

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Nanci E. Langley; and
Robert G. Taub

Pimmit Branch
Falls Church, Virginia

Docket No. A2011-90

ORDER DENYING APPLICATION FOR SUSPENSION

(Issued November 9, 2011)

On September 27, 2011, the Commission received a petition from Elaine J. Mittleman (Petitioner) for review of the Postal Service's determination to close the Pimmit branch located near Falls Church, Virginia.¹ The Petition includes an Application for Suspension (Application) of the determination to close the Pimmit branch.²

¹ Petition for Review Received from Elaine J. Mittleman Regarding the Falls Church, VA Post Office 22043, September 27, 2011 (Petition).

² On October 26, 2011, the Commission posted a letter, styled as a petition for review, which also requested suspension of the Final Determination pending the appeal. Petition for Review Received from Karl Ritchey Regarding the Falls Church, VA Post Office 22043, October 26, 2011. (Ritchey Letter). The Ritchey Letter is not timely as a petition for review and will be treated as a notice of intervention. On November 8, 2011, the Commission posted a letter from John W. Foust, Dranesville [VA] District Supervisor, in support of Petitioner's Application.

The Pimmit branch is scheduled to close November 10, 2011. Petition at 1. Petitioner contends that if the scheduled closing date is not stayed and her appeal is successful, reopening the Pimmit branch would be difficult (if not impossible). *Id.* Intervenor Ritchey makes a similar assertion. Ritchey Letter at 1.

The Postal Service opposes the Application on jurisdictional and practical grounds.³

Based on a review of the parties' pleadings,⁴ the Commission is not persuaded that, under the circumstances, a suspension should be granted. Therefore, the Application is denied.

It is ordered:

The Application for Suspension of the closure of the Pimmit Branch, filed September 27, 2011, is denied.

By the Commission.

Shoshana M. Grove
Secretary

Commissioner Langley not participating.

³ Response of United States Postal Service to Petitioner's Application for Suspension of Discontinuance for the Pimmit Branch, Falls Church, VA 22043, October 7, 2011 (Postal Service Response).

⁴ The Commission rejects the Postal Service's argument (Postal Service Response at 1-2) that 39 U.S.C. § 404(d) does not apply to any facility it has designated for administrative purposes as a station or branch.

Dissenting Opinion of Chairman Goldway

I disagree with my colleagues' decision to deny the Petitioner's request to suspend the closure of the Pimmit branch in Falls Church, Virginia.

I believe that the discretionary exercise of the Commission's statutory authority under 39 U.S.C. § 404(d) to maintain the status quo pending review of an appeal is an important part of the Commission's responsibilities.

For many years, the Postal Service has kept post offices open during the pendency of a post office closing appeal. In this case, involving a branch office, the Postal Service chose to proceed with closing despite the appeal underway.

In my opinion, the Postal Service should, as a matter of course, suspend the closure of branches and stations, in addition to post offices, where a post office closing appeal is underway.

Ruth Y. Goldway