

ORDER NO. 778

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

Retail Access Optimization Initiative

Docket No. N2011-1

NOTICE AND ORDER CONCERNING
REQUEST FOR AN ADVISORY OPINION
REGARDING THE CONSIDERATION FOR CLOSURE
OF APPROXIMATELY 3,650 POSTAL RETAIL LOCATIONS

(Issued July 28, 2011)

On July 27, 2011, the United States Postal Service (Postal Service) filed a request with the Postal Regulatory Commission (Commission) for an advisory opinion under 39 U.S.C. 3661 regarding use of a centrally directed Retail Access Optimization (RAO) initiative for examining the continuation of service at approximately 3,650 postal retail locations.¹

¹ Request of the United States Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, July 27, 2011 at 1 (Notice).

Jurisdiction. The Postal Service contends that in its present form, the RAO initiative “could be at least ‘substantially nationwide,’ within the meaning of 39 U.S.C. § 3661(b).” *Id.* at 2. The Postal Service states that if it determines any facilities should be closed, postal patrons would have to obtain services at a different postal facility or alternate access channel. *Id.* The Postal Service asks the Commission to consider whether it has jurisdiction to offer an advisory opinion on the RAO initiative, and if so, to render it. *Id.*

The RAO initiative applies to postal retail facilities across the country, without limit to geography or population, and is driven by Headquarters. The Commission finds that because the Postal Service’s RAO initiative appears to encompass a Headquarters’ mandated, systemwide review of postal retail facilities, similar to the review of station and branch discontinuation in Docket No. N2009-1, a Commission advisory opinion pursuant to 39 U.S.C. § 3661 is appropriate.

Request. The Request is accompanied by testimony from one witness, James J. Boldt (USPS-T-1), and five library references (two of which are non-public).²

Witness Boldt is identified as the National Manager, Customer Service Operations, in the Office of Delivery and Post Office Operations at Postal Service Headquarters. USPS-T-1 at i. Witness Boldt’s office is described as having primary responsibility for developing policies and procedures relating to the day-to-day operations of post offices, opening or closing of those facilities, and improving customer experience. *Id.*

Witness Boldt’s testimony describes the current state of the Postal Service’s retail network, including alternative access channels and underlying trends. *Id.* at 2-10. The testimony also describes the RAO initiative as a systemwide approach to the decline in demand for retail services and the widespread availability of alternative access channels. *Id.* at 13-14. The testimony indicates that the Postal Service will

² See Notice of United States Postal Service of Filing of Initial Library References and Application for Non-Public Treatment of Materials, July 27, 2011, identifying and describing the library references filed in support of the Postal Service’s direct case.

evaluate postal offices with low workload, stations and branches with insufficient demand and available alternate access, and retail annexes with insufficient demand and available alternate access. *Id.* at 14-16.

The Postal Service intends to make use of the new “USPS Handbook PO-101” that reflects recent rules promulgated by the Postal Service concerning the methods to close or consolidate postal retail facilities.³ *Id.* at 17-18. Finally, the testimony explains how the Postal Service’s new rules work and how they will be applied in the RAO initiative. *Id.* at 19-23.

The Request and all supporting public materials are on file in the Commission’s docket room for inspection during regular business hours, and are available on the Commission’s website at www.prc.gov.

Timing. The Postal Service believes that its filing satisfies the 39 CFR 3001.72 requirement that a request for an advisory opinion must be filed at least 90 days in advance of the effective date of the proposed changes. The Postal Service indicates that it started discontinuance actions consistent with the RAO initiative beginning July 26, 2011. Notice at 9. The Postal Service contends that these actions are not “implementation” of a service change because the initial action of public notice of discontinuance is only an “information-gathering process.” *Id.* The Postal Service states further that if discontinuation is announced, the facility must remain open for a further 60 days. *Id.* at 10. The Postal Service states that it expects notices announcing discontinuances of particular facilities to be issued starting in late October through late December of 2011. *Id.*

Further procedures. 39 U.S.C. 3661(c) requires that the Commission afford an opportunity for a formal, on-the-record hearing of the Postal Service’s Request under the terms specified in sections 556 and 557 of title 5 of the United States Code before issuing its advisory opinion. The Postal Service’s request raises important issues. Given the Postal Service’s financial position, the Commission finds it appropriate to

³ See 39 CFR Part 241.

expedite the proceeding. To facilitate expeditious review of the matter, the Commission expects parties to make judicious use of discovery, discovery objections, and motions' practice. Every effort should be made to confer to resolve disputes informally.

All interested persons are hereby notified that notices of intervention in this proceeding shall be due on or before August 19, 2011. See 39 CFR 3001.20 and 3001.20a. Discovery may be propounded upon filing a notice of intervention. Responses to discovery shall be due within 7 days.

The full procedural schedule shown below the signature of this Order will be followed in this proceeding.

- The hearing to receive the Postal Service's direct case shall begin September 8, 2011.
- Intervenor evidence must be submitted by September 16, 2011.
- The hearing to receive intervenor evidence shall begin October 3, 2011.
- Unless the Postal Service elects to submit surrebuttal evidence, briefs shall be due October 14, 2011, and reply briefs shall be due October 21, 2011.
- If the Postal Service elects to submit surrebuttal evidence, that evidence is due by October 11, 2011.
- The hearing to receive the surrebuttal evidence shall be October 17, 2011.
- If surrebuttal evidence is submitted, briefs shall be due October 26, 2011, and reply briefs shall be due November 2, 2011.

Public Representative. Section 3661(c) of title 39 requires the participation of an "officer of the Commission who shall be required to represent the interests of the general public." Tracy Ferguson is designated to serve as the Public Representative to represent the interests of the general public in this proceeding, assisted by John P. Klingenberg. Neither the Public Representative nor any additional persons assigned to assist her shall participate in or advise as to any Commission decision in this proceeding, other than in their designated capacity.

It is ordered:

1. The Commission establishes Docket No. N2011-1 to consider the Postal Service Request referred to in the body of this Order.
2. The Commission will sit *en banc* in this proceeding.
3. The complete procedural schedule for this proceeding is set forth below the signature of this Order.
4. Pursuant to 39 U.S.C. 505 and 3661(c), the Commission appoints Tracy Ferguson to represent the interests of the general public in this proceeding.
5. The Secretary shall arrange for publication of this Notice and Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary

Procedural Schedule for Docket No. N2011-1

(July 28, 2011)

Notices of intervention due	August 19, 2011
Close of discovery on Postal Service direct case	August 30, 2011
Notice of intent to conduct oral cross-examination	September 2, 2011
Hearing on the Postal Service's direct case (9:30 AM in the Commission's hearing room)	September 8, 2011
Close of discovery for developing intervenors' direct case	September 9, 2011
Filing of rebuttal testimony	September 16, 2011
Conclusion of discovery directed towards rebuttal testimony	September 23, 2011
Notice of intent to conduct oral cross-examination (rebuttal)	September 30, 2011
Hearing to enter rebuttal testimony into the record (9:30 AM in the Commission's hearing room)	October 3, 2011
Notice of intent to file surrebuttal testimony	October 5, 2011
Filing of surrebuttal testimony (if requested)	October 11, 2011
Hearing to enter surrebuttal testimony into the record (9:30 AM in the Commission's hearing room, if necessary)	October 17, 2011
Filing of briefs	
If no surrebuttal testimony filed	October 14, 2011
If surrebuttal testimony filed	October 26, 2011
Filing of reply briefs	
If no surrebuttal testimony filed	October 21, 2011
If surrebuttal testimony filed	November 2, 2011