

ORDER NO. 973

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

Pilot Grove Post Office  
Pilot Grove, Iowa

Docket No. A2011-35

ORDER AFFIRMING DETERMINATION

(Issued November 16, 2011)

I. INTRODUCTION

On July 27, 2011, the Commission received two petitions from Sylvan J. Nichting (Petitioner S.J. Nichting) and Joan M. Nichting (Petitioner J.M. Nichting) (together, Petitioners) for review of the Postal Service's determination to close the Pilot Grove, Iowa post office (Pilot Grove post office).<sup>1</sup> After review of the record, the Commission affirms the Final Determination to close the Pilot Grove post office.

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<sup>1</sup> Petition for Review received from Sylvan J. Nichting regarding Pilot Grove, IA Post Office 52648, July 27, 2011 (S.J. Nichting Petition); Petition for Review received from Joan M. Nichting regarding Pilot Grove, IA Post Office 52648, July 27, 2011 (J.M. Nichting Petition).

## II. PROCEDURAL HISTORY

On August 1, 2011, the Commission established Docket No. A2011-35 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any pleadings responsive to the appeal.<sup>2</sup>

On August 11, 2011, the Postal Service filed an electronic version of the Administrative Record supporting its decision to close the Pilot Grove post office together with a notice of its filing.<sup>3</sup>

On September 1, 2011, Petitioners filed a joint Participant Statement, PRC Form 61, in lieu of an initial brief.<sup>4</sup> On September 9, 2011, the Public Representative filed written comments.<sup>5</sup> Additional comments were filed by the Pilot Grove Savings Bank and Petitioner S.J. Nichting.<sup>6</sup> On September 20, 2011, the Postal Service filed comments in support of its decision to close the Pilot Grove post office.<sup>7</sup>

## III. BACKGROUND

The Pilot Grove post office is an EAS-11 level post office. It provides service 42 hours a week from 7:30 a.m. to 11:30 a.m. and from 1:00 p.m. to 5:00 p.m., Monday through Friday, and from 7:30 a.m. to 9:30 a.m. on Saturday. Final Determination at 2. Lobby hours are from 7:30 a.m. to 5:00 p.m., Monday through Friday, and 7:30 a.m. to 9:30 a.m. on Saturday to accommodate 20 post office box or general delivery

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<sup>2</sup> Order No. 786, Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 1, 2011.

<sup>3</sup> The Administrative Record is include with United States Postal Service Notice of Filing, August 11, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Pilot Grove, IA Post Office and Establish Service by Rural Route Service.

<sup>4</sup> Participant Statement received from Sylvan and Joan M. Nichting Regarding the Pilot Grove, Iowa Post Office 52648, September 1, 2011 (Participant Statement).

<sup>5</sup> Public Representative Comments, September 9, 2011 (PR Comments).

<sup>6</sup> Letter from Ted J. Vanderhaar on behalf of Pilot Grove Savings Bank, August 5, 2011 (PGSB Comments); Letter from Petitioner S.J. Nichting, September 15, 2011 (S.J. Nichting Letter).

<sup>7</sup> United States Postal Service Comments Regarding Appeal, September 20, 2011 (Postal Service Comments).

customers. *Id.* No delivery customers are served through this office. *Id.* Retail services include the sale of stamps, stamped paper, and money orders; special services such as Registered Mail, Certified Mail, Insured Mail, COD Mail, and Express Mail; and the acceptance and dispatch of all classes of mail. *Id.* On January 29, 2010, the Pilot Grove post office postmaster retired. An officer-in-charge (OIC) was installed to operate the post office.

According to the Postal Service, the daily workload at the Pilot Grove post office averages 7 transactions that take approximately 6 minutes to perform. *Id.* In addition, office receipts over the past 3 years have declined from \$141,426 in FY 2008; \$115,741 in FY 2009; and \$45,029 in FY 2010. *Id.* The Pilot Grove post office has no meter or permit customers. *Id.*

The Postal Service has determined to close the Pilot Grove post office and provide delivery and retail services by rural route service under the administrative responsibility of the West Point post office, which is located 7 miles away from the Pilot Grove post office. *Id.* The West Point post office is an EAS-16 level post office. Window hours at the West Point post office are 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday, and 8:30 a.m. to 10:00 a.m. on Saturday. *Id.* The West Point post office has approximately 125 post office boxes available. *Id.*

On February 17, 2011, 20 questionnaires were distributed to delivery customers and were made available over the counter to retail customers. *Id.*; Administrative Record, Item No. 21. Twelve questionnaires were returned. Administrative Record, Item 22. On March 3, 2011, Postal Service representatives were available to answer questions at a meeting attended by 25 customers at the Pilot Grove Savings Bank. Final Determination at 2. The proposal to close the Pilot Grove post office was posted at the Pilot Grove, West Point, and Houghton post offices from March 21, 2011 through May 22, 2011. *Id.* Comments on the proposal were invited. *Id.* The Final Determination to close the Pilot Grove post office was posted at the Pilot Grove and West point post offices from July 8, 2011 through August 9, 2011. *Id.* at 1.

