

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

Ukiah Main Post Office
Ukiah, California

Docket No. A2011-21

ORDER GRANTING MOTION TO DISMISS

(Issued August 15, 2011)

I. INTRODUCTION AND SUMMARY

On July 14, 2011, Michael E. Sweeney and the Save Ukiah Post Office Committee (Petitioners) petitioned the Commission for review of the Postal Service's decision to close the Ukiah Main post office.¹ In Order No. 761, the Commission gave notice of the appeal and directed the Postal Service to file the administrative record or a responsive pleading.²

¹ Petition for Review of Closure and Consolidation of Ukiah Main Post Office and Application for Suspension of Determination, July 14, 2011 (Petition).

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, July 18, 2011 (Order No. 761).

On July 29, 2011, the Postal Service filed a motion to dismiss this proceeding.³ On August 10, 2011, the Petitioner filed a brief opposing the discontinuance of service at the Ukiah Main post office.⁴ On August 11, 2011, the Public Representative filed a reply brief concluding that the Postal Service's actions are outside the Commission's review jurisdiction.⁵

The Postal Service's Motion to Dismiss is granted.

II. PARTICIPANT PLEADINGS

Petitioner. Petitioner contends that the Commission should set aside the Postal Service's decision regarding the Ukiah Main post office. Petition at 2. Petitioner argues that the Postal Service has failed to observe procedures required by 39 CFR 241.3 by not disclosing its written findings regarding the closing. *Id.* at 3. He adds that closing the Ukiah Main post office will cause substantial harm to customers and fails to provide any financial benefit to the Postal Service. Petitioner further explains that while the Postal Service refers to its actions as a "relocation," this is a *de facto* closure. *Id.* at 2.

Postal Service Motion to Dismiss. The Postal Service contends that this appeal should be dismissed because it is not within the Commission's jurisdiction. Motion to Dismiss at 1. The Postal Service asserts that the appeal concerns the relocation of a post office which is an event that falls outside the scope of 39 U.S.C. 404(d)(5). The Postal Service argues that the process for relocating retail operations within the community is governed by 39 CFR 241.4. *Id.* at 3.

The Postal Service explains that it plans to relocate retail operations from the Ukiah Main post office to the Ukiah Carrier Annex, a nearby site where currently there are no retail operations. *Id.* at 2. The Postal Service further indicates that there are

³ Motion of United States Postal Service to Dismiss Proceedings, July 29, 2011 (Motion to Dismiss).

⁴ Petitioners' Brief Opposing Closure and Consolidation of Ukiah Main post office, August 10, 2011 (Petitioner Brief).

⁵ Reply Brief of the Public Representative, August 11, 2011 (PR Reply Brief).

other alternate access options, including five stamp consignment sites located within 1 mile of the Ukiah Main post office. *Id.* The Postal Service argues that, in similar circumstances, other appeal proceedings have been dismissed by the Commission. *Id.* at 3-5.

Public Representative. The Public Representative agrees that the appeal should be dismissed. PR Reply Brief at 6. The Public Representative contends that the Postal Service is not required to follow the section 404(d) closing procedures when merely rearranging its retail facilities in a community. *Id.* at 5. She adds that the community will not experience a drop in the level of retail services currently offered. *Id.*

III. COMMISSION ANALYSIS

Petitioner contends that the Postal Service is closing the Ukiah Main post office and in doing so has failed to follow the procedures set forth in 39 CFR 241.3. Petition at 3. The Postal Service, on the other hand, argues that its decision to relocate postal operations from one retail facility to a nearby facility is not covered by section 404(d). Motion to Dismiss at 3. Both the Postal Service and Public Representative maintain that the Commission lacks jurisdiction over this matter and that this appeal should be dismissed. *Id.* at 3; PR Reply Brief at 6. The Commission is dismissing this appeal because the actions taken by the Postal Service represent a relocation of retail facilities in the community, and thus section 404(d) is inapplicable.

Order No. 37 is relevant to the issue presented here.⁶ In Order No. 37, the Commission considered whether the Postal Service's decision to close one facility, the Ecorse, MI Classified Branch, when it opened a new facility in close proximity, was a closing under section 404(d). *Id.* at 4. The Postal Service planned to close the Ecorse Branch since customers could obtain the same services 1.7 miles away at the new facility. In light of offering retail services at the new facility and its close proximity to the

⁶ Docket No. A2007-1, Order Dismissing Appeal on Jurisdictional Grounds, October 9, 2007 (Order No. 37).

Ecorse Branch, the Commission concluded that the community was not losing access to postal services and that the Postal Service's actions did not amount to a closing subject to section 404(d) review. The Commission held that the actions regarding the Ecorse Branch were a retail facility relocation within the community and the Postal Service was not obligated to follow the formal post office closing requirements. *Id.* at 6.

Here, the Postal Service has decided to close the Ukiah Main post office and transfer the retail operations and services to the Ukiah Carrier Annex. The Ukiah Carrier Annex is located 1 mile from the Ukiah Main post office and currently does not provide any retail services. After retail services are transferred to the Ukiah Carrier Annex, customers will continue to have the same level of access to retail services in the community. The Commission finds that the Postal Service's actions in Ukiah were a relocation of retail services within the community, and therefore are not subject to appeal under section 404(d).

It is ordered:

The Motion of the United States Postal Service to Dismiss Proceedings, filed July 29, 2011, is granted.

By the Commission.

Shoshana M. Grove
Secretary