

**BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001**

Retail Access Optimization Initiative

Docket No. N2011-1

The National Association of Postmasters of the United States

Initial Brief

(November 4, 2011)

The National Association of Postmasters of the United States (NAPUS) hereby submits its initial brief in Docket Number N2011-1.

I. Introduction

On July 27, 2011, the United States Postal Service (USPS) filed a Request for an Advisory Opinion pursuant to 39 U.S.C. §3661. It requests that the Postal Regulatory Commission (PRC) determine whether it has jurisdiction over the USPS Retail Access Optimization Initiative (RAOI), a Postal Headquarters-directed plan “to examine whether to continue providing retail and other services and products at approximately 3,650 of the more than 32,000 Post Offices, stations and branches in its retail network.”¹ The candidate facilities represent approximately 10.2% of USPS retail facilities. Concurrent

¹ Request of the United Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, pp. 1-2, July 27, 2011.

with the RAOI, the USPS has additional postal facilities under review for discontinuance. Assuming the PRC asserts jurisdiction over the RAOI, the USPS requests that the PRC determine whether the initiative complies with “applicable policies of Title 39, United States Code.” The request was accompanied by written testimony of Mr. James Boldt (USPS-T-1), as well as library references. NAPUS filed rebuttal testimony of two witnesses, Rita Zilinski (NAPUS-T-1) and Curt Artery (NAPUS-T-2). In addition, the Public Representative and others filed testimony in this docket.

Section 3661(b) of Title 39 states:

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.²

The “changes in the nature of postal services” in this docket stem from the implementation of the RAOI. It aims to subject to discontinuance review 2,825 Post Offices, 384 stations, and 178 retail annexes.³ The USPS applies a new, rigid, top-down, data-driven assessment to target small post offices for closure. The RAOI identifies those offices that, as measured by the USPS, have annual walk-in-revenue revenue of less than \$27,500⁴ per year and whose earned-workload is less than two hours per day.⁵ While the Postal Service asserts that it “is not pursuing the RAOI in order to achieve any predetermined operating cost savings target in the postal retail network”⁶ and the number

² 39 U.S.C. § 3661(b), as implemented by 39 C.F.R. § 3001.72

³ Request at p. 5.

⁴ Alaskan Post Office revenue target is \$10,000

⁵ USPS-T-1 at p. 15.

⁶ *Id.*, at p. 13.

closed would be a subset of those reviewed for discontinuance⁷, it has projected the closing of all Post Offices that are candidates for discontinuance would save \$200 million.⁸ The RAOI is predicated on the USPS’ assumption that walk-in-revenue and earned workhours are the correct filters for winnowing post offices for discontinuance review, and, thereby, *optimize* its retail network. However, NAPUS believes the RAOI is a not-too-thinly-veiled USPS effort to circumvent the statutory protections afforded to rural areas, communities and small towns.

Existing law obligates that the PRC issue an advisory opinion on the USPS’ RAOI’s compliance with the Postal Accountability and Enhancement Act (formerly the Postal Reorganization Act):

The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his [or her] judgment the opinion conforms to the policies established under this Title.⁹

As explained below, NAPUS asks the Commission to issue an advisory opinion concluding that the RAOI fails to conform to policies established in Title 39, United States Code. Specifically, the PRC should conclude the RAOI violates the requirement to “provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining,”¹⁰ the prohibition against closing a post office “solely for running a deficit,”¹¹ the obligation to “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

⁷ Id., at p. 9.

⁸ NAPUS/USPS-T1-4

⁹ 39 U.S.C. §3661(c)

¹⁰ 39 U.S.C. §101(b)

¹¹ Id.

operations, have ready access to essential postal services,”¹² and that the Postal Service shall not “... make any undue or unreasonable discrimination among users of the mail, nor shall it grant any undue or unreasonable preferences to any such user.”¹³ On its face, the RAOI, using its selected criteria, targets post offices that provide essential mail services to the nation’s rural areas. Moreover, as part of the discontinuance review process, the USPS is paying mere lip-service to views of the impacted communities by not complying with the letter and spirit of its own discontinuance manual, the *Postal Service-Operated Retail Facilities Discontinuance Guide: Handbook PO-101*.

