

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

Monroe Post Office
Monroe, Arkansas

Docket No. A2011-40

ORDER REMANDING DETERMINATION

(Issued November 18, 2011)

I. INTRODUCTION

On August 3, 2011, the Commission received a petition from Martha Pineda (Petitioner) seeking review of the Postal Service's determination to close the Monroe, Arkansas post office (Monroe post office).¹ After review of the record in this proceeding, the Commission remands the Final Determination to close the Monroe post office for further consideration.

¹ Petition for Review received from Martha Pineda Regarding Monroe, AR Post Office 72108, August 3, 2011 (Petition).

II. PROCEDURAL HISTORY

In Order No. 794, the Commission established Docket No. A2011-40 to consider the appeal, designated a Public Representative, and directed the Postal Service to file the Administrative Record and any pleadings responding to the appeal.²

On August 12, 2011, the Postal Service filed the Administrative Record.³ On September 12, 2011, the Public Representative filed comments.⁴ Thereafter, on September 27, 2011, the Postal Service filed additional documents to be included in the Administrative Record.⁵ These additional documents related to an emergency suspension of the Monroe post office operations on August 5, 2011. *Id.* Notice of Post Office Emergency Suspension. The Postal Service stated that although these additional documents “do not underlie the Final Determination, they provide background information regarding the suspension of operations at the facility.” *Id.* at 1. On September 27, 2011, the Postal Service also filed comments supporting its decision to close the Monroe post office.⁶

III. BACKGROUND

At the time the Postal Service issued its Final Determination, the Monroe post office provided retail postal services and service to 58 post office box customers.⁷ No delivery customers were served through this office. *Id.* The Monroe post office, an

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 5, 2011 (Order No. 794).

³ The Administrative Record is included with United States Postal Service Notice of Filing, August 12, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Monroe, AR Post Office and Establish Service by Rural Route Service (Final Determination).

⁴ Public Representative Comments, September 12, 2011 (PR Comments).

⁵ United States Postal Service Notice of Supplemental Filing, September 27, 2011 (Supplement to the Administrative Record).

⁶ United States Postal Service Comments Regarding Appeal, September 27, 2011 (Postal Service Comments).

⁷ Administrative Record, Item 13, *c.f.* Administrative Record, Item 15 indicates the Monroe post office provides postal services to 56 post office box customers.

EAS-55 level facility, had retail and lobby access hours of 8:30 a.m. to 3:00 p.m., Monday through Friday and 8:30 a.m. to noon, Saturday. Final Determination at 2. Retail transactions averaged 7 transactions daily (7 minutes of retail workload). *Id.* at 2, 9. Office receipts averaged less than \$11,000 annually for the past 3 years. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates saving \$30,958 annually. Administrative Record, Item 29.

Following the retirement of the Monroe postmaster on November 30, 2010, a non-career Post Master Relief (PMR) was designated to serve as officer-in-charge (OIC) to operate the office. *Id.* On August 4, 2011, which was during the pendency of this appeal, the OIC resigned. Postal Service Comments at 2. In a letter to its customers, the Postal Service stated that it was unable to find a replacement for the OIC and was, therefore, imposing an immediate emergency suspension of post office operations. Supplement to the Administrative Record, Letter to Customers.

The Postal Service states that “[u]pon implementation of the emergency suspension and final determination, delivery and retail services will be provided by rural route delivery administered by the Brinkley post office....” Postal Service Comments at 3. The Brinkley post office is located 14 miles away from the Monroe post office, a 40-minute drive time round trip. *Id.* The Brinkley post office is an EAS-18 level facility, with retail hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, and 9:30 a.m. to 11:30 a.m., Saturday. Two hundred forty post office boxes are available.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Monroe post office. She notes the following instances where she believes that the Postal Service did not follow proper procedures:

- the postmaster vacancy was never posted or advertised;
- there never was a full disclosure of a financial statement;
- the property owner never was informed of the cost to restore the property;

- the property owner was never informed in writing of the intent to close;
- the replacement cost of rural carrier service was not considered;
- there was not a public disclosure of revenue loss (except for at the town meeting); and
- before the posting to close, revenue was beginning to increase.

Id.

Postal Service. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact upon the Monroe community, and (3) the economic savings expected to result from discontinuing the Monroe post office. Postal Service Comments at 1. The Postal Service contends that it has given these and other statutory issues serious consideration, and concludes the determination to discontinue the Monroe post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Monroe post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload, low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends regular and effective service will continue to be provided to the Monroe community after the closure. *Id.*

The Postal Service also addresses the concerns raised by the customers regarding the effects on postal services, the Monroe community, economic savings and postal employees. *Id.* at 5-10.

