuance studies. Currently, customer views are not solicited during the prescreening phase. Tr. 2/405, 433, 444.

The Postal Service contends that the Public Representative fails to understand that the purpose of prescreening is to determine whether a potential discontinuance is even operationally feasible. It argues that it would not be prudent or rational to solicit customer input at this stage, and to potentially alarm customers where discontinuances are not even feasible. Postal Service Reply Brief at 38-40.

The Commission finds value in a prescreening process that quickly and cost effectively eliminates potential facilities from consideration. Where the Postal Service is able to determine that closing a facility is not operationally feasible for whatever reason, it is not necessary to incur costs associated with soliciting customer views or to needlessly alarm customers.

Notification of lessors. Finally, AUSPL contends that lessors should be specifically notified that a facility is being considered for closure and that they be provided with all documentation used to justify closure before the event occurs. AUSPL Brief at 2. This currently is not part of the Postal Service's process. Tr. 2/325-26. A lessor is notified of a potential closure in the same manner as any other patron of a facility under consideration.

The lessor/Postal Service relationship is governed by a commercial contract. Within the contract, the lessor and the Postal Service are free to negotiate whatever notification and termination provisions that both agree are necessary to protect each party. The Commission does not find it appropriate to interject itself into these contract negotiations.

5. Financial Analysis of Station and Branch Operations Should Be Improved

Availability of station and branch financial information. The Postal Service did not enter into the Initiative with cost savings targets or goals in mind. USPS-T-1 at 11. It asserts that as part of the Initiative process it will conduct facility-specific studies of the stations and branches on its candidate list during which it will review service needs and develop estimates of potential cost savings. Tr. 2/101, 186. The Commission finds it is appropriate to balance service and cost considerations, but that the methods for identifying potential cost savings are misleading and undermine the validity of current analyses.

Sufficiency of the Postal Service's station and branch financial analysis. The Postal Service plans to measure efficiency gains by calculating projected cost savings. Significant discovery and oral cross-examination was devoted to an attempt to discern what is and is not included in the Postal Service's analysis. See APWU Brief at 8. The Commission has reviewed the Postal Service's station and branch financial analysis methodology and finds that the current methodology is likely to overestimate the

resulting savings and underestimate the costs of closing or consolidating a station or branch. The Commission finds that the Postal Service should develop and disseminate, in writing, a nationally approved methodology for Districts to use to perform the financial analysis of the impact on costs of closing a particular facility. Specific recommendations are addressed below.

Evaluation of potential revenue loss. Revenue loss due to closing a facility is not part of the Postal Service's cost savings calculation. Tr. 2/164. The Postal Service does not have a methodology to estimate lost revenue. It makes the assumption that revenue generated from a facility that is closed will migrate to an alternative access channel or to another postal facility. Tr. 2/147, 272, 305, 314. The Postal Service makes this assumption even though it has not attempted to study revenue leakage, or what types of customers may find it difficult or inconvenient to move to alternate access channels or other retail facilities.³⁸ Tr. 2/272, 305, 315.

The Commission recommends that the Postal Service develop a methodology for recognizing revenue leakage. Some revenue leakage is probable.³⁹ Without a methodology in place, the Postal Service can not begin to analyze whether or not revenue leakage should be of concern.

Treatment of potential salary and benefits cost savings. The Postal Service includes in its cost savings analysis the salary and benefits of any management, maintenance, and/or clerks assigned to a unit being discontinued. Tr. 2/177. The analysis appears focused on the labor costs associated with the facility under

³⁸ The Postal Service claims it is not assuming that there will be no revenue loss. It asserts that it does not measure revenue loss because it is unaware of any reliable method for such estimation. Postal Service Reply Brief at 34-35.

³⁹ For example, most customers who rent a post office box at one facility choose to do so because they find that location most convenient, and the fee is acceptable. Customers' willingness to use less convenient locations or pay higher prices should be examined.

consideration, and not potential cost savings for the Postal Service overall. See Tr. 2/493-6.