II. The RAOI Changes Service on a Nationwide or Substantially Nationwide Basis

The RAOI changes the level of service for destination-point customers and origination-point customers who use approximately 3,500¹⁴ postal retail facilities. With the exception of Delaware, postal facilities are under review in every state and the District of Columbia.

Customers who rely on these facilities will have to move their postal transactions, both financial and non-financial, to another postal facility or to non-USPS-operated retail venues. The USPS concedes that service will be affected:

Should operations at any postal facility be discontinued, postal patrons accustomed to obtaining products and services at that location will experience a change in service by virtue of having to obtain them at another nearby postal facility or an alternative postal retail access channel.¹⁵

¹² 39 U.S.C. §403(b)(3)

¹³ 39 U.S.C. §403(c)

¹⁴ The RAOI initially subjected to review approximately 3,650 retail facilities, but removed some number facilities from discontinuance review.

¹⁵ Request at p. 1.

The candidate postal facilities subject to discontinuance are located throughout the nation; however, many of them serve rural areas and small towns.¹⁶ Due to the isolation of rural communities and the important role post offices play in their lives, they would be substantially impacted.

III. The RAOI Has a Unique and Adverse Impact on Rural America That Violates Congressional Intent and Undermines Service

Much of the current statutory protections accorded to rural communities and small towns are rooted in deep Congressional attention with regard to rural mail service and the importance of rural post offices in providing that service. The Postal Service has statutory responsibilities under 39 U.S.C. §101(b) to “... provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns...” Furthermore, Congress highlighted the USPS’ public service obligation to serve rural areas by including a provision in annual appropriation acts that state, “none of the funds provided in this statute shall be used to consolidate or close small rural and other small post offices in [this] fiscal year.”¹⁷

Nevertheless, in written interrogatories and during oral cross-examination, the USPS witness Boldt explained that the USPS does not define rural areas and, therefore, could not identify which of the candidate post offices were located in small towns or rural areas. Nevertheless, as referenced in footnote 15, he conceded that: “Such offices will tend to be located in smaller towns and/or rural areas.” Consequently, in developing its RAOI, the USPS, by its own admission, could not take into account the statutory identity

¹⁶ NAPUS/USPS-T1-2

¹⁷ For example, P.L. 110-161

provided to rural areas when it commenced the RAOI. This oversight, at best, underscores the lack of consideration given to the RAOI's effect on residential and business customers in rural, remote, and non-contiguous populations.

The Postal Reorganization Act of 1970 included §101(b). In 1976, Congress amended the act to place a temporary moratorium on service reductions and prohibited closing post offices that served 35 or more families. While the suspension of closings was only temporary, other provisions relating to the factors needed to be taken into account when closing a post office continue to be in force, including community due process rights and Commission appellate review of post office closings. It is important to note the legislative history behind the 1976 Amendments to the Act fully appreciates Congress' concern about small and rural post offices. The U.S. Senate passed, with an overwhelming 60-13 majority, an amendment offered by Senator Jennings Randolph (West Virginia) in anticipation of a USPS post office closing initiative scheduled to take place in 1977. The USPS effort targeted small, rural post offices, not unlike the RAOI. In advocating for his amendment, Senator Randolph expressed alarm about the impact that a closing would have on a rural community, and reiterated his conviction that the USPS meet its legal obligation to provide a "maximum degree of" service to rural communities. First, Senator Randolph posited that a post office is much more than simply a facility to transact postal operations; it also represents governmental presence.

I look on those offices ... as representative of the Federal Government for the standpoint of day-by-day service, not just for the patrons of the offices, but also for the people of the communities...¹⁸

Senator Ted Stevens (Alaska), one of the authors of the 1970 Postal Act, underscored Senator Randolph's observation about the role that a post office plays in rural

¹⁸ 122 Congressional Record 27092

communities and small towns during Senate floor debate on the 1976 amendments to the Act.

