

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

Innis, LA Post Office  
Innis, Louisiana

Docket No. A2011-34

ORDER REMANDING DETERMINATION

(Issued November 16, 2011)

I. INTRODUCTION

On July 26, 2011, Larry Rabalais (Petitioner) filed a petition with the Commission appealing the Postal Service's determination to close the post office located in Innis, Louisiana (Innis post office).<sup>1</sup> After reviewing the record in this proceeding, the Commission remands the Final Determination to close the Innis post office for further consideration.

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<sup>1</sup> Petition for Review received from Larry Rabalais, Innis, Louisiana Post Office 70747, July 26, 2011 (Petition).

## II. PROCEDURAL HISTORY

In Order No. 782, the Commission established Docket No. A2011-34 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>2</sup>

On August 2, 2011, Donald E. Fetzer, Sr. filed comments objecting to the closure of the Innis post office.<sup>3</sup> The Commission has received over 30 additional letters objecting to the closing of the Innis post office.<sup>4</sup>

On August 10, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>5</sup> On August 12, 2011, the Postal Service filed a corrected Administrative Record, which completely supplants the previous filing.<sup>6</sup>

On August 29, 2011, Petitioner filed a brief in opposition to closure of the Innis post office.<sup>7</sup> The Public Representative filed comments on September 2, 2011.<sup>8</sup>

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<sup>2</sup> Notice and Order Accepting Appeal and Establishing Procedural Schedule, July 29, 2011 (Order No. 782).

<sup>3</sup> Comments of Donald E. Fetzer, Sr., August 2, 2011 (Fetzer Comments). On August 8, 2011, Mr. Fetzer filed a letter seeking the status of limited participant in this proceeding.

<sup>4</sup> See, e.g., Letters from Concerned Citizens of Innis, LA 70747, August 25, 2011 (Customer Letters).

<sup>5</sup> United States Postal Service Notice of Filing, August 10, 2011.

<sup>6</sup> United States Postal Service Notice of Filing Corrected Administrative Record—Errata, August 12, 2011. The Administrative Record filed on August 12, 2011 includes the Final Determination to Close the Innis, LA Post Office and Establish Service by Community Post Office (Final Determination).

<sup>7</sup> Petitioner's Brief Opposing Closure and Consolidation of Innis Post Office, August 29, 2011 (Petitioner Brief).

<sup>8</sup> Public Representative Comments, September 2, 2011 (PR Comments). The Public Representative filed Public Representative Motion for Late Acceptance, on August 30, 2011 for permission to file comments late as it should not delay the proceeding nor should any participant be adversely affected. The motion is granted.

The Postal Service filed comments on September 19, 2011.<sup>9</sup> On the same day, the Postal Service filed a one-page memorandum to clarify the Administrative Record.<sup>10</sup>

Petitioner and the Public Representative filed replies to the Postal Service on October 4, 2011.<sup>11</sup>

### III. BACKGROUND

The Innis post office is an EAS-11 level post office located in Pointe Coupee Parish, Innis, Louisiana. Administrative Record, Item No. 1. The Innis postmaster was reassigned on July 2, 2008. Since then, an officer-in-charge (OIC) has operated the post office. Final Determination at 2. The Innis post office provides window service from 7:30 a.m. to 12 p.m. and 1 p.m. to 4:00 p.m., Monday through Friday, and 8:00 a.m. to 11:00 a.m. on Saturday. Administrative Record, Item No. 15 at 1, *but see* Final Determination at 2 (noon closing not noted). Lobby hours are 24 hours Monday through Saturday. Final Determination at 2. In addition to providing retail services (for example, the sale of stamps, stamped paper, and money orders), the Innis post office provides several special services as well as service to 89 post office box customers or general delivery customers, and no delivery customers. *Id.* There are no permit mailers or postage meter customers. *Id.*; *but see* Administrative Record, Item No. 15 at 1 (listing one permit mailer).

The Postal Service reports that the retail window at the Innis post office averaged 25 transactions accounting for 25 minutes of retail workload daily. Final Determination at 2. Receipts at the Innis post office decreased from \$21,026 in FY 2008 to \$19,089 in FY 2010 or 9.2 percent. *Id.*

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<sup>9</sup> United States Postal Service Comments Regarding Appeal, September 19, 2011 (Postal Service Comments).