APWU, Popkin, and the Public Representative are critical of the Postal Service's characterizations of labor cost savings. APWU Brief at 8-9; Popkin Brief at 3; Public Representative Brief at 38. APWU notes that the bulk of the cost savings represented in discontinuance decision packages are from salaries and benefits paid to employees who are being transferred, *i.e.*, remain on the Postal Service payroll. It contends that this is disingenuous because these savings are not actual savings to the Postal Service. The Public Representative echoes these concerns by noting that the cost savings analysis focuses on the discontinued facility and does not focus on the Postal Service as a whole.

Proper treatment of the salary and benefits costs associated with a disenfranchised employee, *i.e.*, employee assigned to a discontinued facility, involves several complex variables. For example, it may be rational to consider the salary and benefits of an employee disenfranchised from a discontinued facility that fills an existing vacancy at another facility as a cost savings. In this scenario, the savings results from the Postal Service not having to hire a second employee to fill the vacancy, assuming the disenfranchised employee would otherwise remain on the Postal Service payroll. However, analysis of even this simple scenario is complicated by the reported current existence in some areas of standby rooms for idle employees. Moreover, if the disenfranchised employee is moving to a gaining facility that has an increased workload because of the discontinuance, this may obviate some or all of the presumed labor cost savings. See Tr. 2/181.

The Commission suggests that the Postal Service develop a better methodology for analyzing potential salary and benefit cost savings from discontinued facilities. The current approach will overestimate potential cost savings and misinform those responsible for making station and branch discontinuance decisions.

Expense related to discontinuance. Postal Service witness VanGorder states that the costs that the Postal Service considers are rent, utilities and employee salaries and benefits. Tr. 2/313. The Postal Service, in USPS-LR-N2006-1/6 at 7, also breaks out other real estate, maintenance, labor, and transportation related costs.

APWU witness Barrett suggests several analytical tools that may be used in performing this analysis. During oral cross-examination, he develops further ideas for recognizing costs related to non-revenue transactions. Tr. 3/627-28. The Commission recommends that the Postal Service consider how the data sources mentioned in witness Barrett's testimony could be used to augment the financial analysis of stations and branches.

One important omission from current analysis is the recognition of potentially offsetting costs. The costs of relocating or disposing of mail processing equipment are not considered. Tr. 2/313, 396, 497-500. Collection box relocation costs are not considered. Tr. 2/313, 396, 500. The costs of processing the resulting change-of-address forms and of forwarding mail are not considered. Tr. 2/501. The costs of relocating Post Office Boxes may or may not be considered. Tr. 2/500-501, *contra*. Tr. 2/312. *See also* APWU Brief at 9.

Rationalizing the Postal Service retail footprint is an ongoing program, and responsible Postal Service officials need accurate financial information to make informed decisions. The Commission finds that the Postal Service should develop a more complete model of factors that impact costs and revenues when a retail facility is discontinued, and make it available to local officials responsible for evaluating the potential benefit of closing or consolidating facilities.

Postal Service management also needs accurate financial estimates to evaluate whether or not the Initiative is producing meaningful cost savings. The Commission recommends that after a period of time, 6 months for example, the Postal Service internally evaluate whether costs are in fact being saved due to the closure of each

specific facility. This post-implementation review will provide insight into possible future improvements in the process.

6. The Postal Service Should Implement Uniform Procedures for Closing or Consolidating All Types of Retail Facilities—Post Office, Station or Branch

Stations and branches are defined in 39 CFR § 241.2 as follows:⁴⁰

(a) Description.

(1) Stations are established within the corporate limits or boundary, and branches are established outside the corporate limits or boundary of the city, town, or village in which the main post office is located. Stations and branches may be designated by number, letter or name. As a general rule, branches are named.

(2) Stations and branches transact registry and money order business, sell postage supplies, and accept matter for mailing. Delivery service, post office boxes, and other services may be provided when directed by the postmaster.