Public Representative. The Public Representative argues that the Commission should affirm the Postal Service's determination to close the Monroe post office. PR Comments at 3. The Public Representative notes community comments concerning security of the mail, the 14 mile distance to the next post office, and the devastation to

the community that might result from the closure. *Id.* at 2. He concludes the Postal Service has considered each of these issues. *Id.* The Public Representative also notes that the Postal Service did not account for the cost of providing replacement rural delivery service, or the cost of mailboxes. *Id.* at 3. From examination of previous dockets, he concludes that these costs will not significantly affect economic savings. *Id.*

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 indicates the Postal Service has taken the following steps in reaching its Final Determination. On March 1, 2011, the Postal Service distributed 58 questionnaires to post office box customers and made questionnaires available at the counter for retail customers. Final Determination at 2. Twenty-one questionnaires were returned. *Id.* On March 31, 2011, the Postal Service held a community meeting with 45 customers in attendance. *Id.* The Postal Service posted the proposal to close the Monroe post office at the Monroe post office for approximately 60 days, from April 8, 2011, to June 9, 2011. *Id.* The Final Determination was posted at the Monroe post office from June 30, 2011 to August 1, 2011. *Id.* at 1. The post office was closed by emergency suspension on August 5, 2011, because of the resignation of the OIC the previous day. Postal Service Comments at 9.

Section 404(d)(4) states: "The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office." At the time the Postal Service imposed its emergency suspension, 24 days of the 60 day period mandated by section 404(d)(4) remained. In its Supplement to the Administrative Record, the Postal Service included a copy of a letter stating that the emergency suspension was due to its inability to find a replacement for the OIC who had resigned. Supplement to the Administrative Record, Letter to Customers. That explanation is plausible given the absence of any record evidence suggesting that the OIC's resignation could have been expected. However, what the Supplement to the Administrative Record fails to include is any explanation of why, after a few days, a replacement for the OIC could not have been found. Without any such explanation, the Commission cannot conclude that the requirements of section 404(d)(4) were met.

The Commission is also concerned by the fact that although the emergency suspension was imposed at the beginning of August 2011, it was not until September 27, 2011, when the Postal Service filed its Supplement to the Record and its comments that the occurrence of the suspension was made part of the record. While the Commission appreciates the Postal Service's candor in supplementing the record with

documentation of the suspension, the delay in doing so prevented the Commission from clarifying the situation at the Monroe post office and taking steps to ensure that adequate steps were being taken to ensure that customers were accorded their right under section 404(d)(4).⁸

It is also important for the Commission to be informed of an emergency suspension in order to ascertain whether the Postal Service wishes to proceed to the conclusion of the appeal process or to terminate the appeal proceedings and address a situation entirely as an emergency suspension.⁹ In expressing these concerns, the Commission would note that postal customers with little or no background in postal law cannot be expected to understand the implications of an emergency suspension for their rights under section 404(d)(4). The Commission therefore expects timely notification of emergency suspensions affecting appeal proceedings.

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. The Postal Service met with members of the community and solicited input from the community with questionnaires. In response to the Postal

⁸ See Docket No. A2011-1, Order No. 829, Interim Order Concerning Service Status, August 26, 2011.

⁹ See Docket No. A2011-17, Motion of the United States Postal Service to Dismiss Proceedings, May 31, 2011. In this case, there appears to be no doubt that the Postal Service desires that the appeals process proceed to conclusion. Postal Comments at 3. (“Upon implementation of the emergency suspension and final determination, delivery and retail services will be provided by rural route delivery administered by the Brinkley post office....”).

Service's proposal to close the Monroe post office, customers raised concerns regarding the effect of the closure on postal services. Their concerns and the Postal Service's responses are summarized in the Final Determination.

For example, customers expressed concerns regarding the loss of community identity. Postal Service Comments at 7-8. The Postal Service explains that residents will continue to use the community name and ZIP Code in addresses. *Id.* at 8.

Customers expressed concerns regarding travel to the alternative post office. *Id.* at 4. The Postal Service explains that many services are available from the carrier negating the need to travel. *Id.*

Customers expressed concerns regarding mail security. *Id.* at 4. The Postal Service explains that locks may be installed on mail boxes. *Id.*

The Commission concludes that the Postal Service has adequately considered and responded to the issues raised by customers concerning the effect on the community.