<sup>10</sup> United States Postal Service Notice of Filing Memorandum to Clarify the Administrative Record—Errata, September 19, 2011 (Clarifying Memorandum).

<sup>11</sup> Reply Brief in Response to Answering Brief, October 4, 2011 (Petitioner Reply Brief); Public Representative Reply Comments, October 4, 2011 (PR Reply Comments).

The Postal Service states that retail and delivery service will be provided by the Batchelor, Louisiana post office located 3.4 miles away.<sup>12</sup> *Id.* Window service hours at the Batchelor post office are from 7:30 a.m. to 4:00 p.m., Monday through Friday, and 8:30 a.m. to 11:00 a.m. on Saturday. *Id.* There are a total of 56 post office boxes available at the Batchelor post office. *Id.* Post office box customers at the Innis post office may choose to receive Post Office Box service for the same fees at the Batchelor post office. Administrative Record, Item No. 21 at 1.

The Innis post office customers will retain the name of the Innis post office and ZIP Code in their addresses. Final Determination at 2.

On January 24, 2011, the Postal Service distributed 125 questionnaires to delivery customers regarding the possible change in service at the Innis post office. Additional questionnaires were made available to over-the-counter walk-in customers. A total of 54 questionnaires were returned; 3 were favorable and 26 unfavorable. *Id.* A community meeting was held on February 16, 2011, and 40 persons signed as customers present. *Id.*

#### IV. PARTICIPANT PLEADINGS

*Petitioner and customers.* Petitioner contends the Postal Service reached its decision to close the Innis post office prior to providing notices distributed in January 2011 about the community meeting. Petitioner Brief at 8. Petitioner also argues that the Postal Service failed to give adequate consideration to (1) the effect that closing the Innis post office would have on the community; (2) the effect that closing the Innis post office would have on postal services; (3) factors relevant to the economics of closing the Innis post office; and consolidation of the Innis post office with two other post offices was arbitrary and capricious. *Id.* at 4-10; Petitioner Reply Brief at 4-19.

Participant Fetzer claims statistics were used that minimize the Innis post office operation and that statistics from the two closest post offices, Batchelor and Lettsworth,

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<sup>12</sup> Mapquest estimates that the drive time for this distance is approximately 4 minutes.

are needed to demonstrate the apparently greater commercial activity in Innis than in the other towns. He contends statistics would demonstrate more money would be saved by merging the Batchelor and Lettsworth post offices into the centrally located Innis office. Fetzner Comments at 1-2.

*Postal Service.* The Postal Service says it considered the concerns of customers and the effect of closing the Innis post office on postal services, on the Innis community, the economic savings, and the effect on the employees. Postal Service Comments at 7-16. It also contends that it has followed the proper procedures to demonstrate that closure satisfies the criteria of section 404(d) and that while it has discretion to evaluate alternatives, it is not required to evaluate and reject alternative proposals presented by anyone for their consideration. *Id.*

*Public Representative.* The Public Representative argues the Postal Service acted arbitrarily in failing to consider evidence regarding Petitioner's alternative proposal. PR Comments at 3-4. He also notes the Postal Service did not estimate the added costs for rural delivery service in its cost estimates. Since a rural carrier's pay depends upon the mailboxes served, some additional hours for delivery service should be included in the economic analysis. *Id.* at 3. The Public Representative cites to confusing statements in the Administrative Record that service would be provided by a community post office and not the existing Batchelor post office.<sup>13</sup> The Public Representative recommends remand of the determination to close the Innis post office to resolve contradictions in the Administrative Record. *Id.* at 3.

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<sup>13</sup> The Public Representative objects to the Clarifying Memorandum as an after-the-fact revision of the Administrative Record prohibited by section 404(d)(5) that requires Commission review based on the record before the Postal Service in making its determination. The Public Representative suggests that, even if permissible, revisions should be by declaration or affidavit. PR Reply Comments at 1. The Commission agrees that file memoranda prepared after the Final Determination may not modify the Administrative Record upon which the Postal Service based its decision, but can be appropriate and useful in providing the Commission clarification of the intent behind ambiguities in the record.

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

### A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

Notice of the Postal Service's proposal to close the Innis post office and to establish service by community post office was posted at the Innis post office and the Bachelor post office from March 30, 2011 through May 31, 2011. Administrative Record, Item Nos. 36-37. The Postal Service received no comments during the 60-day period. *Id.* Item No. 38. The Final Determination was posted at both the Innis post

office and the Bachelor post office from July 8, 2011 through August 9, 2011. Final Determination at 1; Administrative Record, Item No. 49.