Postal Service witness Matalik observes “for the most part I think in terms of our customers, they probably don’t distinguish between a station and a branch and a post office...” Tr. 2/544. However, she asserts that the Postal Service does. *Id.*

Postal Service witness VanGorder testifies “[t]hese important facility designations and administrative relationships often do not matter to members of the general public. In the common vernacular, virtually every postal facility offering retail services is referred to as a ‘post office’ and the Postal Service does not always clearly communicate these distinctions.” USPS-T-1 at 4, n.2.

AUSPL witness Principe agrees stating “[t]he general public does not know the difference between a station, branch, community post office or main post office.” Tr. 3/745; see *also* AUSPL Brief at 1. The League expresses a similar view: “[W]e

⁴⁰ Stations and branches also may be considered “classified” or “contract.” See 39 CFR § 241.2(b). The significant difference is that classified facilities are operated by postal employees in quarters provided by the Federal government, whereas contract facilities are operated under contract by persons who are not Federal government employees. The focus of this advisory opinion is only on classified facilities, and not on contract facilities.

believe that making a distinction between post offices, branches, and stations is meaningless, and a classic example of putting form over substance.” League Brief at 4.

The positions presented above appear consistent with the longstanding position of the Commission that the public does not differentiate between a classified station, classified branch, or a Post Office.

The APWU, AUSPL, the League, and the Public Representative take the position that the Postal Service should follow the same discontinuance procedures for classified stations and branches as are used for Post Offices, with several participants specifically calling upon the Postal Service to follow the closing requirements of 39 U.S.C. § 404(d) in each case. APWU Brief at 10-13, AUSPL Brief at 1, 3, League Brief at 4-5, Public Representative Brief at 10-13, APWU Reply Brief at 7-9.

Valpak, on the other hand, contends that the closure provision of 39 U.S.C. § 404(d) does not apply to stations and branches. Valpak warns against imposing these requirements because it may discourage the Postal Service from opening new facilities where needed, if it becomes increasingly difficult to eventually close a facility. Valpak Brief at 18.

The Postal Service acknowledges that it does not provide customers of stations and branches with the same rights that it provides customers of Post Offices. Tr. 2/590-91. It highlights what it considers as significant differences between the statutory section 404(d) Post Office procedures, and its non-statutory station and branch closing procedures. Section 404(d)(1) requires a 60-day comment period after public notice of a proposed Post Office closing. The Initiative provides a 10 business day public comment period. Section 404(d)(4) requires another 60-day notice period between a decision to close and the actual closure. The Initiative recites a 30-

60-day public notice period before a discontinuance of operations is implemented.⁴¹ Section 404(d)(5) makes a decision to close a Post Office subject to review by the Commission in response to a petition filed by a person served by that Post Office. The station and branch Initiative does not provide this right. See Postal Service Brief at 20, n.16; see *also* Tr. 2/202-5.

The Postal Service contends it is not legally required to provide all customers with the same notice and opportunity for comment. But it does not provide any cost or other justification on the record for treating those served by stations and branches differently from those served by Post Offices for the purpose of consolidations and closing.

The Postal Service does not explain why its internal processes are so different. For instance, the Postal Service provides itself with 10 days to authorize a study of a Post Office, but only 5 days for a station or branch. See USPS-LR-N2009-1/5 at 3. There is no record support demonstrating why more or less time is required in either circumstance. The Postal Service provides itself with 25 days to review, investigate, and study (data gathering) when considering closure of a Post Office, but only 15 days for these activities when considering closure of a station or branch. It appears that similar if not the same data must be obtained in both circumstances. The Postal Service provides Headquarters with 30 days to review and make a final determination on closing a Post Office, but only 10 days to review closing a station or branch. Again, it appears that a similar Headquarters' review and final determination process must be used in both circumstances. The Postal Service should evaluate how much time is necessary to adequately perform these functions and apply it in both circumstances.

⁴¹ The Postal Service states that it will not require a 60-day notice period. Tr. 2/204. In the past, it states that there have been instances where the public was not given 60 days notice between the date of the decision and the date of implementation. Tr. 2/153. In one location, it states that 30 days notice will be given under the Initiative. Tr. 2/204. See *also* Postal Service Brief at 20, n.16.