We are aware that the U.S. Postal Service and its local post offices perform many functions, which, in reality, have nothing to do with delivering the mail. No other Federal agency touches the lives of every American every day like the U.S. Postal Service does. For millions of Americans, the U.S. Postal Service is the only Federal agency with which they come in contact. The USPS to them is a government symbol and an important part of the Federal government. ... [post offices] are needed for economic, social, and cultural benefits of rural America. Post offices provide a public service, which I do not feel should be eliminated.¹⁹

Pivotal in the analysis and understanding of the legislative intent and history of the applicable statutes is acknowledging remarks by the author of the 1970 Act, Senate Post Office and Civil Service Committee Chairman Gale McGee (Wyoming), during the floor debate. Chairman McGee validated "... the importance of rural post offices everywhere in America, as a symbol much larger than postal services."²⁰ Consequently, the USPS, within the context of the RAOI, ignored Congressional intent with regard to the importance of post offices, summarily offering alternative retail channels as viable replacements for post offices.

The Commission received testimony from NAPUS witness Rita Zilinski,²¹ a retired West Virginia Postmaster. Mrs. Zilinski highlighted substantive deficiencies that rural communities would suffer should their post offices be discontinued. Based on her more-than-two-decades experience managing a rural post office, Mrs. Zilinski put the Congressional view of post office value into real-life perspective. She declared that "post offices are not simply a place to buy a stamp, or drop off a letter; they are a fundamental part of the communities they serve – a civic and communal center-of-gravity."

¹⁹ Id. at 27128.

²⁰ Id. at 27427.

²¹ NAPUS-T-1

Additionally, she explained how closing of a post office adversely impacts mail delivery by relocating interior secure post office box receipt of mailed matter to outdoor rural mail boxes. So-called cluster boxes, no matter their material construction or locking mechanisms are still subject to the same external perils as previous versions of the clusterbox. For example, Retired Postmaster Zilinski explained how weather conditions impair mail recovery from outdoor rural mail boxes, and expose mail to security breaches. Mrs. Zilinski also dismissed the idea that so-called Village Post Offices (VPO) can provide the same level of service as a USPS-operated post office. In addition, it appears the USPS is moderating its expectations regarding the ability of VPOs to replace rural Post Offices.²²

IV. Implementation of the RAOI Is Dismissive of Constructive Community Input

In part, the credibility of the RAOI process hinges on community acceptance and understanding that its views will be considered within the context of the discontinuance process. Indeed, Postal Headquarters promotes *the Postal Service-Operated Retail Facilities Discontinuance Guide: Handbook PO-101* as the framework for a transparent and fair discontinuance process. Unfortunately, the application of the Handbook is inconsistent with letter and the intent of the document. This conclusion was documented through considerable cross-examination of USPS witness Boldt relating to the scheduling and conduct of community meetings, subsequent to the announcement of a discontinuance review.

²² “USPS Revising Plan for ‘Village Post Offices,’” CNBC.com (November 2, 2011)

In his July 14, 2011, introduction to the revised *Handbook PO-101*, Den Granholm, Vice President for Delivery and Post Office Operations, writes as a preface to the document:

A. Introduction. Handbook PO 101, *Postal Service-Operated Retail Facilities Discontinuance Guide* serves as a tool for providing district Discontinuance Coordinators information on policies and procedures affecting investigation of the possible discontinuance of Postal Service-operated retail facilities. Through adherence to this handbook, the Postal Service™ will assess the viability of and customer access to retail facilities, ensuring that the Postal Service continues to provide cost effective universal service to all Americans.