There has been some confusion about whether customers were notified that the Innis post office would be merged with the existing Batchelor post office or replaced by a new community post office. PR Reply Comments at 1-3. Despite suggestions in the record that a new community post office would be established, the Postal Service explains in its Clarifying Memorandum that the term “community post office” was intended to refer to the Bachelor post office and that the record reflects that customers were so advised. Clarifying Memorandum at 1. In his reply brief, Petitioner states that neither he, nor anyone else to his knowledge, opposes the establishment of a community post office in Innis. Petitioner Reply Brief at 18. His concern is that Innis will not have any postal facility. *Id.* Based upon Petitioner’s representations, the Commission concludes that the confusion over the use of the term “community post office” in the record does not present an issue requiring a Commission ruling.<sup>14</sup>

Petitioner claims that the decision to close the Innis post office was made before the questionnaires were distributed and before the community meeting was held. Petitioner Brief at 8. The Postal Service points out that it must develop a plan for replacement services before meeting with affected customers and that such a plan is not final until decided by the Vice President, Delivery and Post Office Operations. Postal Service Comments at 18-19. Petitioner has not presented any evidence that a final decision to close the Innis post office was reached prior to the request for comments or the community meeting.

Based upon its review of the record, the Commission finds that the Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

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<sup>14</sup> The term “Community Post Office” (CPO) is defined by the Postal Service as “a contract postal unit that provides service in a community where any independent Post Office has been discontinued. A CPO bears its community’s name and ZIP Code as part of a recognized mailing address.”

## B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

*Effect on the community.* As a general matter, the Postal Service solicited input from the community by distributing questionnaires to customers and holding a community meeting. Postal Service Comments at 4-5. The Postal Service distributed 125 questionnaires to postal patrons and 54 were returned. Final Determination at 2. In addition, a community meeting was held February 16, 2011 with at least 40 persons in attendance. *Id.* No nonpostal service concerns were expressed by the community. *Id.* at 5.

The Postal Service agreed with customer comments that it must meet the needs of the community and concluded that the rural route delivery service will provide service in a more cost effective manner than now provided by the Innis post office. *Id.* at 3. To ensure that community identity would not be lost, the town of Innis will retain its name and ZIP Code in postal addresses. *Id.* at 2.

The Postal Service also asserts that rural route delivery service will provide service in a more cost effective manner than now provided by the Innis post office. *Id.* at 3. To support its position, the Postal Service argues that its survey “found that no population, residential, commercial, or business growth was expected to occur. [Administrative Record] Item No. 16 at 1,2.” Postal Service Comments at 10. The Postal Service asserts further that its two-week survey of window transactions conformed to postal regulations and supports the conclusion that the Innis post office would remain underutilized even if transactions were several times larger. *Id.* at 11.

Petitioner responds by arguing that the Postal Service’s survey sheet erroneously estimates future growth. Petitioner Reply Brief at 5, 6-7. Petitioner claims that census records, local tax records, and the addition to the Innis community within



the past year of a new library, fire station, and expanded medical facility all contradict the Postal Service's survey sheet and support Petitioner's contention that the Innis community is, in fact, growing and that further growth is expected. *Id.* Petitioner argues further that business at the Innis post office was artificially depressed for a number of years because of the inadequate performance of a postal employee at Innis. *Id.* at 5, 10. Petitioner claims that during that period, customers took their business elsewhere. *Id.* The Postal Service argues that the record contains no evidence of any formal complaint against the employee. Postal Service Comments at 15. Petitioner claims that there were over two dozen complaints about the inadequate employee. Petitioner Reply Brief at 5.

Claims about growth and revenues are contested on the record. On the basis of the record before it, the Commission cannot conclude that the Postal Service has given adequate consideration to the closing of the Innis post office on the community. Petitioners have presented a number of arguments and cited to facts, which, if true, call into serious question whether the Postal Service's assessment of whether Innis has been growing and can be expected to continue to grow. The survey relied upon by the Postal Service contains only conclusory statements and, contrary to the instructions on the form itself, fails to provide sources of support for those conclusory statements. Administrative Record, Item No. 16.