While almost every facility has unique attributes, in general it is fair to say that stations and branches fulfill the same operational purposes as Post Offices. In the absence of any evidence to the contrary, the Commission finds that customers of each of these facilities should be given a similar, meaningful opportunity to comment before their local facility is closed.

The Postal Service must provide patrons of Post Offices 60 days to present their views. 39 U.S.C. § 404(d)(1). For stations and branches, there are 20 days reserved for community input, in which a 10-day comment period is allotted. It appears that patrons of stations and branches have similar if not the same concerns as patrons of Post Offices. Providing a 60-day notice and comment period in each instance will provide patrons with a meaningful opportunity to provide the Postal Service with helpful comments.

The Postal Service statutorily can not close or consolidate a Post Office until 60 days after its written determination is made available to patrons of that facility. 39 U.S.C. § 404(d)(1). For stations and branches, the Postal Service generally allows 60 days, but this appears driven by union notification requirements. It is unclear how much actual notice the Postal Service intends to give its station and branch customers. Patrons in all cases should be provided with 60 days notice to make adjustments to their mailing needs. Since this much notice must be given to employee organizations, there is no apparent valid reason to deny customers this much advance notice.

The Commission finds that it is consistent with good public policy to establish uniform closure and consolidation provisions for all retail Postal Service facilities. This will ensure that customers receive adequate notice, that they are provided adequate time to provide meaningful input to the Postal Service on potential decisions to close facilities, and that decisions will be more consistent and less discriminatory. It also will ensure that the Postal Service's internal processes allot adequate time for data gathering and review. The Commission recommends that the Postal Service adopt the

public policy of providing similar treatment to classified stations, classified branches, and Post Offices. Application of a uniform process will not appreciably delay the Postal Service from closing any facility that can otherwise justifiably be closed.

7. Customers Should Be Assured That the Postal Service Will Adhere to Its Published Procedures

Section 404(d)(5) provides a right of appeal to any person served by a post office that the Postal Service has made a determination to close or consolidate. Customers are provided an opportunity to file an appeal with the Commission within 30 days of the Postal Service providing notice of its determination. Based on the record that the Postal Service relied upon to make its determination, the Commission has 120 days after receiving an appeal to perform a review. The Commission only may set aside Postal Service findings and conclusions concerning individual consolidation or closing determinations, which are “(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedures required by law; or (C) unsupported by substantial evidence on the record.” Otherwise, the Commission can not preempt a Postal Service determination to close or consolidate a post office.

The Commission and the Postal Service disagree on the applicability of section 404(d)(5). The Commission’s opinion is that this section is applicable to all retail facilities manned by government Postal Service employees. This includes Post Offices, classified stations, and classified branches.

The Postal Service develops a legal argument including references to legislative history to support its opinion that section 404(d)(5) is applicable only to Post Offices, and not to classified stations or branches. Postal Service Reply Brief at 6-12. The Postal Service argues that this legal disagreement should not be resolved based on the record of this docket. *Id.*

The Commission is not persuaded by the Postal Service's legal argument, but agrees there is no need to resolve the legal issue at this time.⁴² The essential issue in this docket is whether patrons of all retail postal facilities should be able to appeal a closing or consolidation to assure that the Postal Service's own process was properly followed. On sound public policy grounds alone, the Commission finds that the record supports treating customers of stations, branches, and Post Offices the same, at least for the purpose of ensuring that the Postal Service follows its own policies and procedures.

Congress did not authorize the Commission to review the merits of Postal Service management decisions to close retail facilities. However, Congress did establish a process for patrons to appeal to the Commission to assure that the Postal Service follows established procedures. The Postal Service recognizes that postal patrons can not distinguish between Post Offices, classified stations, and classified branches. The closing of a Postal Service operated retail facility has substantially the same effect on patrons regardless of how the Postal Service might classify the facility. Thus, the Commission concludes that patrons of all retail Postal Service facilities should be provided with the same opportunity to assure that established procedures are adhered to, whether or not it is required by statute.