B. Explanation. This handbook outlines the procedures applicable to the discontinuance process and emphasizes customer participation in such investigations. As a policy decision, the Postal Service now extends the notice and comment procedures for Post Office discontinuance investigations to discontinuance of Classified Stations and Classified Branches. The purpose of this handbook is to explain how field personnel may best undertake the investigative process. The changes to this handbook are not retroactive and are not mandatory for discontinuance actions commenced when previous procedures and regulations were in effect and for which the initial feasibility study was begun before the transmittal of this handbook.²³

Vice President Granholm stipulates that, “through adherence to this Handbook,” the USPS be able to evaluate retail viability and accessibility, within the context of ensuring universal service to all Americans. However, the record indicates that, in targeting the RAOI post offices, the agency did not contemplate whether alternative channels of access were being used by the potentially impacted postal customers.²⁴ In addition, the USPS ignored accessibility, as defined by real-world driving, and actual topological conditions. After the RAOI post offices were filed, the Postal Service submitted data describing distance, first by latitude/longitude proximities and, subsequently, by driving distance.²⁵

²³ USPS-LR-N2011-1/1

²⁴ NAPUS/USPS-T1-33

²⁵ Tr. 1 at 330

Mr. Granholm “emphasizes customer participation” in discontinuance investigations. Recognizing the importance of community input, “a community meeting is required at either the initial feasibility study stage or the post-proposal stage,”²⁶ except when such a meeting would be infeasible. In fact, “the exchange between postal officials and customers at a community meeting informs the decision whether to proceed to a final agency discontinuance decision.”²⁷ Consequently, the selection of date and time is vital: “Be sure to schedule the meeting at a time that encourages customer participation, such as during an evening or weekend.”²⁸ The *Handbook* clearly anticipates the possibility that a second meeting may be necessary to encourage greater participation: “If a second meeting is warranted, plan and schedule it according to the same guidelines as the initial meeting.”²⁹ Furthermore, the *Handbook* goes on to state that, “If you receive information that the time is inconvenient for most customers, reschedule the meeting at a more convenient time.”³⁰

The record is replete with instances of local discontinuance coordinators scheduling meetings outside of the times identified by the *Handbook*, leading postal customers to believe the USPS is not encouraging participation at pre-decisional post office discontinuance meetings. In fact, Boldt asserts a distinction between “occasional” and “usual” customers in scheduling a community meeting.³¹ *Handbook PO-101* makes no such distinction. In fact, such a distinction between different mail users, and acting

²⁶ USPS-T-1, footnote at p. 19.

²⁷ NAPUS/USPS-T1-36

²⁸ *Handbook PO-101* at p. 15.

²⁹ *Id.*

³⁰ *Id.* at p. 16.

³¹ USPS-SRT-2 at 4

upon comments at a meeting that discriminates against a class of customers conflicts with §403(c) of Title 39.

NAPUS offered a specific example of the USPS notifying the postal customers in Brookings, MN, of a community meeting outside of a time that would have “encouraged” participation.³² Brookings is an agricultural community where residents in the field during normal business hours. Witness Mark Strong also identifies instances when the USPS scheduled hearings at times that common sense would indicate does not encourage community participation.³³ He articulated his belief that such hearings are not taken seriously by the USPS in reviewing a post office for discontinuance. In fact, during cross-examination of USPS witness Boldt, the witness conceded there are no issues that could be brought up at community meeting that would lead to the re-evaluation of a proposed closing.³⁴ Consequently, it should be no surprise³⁴ that postal customers believe such meetings are not productive and the USPS has already made a decision regarding the post office under review.

V. The RAOI Does Not Consider the Actual Post Office Workload

One of the two factors used to nominate a post office for discontinuance review under the RAOI is low workload, defined by the USPS as “earning” two or less workhours per day. However, the RAOI fails to account for actual postal customer use of the facility. The USPS agrees that “a customer visit is a transaction that involves customer interaction with a postal employee at a retail window or not.”³⁵ However, the

³² NAPUS/USPS-T1-48, attachment.

³³ NLPM-RT-1 at p. 30.

³⁴ TR. 1 at 321.

³⁵ NAPUS/USPS-T1-11

USPS admits that: “The number of customer visits was not a criterion used to define any group of facilities to be analyzed for review as part of the RAO Initiative.”³⁶ What is also remarkable is that the USPS double-considers the walk-in revenue of \$27,500 as both revenue factor and the workload criteria. In a post office that does not employ the point-of-service (POS) method of tabulating workload, the USPS imposes a standard one-size-fits-all workload format. The metric used by the RAOI discriminates against rural post offices.