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services. *Id.* at 2-3. The Postal Service asserts that customers of the closed Monroe post office may obtain retail services at the Brinkley post office located 14 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Brinkley post office. The 58 post office box customers may obtain Post Office Box Service at the Brinkley post office. Two hundred forty post office boxes are available at the Brinkley post office. *Id.*

For customers choosing not to travel to the Brinkley post office, the Postal Service explains that services will be available from the carrier at roadside mailboxes located in close proximity to customer residences. *Id.* The Postal Service adds that it is not necessary to meet the carriers for service since some transactions only require customers to complete order forms. *Id.* at 2.

The Postal Service states: “[t]his office [Monroe] is in close proximity to several other offices and can be closed with minimal effect on the community.” *Id.* The

Commission notes that the nearest post office in close proximity requires customers to undertake a 28 mile round trip.¹⁰

The Postal Service discusses as an advantage of the Final Determination the security of cluster box units (CBUs). It also discusses the convenience of parcel lockers. *Id.* 3. CBUs and parcel lockers most likely would ameliorate the inconvenience of a 28 mile round trip. However, the Postal Service never conclusively states that it will be installing CBUs or parcel lockers. Furthermore, the Postal Service does not include any costs for installing such units. This ambiguity, in combination with the distance to the next closest postal facility, leads the Commission to question whether the Postal Service gave serious consideration to the provision of effective and regular service.

The Postal Service also discusses the benefits of rural delivery service. Rural delivery service can provide many of the benefits cited by the Postal Service. However, it is unclear how or if rural delivery service will be provided given that the record indicates no cost for providing this service.

Upon remand, the Postal Service may choose to discuss how it determines a reasonable travel distance beyond which customers no longer receive effective and regular service. The Postal Service should clarify whether or not CBUs or parcel lockers are being installed. Finally, the Postal Service should clarify if and how rural delivery service will be provided, given the absence of a cost estimate.

Economic savings. The Postal Service estimates total annual savings of \$30,958. *Id.* at 7. It derives this figure by summing the following costs: postmaster salary and benefits \$29,458; and annual lease costs \$1,500. The Postal Service cites no cost of replacement service or one-time expenses.

The Postal Service indicates that the facility lease runs through April 30, 2015, and does not provide for a 30-day cancelation clause. *Id.* Item 15. Therefore, the Postal Service is liable for the balance of the term and presumably will continue to make

¹⁰ The Commission is not prepared to conclude that 28 miles is too far to travel. A "too far" standard is relative, and certainly would have to incorporate factors such as the geography and population density of the area served.

payments through April 2015. Taking this additional cost into effect (\$1,500 annually) reduces the net savings through April 2015. Alternatively, it could simply elect to make a one-time payment of approximately \$4,400 (42 months left in the term at \$125 per month). If that election were made, net first year savings would be reduced to \$25,708 (\$30,958 - \$5,250). Regardless of which approach the Postal Service elects, the additional costs should be factored into its net annual savings estimate to present a more accurate picture of the financial implications of the decision to close the facility.

The Final Determination contains a discussion of the security of CBUs and the convenience of parcel lockers. Final Determination at 3. The Postal Service estimate of cost savings does not account for the one-time costs of installing CBUs and parcel lockers. The Postal Service provides no explanation for why these costs are not represented in its analysis. These costs will further reduce potential cost savings.

The Postal Service indicates that it will provide rural delivery service to the Monroe community. The Petitioner states that the Postal Service has not accounted for the cost of replacement rural delivery service. Petition at 1. The Administrative Record shows the cost of replacement rural delivery as \$0. Administrative Record, Item 17a; Final Determination at 5. While it is possible that the Postal Service will incur no additional expense in providing rural delivery service, the Commission believes this is inconsistent with the many other post office closings previously reviewed, and requires an explanation.

Because of the anomalies discussed above, the Commission cannot conclude the Postal Service has considered the economic savings resulting from the closure. See 39 U.S.C. § 404(d)(2)(A)(iv). Remanding the Final Determination will provide the Postal Service an opportunity to address these issues.

Effect on employees. The Postal Service indicates that the postmaster retired November 30, 2010, and the replacement OIC resigned August 4, 2011. Postal Service Comments at 2. Petitioner contends that the Postal Service did not advertise to fill the postmaster position. Petition at 1. This is a matter under the Postal Service's control.

The Commission finds that the Postal Service has given the statutorily required consideration to the effect of the Monroe post office closing on employees.

VI. CONCLUSION

Based on its review of the entire record before it and for all of 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 Monroe post office and provide rural route delivery is remanded for further consideration.

It is ordered:

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

By the Commission.

Ruth Ann Abrams
ActiSecretary