The Commission finds that patrons of Post Offices, classified stations, and classified branches equally should be advised that they may appeal whether Postal Service determinations to close or consolidate a facility were made in accordance with established procedure. The Commission already believes it is required to accept such appeals.

⁴² In Docket No. A2010-3, the Commission has requested additional views on whether stations and branches are post offices within the meaning of section 404(d).

8. The Postal Service Should Coordinate This Initiative With Any Other Initiatives Affecting Access Such as Removing Collection Boxes or Changing Retail Hours

The Postal Service is a large multifaceted organization with many “initiatives” being undertaken at all times. Postal Service witness Matalik testifies that she is aware of initiatives concerning collection boxes, bulk mail entry units, courtesy drops and AMP processing facilities, but contends that these are not considered in connection with the Stations and Branch Optimization and Consolidation Initiative. Tr. 2/571-72.

The Initiative shares a common trait with changes in the collection point network potentially affecting customer access to essential postal services. Postal Service witness VanGorder, when asked specifically about changes to the collection box network, states that there has been no focus on cross-referencing what is occurring with the collection box network with the Initiative. Tr. 2/368.

APWU observes that “[a]ll of these initiatives may impact services provided to postal customers, yet nowhere in the discontinuance study are they considered.” APWU Brief at 8. AUSPL argues that “[t]he closing of stations and branches along with the removal of 150,000 street collection boxes is a significant reduction in services, especially for those with limited mobility.” AUSPL Brief at 2. The Public Representative makes similar assertions about the lack of coordination of the Postal Service’s collection box rationalization initiative with the Initiative in this docket. Public Representative Brief at 20-21.

On brief, the Postal Service denies the existence of an initiative to rationalize its collection box network, or the need to consider the combined impact of this alleged effort with the Initiative. Postal Service Reply Brief at 35-36. However, the Postal Service does state that collection points have declined from 333,873 in 2000 to 227,600

at the end of June 2009, with blue collection boxes representing approximately 80 percent of total collection points.⁴³

In another area, the Postal Service states that it intentionally did not consider changes in the opening and closing hours of nearby stations and branches in connection with the Initiative. Tr. 2/269-71. The Public Representative is critical of the Postal Service for not considering reducing hours before discontinuing a facility. He suggests reducing hours as a possible approach to saving costs. Public Representative Brief at 9-10.

The Postal Service is dismissive of the Public Representative's suggestion stating that there is no record support for this alternative. Furthermore, the Postal Service states that it is the prerogative of postal management to decide which proposals to place before the Commission, and that it is not the Commission's task to determine whether other alternatives would better meet the Postal Service's objectives. Postal Service Reply Brief at 23-26.

This Postal Service argument is correct that other initiatives are not before the Commission. However, one of the Commission's tasks in evaluating whether the Initiative comports with the policies of title 39 is to evaluate whether the Postal Service is considering relevant factors. The Commission finds that actions taken in the concurrent Postal Service initiatives that have an impact on customer access are relevant to whether closing a retail facility may leave a significant number of citizens without adequate access to postal services. Therefore, District officials responsible for evaluating whether to close or consolidate retail facilities should be made aware of other existing or planned programs that will impact customer access.

⁴³ The Postal Service argues that the removal of collection points over the past decade is mitigated by the fact that in some instances only excess or overflow collection points were removed. Tr. 2/228. When questioned further, the Postal Service was unable to provide data to substantiate this claim. Tr. 4/830-31.

9. Data Collection and Analysis is Wise, But Periodic Reports Will Not Be Required

The Public Representative asks the Commission to require the Postal Service to provide a final accounting to evaluate the efficiency gains achieved and the actual effects on ready access to postal services that result from this Initiative. Public Representative Brief at 34-41. The Public Representative makes this request in order to improve transparency and accountability, and because of what the Public Representative views as the flawed and incomplete methodology for estimating efficiency gains. APWU endorses the Public Representative's request. APWU Reply Brief at 11.

