

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

Before Commissioners:

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

Lafayette Postal Facility
Freehold, New Jersey

Docket No. A2011-19

ORDER DENYING APPLICATION FOR SUSPENSION

(Issued July 19, 2011)

On June 22, 2011, Petitioner A. Richard Gatto filed an application to suspend the Postal Service's determination to close the Lafayette Postal Facility in Freehold, New Jersey.¹ The Postal Service intends to close the Lafayette Postal Facility on July 29, 2011 and provide mail delivery to patrons by other means.

On July 5, 2011, the Postal Service filed a response in opposition to the application for suspension.² The Postal Service contends that the Petition is not within the scope of the Commission's jurisdiction because the Lafayette Postal Facility is not an independent post office. *Id.* at 2. It also argues that this closing is not the type

¹ Petition for Review, Application for Suspension of Determination of the Postal Service to Close Lafayette Postal Trailer Pending Appeal and Petition for Review, Request for Oral Arguments, filed by A. Richard Gatto, Freehold Center Management Corporation, June 22, 2011 (Petition).

² Response of United States Postal Service to Petitioner's Application for Suspension of Discontinuance for the Freehold Trailer, Freehold, New Jersey 07728, July 5, 2011 (Response).

covered by 39 U.S.C. 404(d) because it does not involve the loss of retail services for the community. *Id.* at 2-3.

Furthermore, the Postal Service contends that it has made “numerous arrangements” to implement the final determination, including providing notice to the lessor of the termination of the lease; arranging for the premises to be vacated; arranging for employees to be relocated; and scheduling various operational changes. *Id.* at 4. The Postal Service adds that many customers of the Lafayette Postal Facility have made and scheduled their own adjustments to accommodate their mailing needs. *Id.* at 4-5. The Postal Service concludes that suspending the closing would be costly and significantly frustrate its operational plans. *Id.* at 4.

Commission analysis. The Postal Service begins its Response by reiterating its view that 39 U.S.C. 404(d) does not apply to any facility it has designated for administrative purposes as a station. *Id.* at 2. The Commission rejects this argument, as it has done in numerous prior proceedings.

The Commission must evaluate the application for suspension in light of the Postal Service’s well-publicized financial difficulties. The Postal Service has indicated it will be unable to meet its financial obligations by the end of September 2011.

The Postal Service identifies a number of proximate locations providing alternative access to retail postal services for affected customers. Petition, Exhibit 1.³ It also contends that alternate service arrangements will, if deferred, be disrupted and cause unnecessary expenditures. Response at 4. Under these circumstances, the Application for Suspension is denied.

³ In response to Order No. 754, the Postal Service expands on the alternate postal services available to customers of the Freehold Postal Facility. See Notice of United States Postal Service, July 7, 2011, at 2-3.

It is ordered:

The Application for Suspension filed by A. Richard Gatto on June 22, 2011 is denied.

Shoshana M. Grove
Secretary

Dissenting Opinion of Chairman Goldway

On prior occasions, I have concurred reluctantly in denying applications for the suspension of a post office closure while expressing reservations about the process. The Postal Service recently adopted new rules applicable to discontinuance of all Postal Service-operated retail facilities, including stations and branches. See 76 FR 41413, July 14, 2011. The new rules represent an improvement in the process. Notwithstanding that the Commission and the Postal Service disagree about whether 39 U.S.C. § 404(d) applies to stations and branches, the Postal Service recognizes appeals are being filed and processed. The public and the Postal Service will be better served if affected offices are not closed until completion of the ongoing review process.

Particularly in light of the new rules, the Commission will accelerate its efforts to review post office appeals expeditiously. Given the procedural requirements of section 404(d), maintaining operations at a retail facility pending disposition of an appeal will not materially increase Postal Service costs and, in the long run, will avoid unnecessary expenses and public confusion about the process.