#### IV. PARTICIPANT PLEADINGS

*Petitioners and supporting commenter.* Petitioners S.J. Nichting and J.M. Nichting rely upon several grounds to challenge the Postal Service's closure of the Pilot Grove post office. They argue that the Postal Service has never tried to fill the postmaster vacancy; the Pilot Grove post office is profitable; as landlords, they are amenable to a reduction in the post office's monthly rent; and closure of the Pilot Grove post office will cause a hardship and will deny effective and regular postal service. See S.J. Nichting Petition; J.M. Nichting Petition; Participant Statement.

The Pilot Grove Savings Bank objects to the fact that the postmaster vacancy has not been filled, challenges the effectiveness and safety of the alternative postal services being offered, and argues that it will have difficulty entering its large volume of letters and packages by rural carrier. See PGSB Comments.

*Public Representative.* The Public Representative interprets the adverse impacts identified by Petitioners and the Pilot Grove Savings Bank as specific to those customers and not more broadly affecting the community. PR Comments at 2-3. With respect to the question of how closure of the Pilot Grove post office will impact regular and effective postal service, the Public Representative asserts that the Postal Service has failed to provide a meaningful response to the Pilot Grove Savings Bank's concerns. *Id.* at 3. Finally, the Public Representative characterizes Petitioners' claims regarding the profitability of the Pilot Grove post office, the offer to reduce monthly rent, and the continued vacancy of the postmaster position as factors that the Postal Service is statutorily required to address. *Id.* Notwithstanding the failure of the Postal Service to adequately address the Pilot Grove Savings Bank's concerns, the Public Representative concludes a remand is not warranted. *Id.*

*Postal Service.* The Postal Service states that it has "followed the proper procedures...[and has]...complied with all notice requirements." Postal Service Comments at 3. It further asserts that it has complied with the requirements of 39 U.S.C. § 404(d)(2)(A) by considering the effect of the Pilot Grove post office closing on the community; the effect of such closing on postal employees; the issue of whether

such closing is consistent with the policy that a maximum degree of effective and regular postal services be provided; and the economic savings resulting from such closing. *Id.* at 5-10.

Upon consideration of the statutorily required factors, the Postal Service concludes it issued its Final Determination to close the Pilot Grove post office on the basis of the postmaster vacancy, a minimal workload, a downward trend in office revenue, the variety of alternate delivery and retail options, the recent level of growth in the area, and expected financial savings. *Id.* at 4.

## 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 post 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).

The record in this proceeding reveals that before closing the Pilot Grove post office, the Postal Service posted its proposal with an invitation for public comment for a period of 60 days from March 21, 2011 to May 22, 2011.<sup>8</sup> The Postal Service posted its Final Determination from July 8, 2011 to August 9, 2011. Final Determination at 1. These postings and the invitation for public comment satisfy the requirements of 39 U.S.C. § 404(d)(2), (3), and (4).

#### 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 solicits input from the community by distributing questionnaires to customers and holding a community meeting. Those same practices were observed in this case. On February 17, 2011, questionnaires were distributed to customers of the Pilot Grove post office and were made available to retail customers upon request. Administrative Record, Item Nos. 20, 21. Accompanying the questionnaire itself was a letter describing the actions being considered by the Postal Service, a Summary of Post Office Change Regulations, and Carrier Delivery Information. *Id.* Item No. 21. Twelve completed questionnaires were returned. *Id.* Item No. 22. On March 3, 2011, a public meeting attended by 25

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<sup>8</sup> Proposal to Close the Pilot Grove, IA Post Office and Establish Service by Rural Route Service. Administrative Record Item No. 33.

individuals and two Postal Service representatives was held at the Pilot Grove Savings Bank. *Id.* Item 24.

In an apparent reference to the claim in the S.J. Nichting Petition that the closing of the Pilot Grove post office will cause a hardship, the Postal Service asserts that it has given extensive consideration to the effect on the community and has addressed this concern. Postal Service Comments at 8-9. Specifically, the Postal Service states that it will foster preservation of the community's identity by continuing the use of the Pilot Grove name and ZIP Code in addresses; that carrier service will be able to handle future growth in the community; that nonpostal service will remain available at the West Point post office and local government agencies; and that alternate meeting venues will remain available in the community. *Id.*

Based on the foregoing, the Commission concludes that the Postal Service's consideration of the effects of the post office closing on the community satisfies the requirements of 39 U.S.C. § 404(d)(2)(A)(i).

*Effective and regular service.* At the time the Postal Service began considering closure of the Pilot Grove post office, window service was available 8 hours a day, Monday through Friday, and 2 hours on Saturday, for a total of 42 hours per week. Final Determination at 2. Lobby hours were somewhat longer. *Id.* A review of the workload at the facility revealed an average of only seven window transactions per day. Administrative Record, Item No. 10 (Window Transaction Survey). A related survey of incoming and outgoing mail revealed an average of approximately 194 pieces of incoming mail and approximately 264 pieces of dispatched mail. *Id.* Item No. 11 (Survey of Incoming Mail); *Id.* Item No. 12 (Survey of Dispatched Mail).