It is noteworthy that none of the 2,800 candidate post offices has an accurate method of monitoring actual workload, and, as a consequence, “results for individual post offices may very well understate the actual work performed.”³⁷ During cross-examination, USPS Witness Ruiz explained how non-POS sites calculate volume. “It would be a standardized target productivity based on walk-in revenue.”³⁸ When Ruiz was further queried on the issue of whether each of the post offices having walk-in revenue of \$27,500 or less would have the same non-financial activity assumptions applied, he responded: “Based on the target productivities. Correct.”³⁹ Moreover, the witness declared that in a non-POS environment, “As far as I know, there’s no measurement for non-revenue transactions.”⁴⁰ This seems to reconcile the USPS assertion of incongruence between the *FY 2010 Household Diary* and its own measurement of customer visits.⁴¹ USPS internal numbers rely “... on Point of Sale terminal data...,”⁴² not the actual visits, which leads to an inaccurate conclusion about the experience of

³⁶ APWU/USPS-T1-9

³⁷ NAPUS-T-2 at p. 2

³⁸ Tr. 5 at 1740

³⁹ Id. at 1741

⁴⁰ Id.

⁴¹ NAPUS/USPS-T1-15

⁴² Id.

candidate post offices. Thus, customer inquiries (both in-person and by telephone), mail and parcel retrieval, and mail cancellation would not be specifically documented; rather, the credit would be based on a coarse national average captured at POS sites.

It is vital to recognize the fact that, “Until FY 2011, Point of Sale terminals were only in Cost Ascertainment Group A-G offices. In FY 2011, the Postal Service extended POS to include offices with annual walk-in revenue greater than \$100K.”⁴³ In addition, it appears that, at best, only a handful of candidate post offices could possibly be using POS terminals.⁴⁴ The conclusion to be drawn from the record on the selection of candidate post offices is that the revenue and “earned workload” are intrinsically linked. Workload is simply a byproduct of its revenue. So, having two distinct criteria for being placed on the RAOI list is disingenuous; workload will be a direct reflection of revenue, irrespective of the actual non-revenue postal activities.

The record is also unclear as to what constructive opportunity a Postmaster would have to correct and/or update inaccurate information that may appear on the small office variance (SOV) documentation. One area that is seriously deficient is mail scanning.⁴⁵ Once again, the USPS relies on national scanning averages, based on revenue, rather than the actual number of scans conducted in a candidate post office. Witness Ruiz referenced: “... we base it on what the targets prods are nationally.”⁴⁶ The witness was questioned on whether scanning accuracy would have been improved if the USPS deployed the appropriate technology to candidate post offices. Ruiz responded, “That’s on our list of

⁴³ Tr. 5, Commission Follow-up Question 3

⁴⁴ USPS-N2011-1-LR-NP8

⁴⁵ NAPUS-T-2 at 3

⁴⁶ Tr. 5 at 1759

things to accomplish under the program...”⁴⁷ Other examples of non-financial activities not accurately recorded within the SOV include building maintenance, street delivery, parcel returns, and premium forwarding.⁴⁸

VI. Conclusion

For the above reasons, the PRC should find the RAOI violates the policies established in Title 39, United States Code. The RAOI process, as deployed by the USPS, does not conform to §101(b), §403(b) and §403(c) of the title.

The Commission should advise the Postal Service to consider more fully the views of local communities, affected by potential post office closures and consolidations, before developing a retail optimization strategy. In addition, the Postal Service should consider alternative metrics when considering retail optimization, including the methods suggested by Public Representative witnesses Dr. Nigel Waters⁴⁹ and John P. Klingenberg⁵⁰.

Respectfully submitted,

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⁴⁷ Id. at 1761

⁴⁸ NAPUS/USPS-T1-22(e)

⁴⁹ PR-T-1

⁵⁰ PR-T-2