

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

Rex Post Office
Rex, North Carolina

Docket No. A2011-42

ORDER AFFIRMING DETERMINATION

(Issued November 22, 2011)

I. INTRODUCTION

On August 10, 2011, the Commission received a petition from James E. Shaw (Petitioner) for review of the Postal Service's determination to close the post office in Rex, North Carolina (Rex post office).¹ Attached to the Petition was a statement by the citizens of the Rex community and patrons of the Rex post office (Citizens' Statement). After review of the record, the Commission affirms the Final Determination to close the Rex post office.

¹ Petition for Review, August 10, 2011 (Petition).

II. PROCEDURAL HISTORY

On August 11, 2011, the Commission established Docket No. A2011-42 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.²

On August 24, 2011, the Postal Service filed an electronic version of the Administrative Record supporting its decision to close the Rex post office together with a notice of its filing.³

On October 4, 2011, the Postal Service filed comments in support of its decision to close the post office.⁴ The Public Representative filed a reply brief.⁵

III. BACKGROUND

The Rex post office is an EAS-11 level post office. It provides window service 35 hours a week from 8:30 a.m. to 12:00 p.m. and from 1:00 p.m. to 4:30 p.m., Monday through Friday. Final Determination at 2. The lobby is open 24 hours per day, Monday through Saturday, to 113 post office box or general delivery customers and no delivery customers. *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 February 28, 2011, the postmaster at the Rex post office retired. *Id.* An officer-in-charge (OIC) was installed to operate the post office. *Id.*

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 11, 2011 (Order No. 798).

³ The Administrative Record is attached to United States Postal Service Notice of Filing, August 24, 2011 (Administrative Record). The Administrative Record includes as Item No. 47 the Final Determination to Close the Rex, NC Post Office and Continue to Provide Service by Independent Post Office (Final Determination).

⁴ United States Postal Service Comments Regarding Appeal, October 4, 2011 (Postal Service Comments).

⁵ Reply Brief of the Public Representative, October 19, 2011 (PR Reply Brief).

The Rex post office averages 23 transactions daily that take approximately 23 minutes to perform. *Id.* Office receipts over the past 3 years were \$18,748 in FY 2008; \$21,481 in FY 2009; and \$21,192 in FY 2010. *Id.* The Rex post office has no meter or permit customers. *Id.*

The Postal Service has decided to close the Rex post office and provide delivery and retail services through the Lumber Bridge post office, which is located 2 miles away from the Rex post office.⁶ *Id.* The Lumber Bridge post office is an EAS-15 level post office. *Id.* Window hours at the Lumber Bridge post office are from 8:30 a.m. to 4:30 p.m. Monday through Friday and 9:30 a.m. to 12:00 p.m. on Saturday. *Id.* The lobby is open 24 hours a day, 7 days a week.⁷ The Lumber Bridge post office has approximately 99 post office boxes available. Final Determination at 2. The Postal Service proposes to move the post office boxes from the Rex post office to the Lumber Bridge post office. See Administrative Record, Item Nos. 34A and 38.

On March 1, 2011, questionnaires were distributed to delivery customers and were made available over the counter to retail customers. Final Determination at 2. Thirty-five questionnaires were returned. *Id.* On March 9, 2011, Postal Service representatives appeared to answer questions at a meeting attended by 38 customers at the Rex post office. *Id.* The proposal to close the Rex post office was posted at the Rex post office from March 28, 2011, to May 29, 2011. *Id.* Comments on the proposal were invited. *Id.* On July 8, 2011, customers were notified that the Rex post office would close. *Id.* at 1.

IV. PARTICIPANT PLEADINGS

Petitioners. In his submission, Petitioner relies upon two grounds to support his appeal: the effect that the closing of the Rex post office will have on postal services,

⁶ MapQuest estimates the driving distance between the Rex and Lumber Bridge post offices to be approximately 2.7 miles (4 minutes driving time).

⁷ See usps.com for information regarding the Lumber Bridge post office.

and the impact that the closing will have on the community. Petition at 1; Citizens' Statement at 1.

Public Representative. The Public Representative states that the Postal Service appears to have followed the required procedural steps for closing the Rex post office; that the Postal Service has considered the pertinent factors required by 39 U.S.C. § 404(d)(2)(A). PR Reply Brief at 4-6. The Public Representative nevertheless questions whether the Postal Service will achieve its projected level of savings. *Id.* at 7.

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 asserts further that it has complied with the requirements of 39 U.S.C. § 404(d)(2)(A) by considering the effect of the Rex 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 issued its Final Determination to close the Rex post office on the basis of the postmaster vacancy, a minimal workload, low office revenue, the variety of 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 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 office. 39 U.S.C. § 404(d)(5).