Petitioners and the Pilot Grove Savings Bank criticize the Postal Service's failure to fill the postmaster vacancy. See S.J. Nichting Petition; J.M. Nichting Petition; PGSB Comments. In addition, Petitioner S.J. Nichting asserts that not having a post office in Pilot Grove will be a hardship. See S.J. Nichting Petition. Pilot Grove Savings Bank challenges the effectiveness and convenience of rural carrier service, as well as the safety of its mail. See PGSB Comments.

The Postal Service addresses its failure to fill the postmaster vacancy by asserting that even though a postmaster vacancy is not a factor that it is statutorily required to consider, it has considered the broader issues of staffing and workload. Postal Service Comments at 5. The Postal Service points to the relatively small workload at the Pilot Grove post office and asserts that this workload can be handled effectively by a rural carrier. *Id.* at 5-6. The alleged hardships resulting from loss of the Pilot Grove post office and the challenges to the effectiveness and convenience of rural service are also addressed by the Postal Service's assertions that rural carriers can provide similar access to retail postal services, and that the West Point and Houghton post offices are within 7 miles and 5 miles, respectively, from the Pilot Grove post office. *Id.* at 6.

With respect to the concerns expressed by the Pilot Grove Savings Bank regarding its service as a large volume customer, the Postal Service generally asserts that together, rural carriers and the West Point post office will try to meet customers' needs. *Id.* at 6-7. In addition, the Postal Service states that special assistance can be provided to individual customers as needed. *Id.* at 7.

Finally, the Postal Service responds to the bank's concern over security of the mail by repeating a suggestion made previously during the investigation of whether the Pilot Grove post office should be closed, namely, that customers can always place a lock on their mailbox. *Id.* The Public Representative criticized this and other suggestions made by the Postal Service as operationally infeasible for large volume customers, such as the Pilot Grove Savings Bank. PR Comments at 3. Once again, the Postal Service indicates its willingness to provide special assistance as needed. Postal Service Comments at 7.

Based upon this commitment and what otherwise appear to be satisfactory arrangements for rural carrier services, the Commission concludes that the Postal Service will meet the requirement in 39 U.S.C. § 404(d)(2)(A)(iii) for effective and reliable postal services.



*Economic savings.* The Postal Service estimates annual savings of \$45,906 from the closure. Final Determination at 7. It derives this figure by summing the following costs: employee salaries and benefits \$44,278; rent and utilities \$4,500, minus the cost of rural carrier replacement service \$2,872. *Id.*

The \$44,278 of estimated annual savings for employee salaries and benefits is predicated on the Postal Service's assertions that the temporary OIC, who was installed following retirement of the postmaster on January 29, 2010, will either be reassigned or terminated. Postal Service Comments at 10. Without knowing the final disposition of the OIC, it is unclear whether the Postal Service will realize the benefits of its cost savings estimate.

In addition, during its consideration of the possible closure of the Pilot Grove post office, the Postal Service received an offer from the landlords to reduce the rent to \$2,400 per year. The estimated annual savings would be \$2,100. If both the estimated annual savings for salaries and benefits and for the proffered rent reduction are subtracted from the Postal Service's estimated \$45,906, the resulting savings might be minimal.

While the Postal Service's estimation of economic savings should be improved in certain respects, the Commission finds that the Postal Service has taken economic savings into account.

## VI. CONCLUSION

Based on its review of the record before it, the Commission concludes that the Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, its determination to close the Pilot Grove post office is affirmed.

*It is ordered:*

The Postal Service's determination to close the Pilot Grove, Iowa post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

## CONCURRING OPINION BY COMMISSIONER LANGLEY

I concur with my colleagues that it appears that the Postal Service adequately considered all requirements of 39 U.S.C. § 404(d). However, in appeals that have come before the Commission, the Postal Service has indicated, as it does in this docket, that “[a]ll issues raised by the customers...were considered and properly addressed by the Postal Service.” Postal Service Comments at 3.

As the Postal Service continues to review a large number of candidate postal-operated retail facilities for discontinuance, it is critical to ensure that substantive community input has been properly addressed. As I previously stated in Docket No. A2011-29, the Postal Service did not offer meaningful responses to community input. In this particular appeal, the Pilot Grove Savings Bank, which operates seven branches in southeast Iowa, sought more information about establishing a Community Post Office in its questionnaire, and in additional letters to the Postal Service, asked whether reducing hours of operations could be an alternative to closing the Pilot Grove post office. The record indicates that the Postal Service’s response failed to address these two issues. Administrative Record, Item 22. By not responding to these questions from a major community business, the Postal Service appears to disregard these substantive suggestions.

As 39 U.S.C. § 404(d)(2)(A)(i) requires the Postal Service to consider “the effect of such closing on the community served by such post office,” it is imperative that the Postal Service provide a thorough review of all community input and provide proper responses.

Nanci E. Langley