As a basis for closing, the Postal Service cites low revenues at the Innis post office. Postal Service Comments at 3. Petitioner's allegation that business was suppressed at the Innis post office because of the subpar performance of a postal employee can be interpreted as consistent with the pattern of declining revenues from FY 2008 to FY 2009 and the subsequent increase in revenues that appears between FY 2009 and FY 2010. Final Determination at 2. It was during that latter period that the subject employee was removed. In this connection, the Postal Service's contention that the record reflects no "formal complaints" is not dispositive. In any event, the Postal Service could easily have investigated whether Petitioner's assertions regarding the employee's performance had the alleged affect on mail volumes or revenues.

On remand, the Postal Service should, in light of the foregoing discussion, more closely review the effect that closing the Innis post office will have on the community.

*Effective and regular service.* Petitioner asserts that closing the Innis post office will impose a hardship on senior citizens; and that travel to Batchelor is hazardous due to heavy truck traffic. Petitioner Brief at 4-5. The Postal Service challenges these claims by asserting that the alleged hazards are not supported by the record. Postal Service Comments at 8, note 13. The Postal Service states further that, rather than traveling to a post office further away to collect their mail, customers will receive roadside delivery from the Batchelor post office. *Id.* In hardship cases, customers with a disability can receive delivery to their home. *Id.* Customers should not need to travel to another post office for most retail service because it appears that the rural route carriers will be able to handle most transactions including the purchase of money orders and most special services such as certified, registered, Express Mail, delivery confirmation, signature confirmation and COD. *Id.* at 3-4. The Stamps by Mail program is also available from the carrier. *Id.* Rural route service is dependable. Rural route carriers serve thousands of customers daily and have demonstrated responsibility during emergencies and extreme weather conditions. *Id.* at 3. They are required to serve the route expeditiously and arrive about the same time each day. *Id.*

From the record, it appears that at least two other issues regarding effective and regular service were not adequately addressed. First, the Final Determination indicates that the Innis post office has 89 post office boxes. Final Determination at 2. By contrast, the Batchelor post office has only 56 post office boxes available. *Id.* There is no explanation of the effect on customers of this shortfall.

Second, the record is replete with arguments by Petitioner that the Innis post office is located in a bona fide community, whereas the Batchelor and Lettsworth post offices “are located at cross roads in the middle of nowhere.” See, e.g., Petitioner Reply Brief at 6. Petitioner’s arguments question whether either of these post offices is capable of providing effective and regular service as a replacement for the Innis post office. Petitioner asserts that numerous unsuccessful attempts were made to obtain

information from the Postal Service regarding the relative capabilities of the three post offices to meet the needs of Innis. *Id.* at 6-8. Upon review of the record, the Commission cannot conclude that the Postal Service gave meaningful consideration to the concerns expressed by Petitioner.

For the foregoing reasons, the Commission concludes that the Postal Service has not satisfied the requirement of section 404(d) that it consider whether customers will receive adequate and regular service if the Innis post office is closed.

*Economic savings.* The Postal Service estimates annual savings of \$35,804 from the closure. Final Determination at 6. It derives this figure by summing the following costs: employee salaries and benefits \$33,404 and rent \$2,400. Administrative Record, Item No. 17 at 1-2.

The Postal Service justifies the estimated employee savings because “one career slot is being eliminated.” Postal Service Comments at 14.<sup>15</sup> No participant contends the employee will not be eliminated or that the employee’s estimated savings are not justified.

The Postal Service did not estimate any costs for delivery service because the existing rural carriers already cover a similar area and additional driving time will not be required to service the Innis customers along the existing line of travel. *Id.* at 13.

Petitioner objects that there is no estimate for the loss of post office box rent at the Innis post office or for the cost of carrier delivery. Petitioner Brief at 6-7. The Public Representative points out that the formula for rural carrier compensation depends on the number of mailboxes served. PR Reply Comments at 3.

The Postal Service responds by arguing that although Petitioner’s arguments may have merit, it was appropriate for the Postal Service to employ its standard financial analysis that has been uniformly applied in post office closing cases. Postal Service Comments at 14. In addition, the Postal Service states that it has changed the

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<sup>15</sup> Future economic savings will be calculated using the recent update to the Postal Service’s Handbook P-101 that was, in part, modified in response to Commission suggestions. *Id.*

means by which financial savings are calculated in the recent update of its Handbook PO-101 and that in the near future, it will present savings calculations in the same terms as its Finance unit evaluates employee and other costs. *Id.*

The Commission believes the comments of the Public Representative are well-taken and the economic study should have included a more accurate analysis of the additional costs for rural delivery to the customers affected.