The record in this proceeding reveals that before closing the Rex post office the Postal Service posted its proposal with an invitation for public comment for a period of 60 days from March 28, 2011 to May 30, 2011.⁸ On July 8, 2011, the Postal Service posted its Final Determination for a 30-day period ending 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

⁸ Proposal to Close the Rex, NC Post Office and Continue to Provide Service by Rural Route Service. Administrative Record, Item No. 33.

will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Rex is an unincorporated rural community located in Robeson County, NC. The community is administered politically by Robeson County, which provides police protection. Fire protection is provided by the Lumber Bridge Volunteer Fire Department. Several churches are located in the Rex community. FD, at 3A; Item No. 33, Proposal at 5. Based on responses to questionnaires completed by Rex customers, the Postal Service concludes that, in general, those who reside in Rex must travel elsewhere for other supplies and services. Postal Service Comments at 7.

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 March 1, 2011, questionnaires were distributed to customers of the Rex post office and were made available to retail customers upon request. Final Determination at 2. 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. Administrative Record, Item No. 21. Thirty-five completed questionnaires were returned. See *id.* at Item No. 22. On March 9, 2011, a public meeting attended by 38 customers was held at the Rex post office. Final Determination at 2; Administrative Record, Item No. 24.

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. The Postal Service states that it will foster preservation of the community's identity by continuing the use of the Rex 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 Lumber Bridge 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 Rex post office, window service was available 7 hours a day from Monday through Friday for a total of 35 hours per week. Final Determination at 2. Lobby hours were 24 hours per day from Monday through Saturday. *Id.* A review of the workload at the facility revealed an average of only 23 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. See *id.*, Item No. 11 (Survey of Incoming Mail) and Item No. 12 (Survey of Dispatched Mail).

Petitioner and customers of the post office assert that not having a post office in Rex will reduce the degree of regular and effective services. Petition at 1; Patrons' Statement at 1.

The alleged hardships resulting from loss of the Rex post office and 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 Lumber Bridge post office is only 2 miles from the Rex post office. Postal Service Comments at 6. In that connection, the record reflects that the post office boxes will be relocated from the Rex post office to the Lumber Bridge post office. See Administrative Record, Item Nos. 34A and 38. The Postal Service also states that special assistance can be provided to individual customers as needed. Postal Service Comments at 7.

Economic savings. The Postal Service estimates annual savings of \$39,111 from the closure. Final Determination at 4. It derives this figure by summing the following costs: employee salaries and benefits \$44,279; lease costs \$3,600; minus the cost of rural carrier replacement service \$8,768. *Id.*

The \$44,279 of estimated annual savings for employee salaries and benefits is predicated on the Postal Service's assertion that the temporary OIC who was installed following retirement of the postmaster on February 28, 2010 "may be separated from the Postal Service." Postal Service Comments at 10. While termination of this employee would produce the estimated cost savings if the employee were terminated, the Postal Service does not state definitively that the employee "will" be terminated, only that the employee "may" be terminated. Without this cost savings, the estimated cost savings would be completely eliminated and the annual cost of serving the customers of the Rex post office would actually increase by approximately \$5,168 (the amount by which the projected \$8,768 cost of annual replacement service would exceed the projected \$3,600 of annual lease savings).

The Public Representative states that he does not believe the Postal Service will realize the full amount of the estimated cost savings. PR Reply Brief at 7. He argues that the Rex post office was being run by an OIC at a cost that is presumably lower than the cost of a postmaster. *Id.* He also argues that whether or not the OIC is terminated will also influence the potential for cost savings. *Id.*

The Postal Service's consideration of estimated cost savings needs to be improved. By its own admission, the OIC currently serving as postmaster relief may or may not be terminated. Without any assurance that the OIC will be terminated, the salary and related benefits identified in the Final Determination as economic savings might not be realized. Without these savings, there would be an annual loss of approximately \$5,168. In future cases, the Postal Service should either confirm that salary and benefit savings will be realized, or provide a more complete discussion of why such salary and benefit costs should be considered savings.

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 Rex, North Carolina post office is affirmed.

It is ordered:

The Postal Service's determination to close the Rex, North Carolina post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

Chairman Goldway, dissenting.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

I note that the administrative record demonstrates that the revenue at the Rex post office actually increased significantly in 2009 and remained stable at the higher level in 2010 indicating that demand for postal services in the Rex community is strong and that economic activity in the area is not declining. It makes business sense and is consistent with title 39 for the Postal Service to continue to provide post office service to those communities who continue to rely on it so strongly. A decision to close the Rex post office is arbitrary and capricious.

Ruth Y. Goldway