The Postal Service argues that the Commission is without statutory authority to direct the Postal Service to provide a final accounting in the context of an advisory opinion. Postal Service Reply Brief at 4-5.

The Commission finds an internal data collection plan would benefit the Postal Service in evaluating whether or not the initiative is meeting its goals, and would provide insight into possible improvements that the Postal Service could make in evaluating facility discontinuances in the future. Emphasis should be placed on making the process more accurate so that proper determinations can be made in advance. Internal data collection will help in this area. The Commission views the Initiative as a blueprint for a continuing process that the Postal Service will use to regularly evaluate its retail network, and has provided this opinion to help the Postal Service improve its process. The Commission's responsibility does not extend to ongoing review of the process, and the Postal Service will not be directed to submit periodic reports on the impact on costs of the Initiative.

VIII. CERTIFICATION

It is the opinion of each of the undersigned Commissioners, pursuant to 39 U.S.C. § 3661(c), that this opinion conforms to the policies established under Title 39, United States Code.

Ruth Y. Goldway, Chairman

Tony L. Hammond, Vice Chairman

Mark Acton, Commissioner

Dan G. Blair, Commissioner

Nanci E. Langley, Commissioner

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**SEPTEMBER 16, 2009 FIELD HEARING
INDEPENDENCE CIVIC CENTER
6363 SELIG DRIVE
INDEPENDENCE, OHIO**

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Independence, Ohio

Thomas P. Lipker
Customer Service Analyst, Northern Ohio District, United States Postal Service

Steve Laserson
Vice President of Greeting Cards, American Greetings Corporation, Cleveland, Ohio

Louis Giesler
President, AmeriMark Direct, Cleveland, Ohio

Panel Two Witnesses

Martin J. Keane
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Terry Grant
President, Ohio State Chapter, American Postal Workers Union, Canton, Ohio

Pamela Rosado
Outreach Coordinator, Policy Matters Ohio

Mario Principe
Director of Lessor Affairs, Association of United States Postal Service Lessors, Burke,
Virginia

Audience Speakers

Joseph Cinadr
Marty Gelfand
Danny Pride

**SEPTEMBER 23, 2009 FIELD HEARING
FORDHAM UNIVERSITY
ROSE HILL CAMPUS, O'HARE HALL
441 EAST FORDHAM ROAD
BRONX, NEW YORK**

Panel One Witnesses

Jeffrey D. Klein

New York State Senator, 34th District

Aurelia Greene

Deputy Bronx Borough President

Fernando P. Tirado

District Manager, Bronx Community Board 7, Bronx, New York

William Grygus

Postmaster, United States Postal Service, Ringwood, New Jersey

Wendy Smith

Assistant Vice President, Fulfillment and Postal Affairs Publishers Clearing House, Port Washington, New York

Annelen Madigan

Rosehill Housing Management Corp., Bronx New York

Panel Two Witnesses

Richard Doherty

President, Association of Independent Colleges and Universities in Massachusetts (AICUM)

U.S. Navy Commander Brian George

Joint Military Postal Activity-Atlantic Military Postal Service Agency, United States Postal Service International Service Center, Newark New Jersey

Clarice Torrence

President, New York Metro Area, American Postal Workers Union, New York, New York

**SEPTEMBER 23, 2009 FIELD HEARING
FORDHAM UNIVERSITY
ROSE HILL CAMPUS, O'HARE HALL
441 EAST FORDHAM ROAD
BRONX, NEW YORK
(Continued)**

Panel Two Witnesses (Continued)

John Vincenzi

President, National Association of Postal Supervisors, Branch 459, Bronx, New York

Larry Cirelli

National Business Agent for Connecticut, New Jersey, New York, Puerto Rico and the Virgin Islands, National Association of Letter Carriers

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Joe Bombace

Bob Conrad

George Diaz

Bert Distelburger

Father Richard Gorman

Tom Handley

Arthur Herman

Joe Muriana

David Popkin

Andrew Riviccio

Megan Smith

Barbara Stronczer

Alice Worrell