The Postal Service should incorporate these factors in its evaluation of the potential economic savings resulting from closing the Innis post office when it reconsiders its decision.

*Alternative to the proposed closing of the Innis post office.* Petitioner contends the Postal Service failed to study a more profitable rearrangement advanced by Petitioner to close two adjacent post offices (Batchelor and Lettsworth) rather than the Innis post office and that this failure was arbitrary and capricious and unsupported by adequate evidence. Petitioner Brief at 10-11; Petitioner Reply Brief at 4-19.

Neither the proposal nor the Final Determination discuss Petitioner's alternative plan. However, Petitioner first presented his plan in detail by a three-page letter of January 27, 2011 to Ms. Bailey, Manager, Post Office Operations, New Orleans, Louisiana. Petitioner Brief, Exhibit A. Petitioner subsequently presented his proposal at the February 16, 2011 community meeting to Postal Service personnel from the New Orleans district with responsibility in the process long before the final decision. *Id.* Exhibit B, Minutes from Town Hall Meeting. Four Postal Service personnel attended the meeting including Alfred Christophe, Operation Programs Specialist, OPS(A), Discontinuance Coordinator, Louisiana District.

Although Petitioner's plan was not discussed in either the proposal or Final Determination, his alternate plan was presented to Postal Service personnel at the community meeting and received some consideration from those Postal Service managers. They agreed to review the plan further. According to Petitioner's minutes of that meeting, "The gentleman with the New Orleans Louisiana District who wanted to cut, slash, and save money was intrigued by the alternative plan offered to consolidate

to one operation, thus having a double savings, and asked for copies of the document to take back.” *Id.* Further, “The US Postal Officials stated to the audience that all agreed to study and look at Mr. Rabalais Plan more carefully for consideration.” *Id.* In addition, correspondence to Petitioner from Congressman Bill Cassidy of the 6th District, Louisiana, by letter of March 4, 2011 to Petitioner states that Ms. Bailey, Manager Post Office Operations, indicated “Postal Officials will give the information provided at the [community] meeting careful consideration when making their final determination....” *Id.*<sup>16</sup>

Although the Postal Service is not required to consider any and all alternatives to its proposed action, the alternatives at issue in this case are on a different footing. In this case, it appears that the Postal Service itself acknowledged that the alternative proposed at the community meeting was worthy of consideration. Moreover, that acknowledgement was confirmed in a conversation between the Postal Service and a member of Congressman Cassidy’s staff during which the Congressman’s representative was assured the alternative would be given careful consideration. See Petitioner Reply Brief, Appendix B (letter dated March 4, 2011 from Congressman Cassidy to Petitioner). Having recognized possible merit in the alternative, an explanation for rejecting that alternative should have been given. Here, the Final Determination contains no discussion, or even mention, of the alternative. Without evidence that the alternative was considered and rejected for some credible reason, the implication is left that failure to consider the alternative was arbitrary or capricious.

*Effect on employees.* The Postal Service states that the non-career postmaster relief employee may be separated from the Postal Service. No other employee will be

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<sup>16</sup> The Postal Service’s Memorandum to File signed by Mr. Cristophe who attended the community meeting claims that at some point during or after the community meeting Petitioner was advised his proposal was infeasible because the Innis post office lacks space for the necessary post office boxes and that funds to expand the Innis facility are not available. See Memorandum to File September 19, 2011. Petitioner vigorously contends he was not advised of this by postal officials. No record of such advice appears in Petitioner’s minutes. Petitioner Reply Brief at 16-17; Petitioner Brief, Appendix B. The Administrative Record lends no support for Mr. Cristophe’s statement.

adversely affected. Final Determination at 5. The Commission concludes that the Postal Service adequately considered the effect of the closing on employees.

## VI. CONCLUSION

Based on its review of the record before it and for the reasons discussed above, the Commission concludes that the Postal Service has not complied with all requirements of 39 U.S.C. § 404(d). Accordingly, its determination to close the Innis, Louisiana post office and establish service by community post office is remanded for further consideration.

*It is ordered:*

The Postal Service's determination to close the Innis, Louisiana post office is remanded for further consideration.

By the Commission.

Ruth Ann Abrams  
Acting Secretary