

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

Ottosen Post Office
Ottosen, Iowa

Docket No. A2011-57

ORDER AFFIRMING DETERMINATION

(Issued December 19, 2011)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”¹. The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2011 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* Lastly, the Postal

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On August 29, 2011, Citizens of Ottosen (Petitioners) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Ottosen, Iowa post office (Ottosen post office).² After reviewing the record in this proceeding, the Final Determination to close the Ottosen post office.

II. PROCEDURAL HISTORY

On September 1, 2011, the Commission established Docket No. A2011-57 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On September 13, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

On November 8, 2011, the Public Representative filed a reply brief.⁶

² Petition for Review received from Citizens of Ottosen regarding the Ottosen, Iowa Post Office 50570, August 29, 2011 (Petition).

³ Order No. 836, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 1, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, September 13, 2011 (Administrative Record). The Administrative Record includes the Final Determination to Close the Ottosen, Iowa Post Office and Extend Service by Rural Route Service (Final Determination). The Final Determination is not identified as a particular item in the Administrative Record, but appears on pdf pages 105-112.

⁵ United States Postal Service Comments Regarding Appeal, September 13, 2011 (Postal Service Comments).

⁶ Reply Brief of the Public Representative, November 8, 2011 (PR Reply Brief).

III. BACKGROUND

The Ottosen post office provides retail postal services and service to 22 post office box customers. Final Determination at 2. No delivery customers are served through this office. *Id.* The Ottosen post office, an EAS-55 level facility, has retail access hours of 8:00 a.m. to 11:30 a.m. and 1:00 p.m. to 4:15 p.m., Monday through Friday, and 10:00 a.m. to 12:00 p.m. on Saturday. *Id.* Lobby access hours are the same as retail access hours. *Id.*

The postmaster position became vacant on April 3, 2008, when the Ottosen postmaster retired. *Id.* An officer-in-charge (OIC) was installed to operate the office. *Id.* Retail transactions averaged 12 transactions daily (11 minutes of retail workload). *Id.* Office receipts for the last three years were \$20,879 in FY 2008; \$19,415 in FY 2009; and \$18,320 in FY 2010. *Id.* There were no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$33,979 annually. *Id.* at 5.

After the closure, retail services will be provided by the Bode post office located approximately seven miles away.⁷ Delivery service will be provided by rural carrier through the Bode post office. Final Determination at 5. The Bode post office is an EAS-13 level office, with retail hours of 8:30 a.m. to 4:00 p.m., Monday through Friday, and 8:30 a.m. to 9:00 a.m. on Saturday. *Id.* One hundred forty post office boxes are available. *Id.* The Postal Service will continue to use the Ottosen name and ZIP Code. *Id.* at 3, Concern No. 9.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Ottosen post office. Petitioners contend that closing the Ottosen post office will result in the community no longer receiving regular and effective postal services. Petition at 1. They assert that the level

⁷ *Id.* at 2. MapQuest estimates the driving distance between the Ottosen and Bode post offices to be approximately 6.4 miles (12 minutes driving time).

of service provided by a rural carrier would be inferior to that provided by a post office. *Id.* Petitioners state that closure of the Ottosen post office will negatively impact the community by causing a loss of community identity. *Id.* They also question the Postal Service's calculation of economic savings because it currently pays the OIC less than a postmaster, while a postmaster salary is used in savings calculations. *Id.* Petitioners also state that the building rent is paid through 2015. *Id.*

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

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

- the postmaster vacancy;
- the declining volume and office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Ottosen community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and addresses the concerns raised by Petitioner regarding the effect on

postal services, effect on the Ottosen community, economic savings, and effect on postal employees. *Id.* at 2.

Public Representative. The Public Representative states that the Postal Service appears to have complied with the required procedural steps in reaching its Final Determination, including seeking input from the public and complying with the notice and posting requirements of 39 U.S.C. §404(d). PR Reply Brief at 4. He contends that the Postal Service has considered the effect that closing the Ottosen post office would have on the community, on the employees of the post office, and whether customers will continue to have access to regular and effective postal services. *Id.* at 5-6. The Public Representative states that the Postal Service has considered the economic savings due to the closing, but he questions whether the Postal Service will realize the full amount of its estimated cost savings. *Id.* at 6. However, he concludes that the Postal Service's Final Determination to close the Ottosen post office appears to be procedurally in order and no persuasive argument has been presented that would prevent the Commission from affirming the decision. *Id.* at 7.

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 took the following steps in reaching its Final Determination. On March 25, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Ottosen post office. Final Determination at 2. A total of 22 questionnaires were distributed and eight were returned. *Id.* On April 11, 2011, the Postal Service held a community meeting at Ottosen Community Club to address customer concerns. *Id.* Twenty-nine customers attended. *Id.*

The Postal Service posted the proposal to close the Ottosen post office with an invitation for comments at the Ottosen, and Bode post offices for approximately 60 days, from April 29, 2011 through June 30, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices for approximately 30 days, from August 15, 2011 through September 16, 2011. *Id.* at 1.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

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. Ottosen, Iowa is an incorporated community located in Humboldt County, Iowa Administrative Record, Item No. 16. The community is administered politically by a mayor and council. *Id.* Police protection is provided by County of Humboldt Sherriff Office. *Id.* Fire protection is provided by Ottosen Fire Department. *Id.* The community is comprised of farmers, ranchers, retirees and those who work in local businesses or commute to work in nearby communities. Postal Service Comments at 7. Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

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 Ottosen community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Ottosen post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-5.

Petitioners raise the issue of the effect of the closing on the Ottosen community. Petition at 1. They contend that closing the post office will result in the loss of community identity. *Id.* The Postal Service states that it considered the issue and explains that community identity, "derives from the interest and vitality of its residents," and their use of its name and ZIP code. Postal Service Comments at 7-8. The residents of Ottosen will continue to use the Ottosen name and ZIP code in street addresses. *Id.* The community will continue to receive regular and effective postal services. *Id.* at 8.

The Public Representative states that the Postal Service's Final Determination considered the effect the closing of the Ottosen Post Office would have on the community. PR Reply Brief at 5.

The Postal Service has adequately taken the effect of the post office closing on the community into account.

Effect on employees. The Postal Service states that the Ottosen postmaster retired on April 3, 2008 and that an OIC has operated the Ottosen post office since then. Final Determination at 5. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. *Id.* at 7.

The Postal Service has considered the possible effects of the post office closing on the OIC when it stated that the OIC may be reassigned or separated. This satisfies the Postal Service's obligation to consider the effect of the closing on employees at the Ottosen post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Ottosen customers. Postal Service Comments at 5. The Postal Service asserts that customers of the closed Ottosen post office may obtain retail services at the Bode post office located 7 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Bode post office. *Id.* The 22 post office box customers may obtain Post Office Box Service at the Bode post office, which has 140 boxes available. *Id.*

For customers choosing not to travel to the Bode post office, the Postal Service explains that retail services will be available from the carrier. *Id.* The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* at 3.

Petitioners raise the issue of whether they will continue to receive regular and effective postal services if the Ottosen Post Office is closed. Petition at 1. They assert that the level of service provided by a rural carrier would be inferior to that provided by a post office. *Id.* The Postal Service states that it has considered the issue and that regular and effective postal services will be provided by the rural carrier. Postal Service Comments at 5-6.

The Public Representative concludes that the Postal Service has considered the issue and that the residents of Ottosen will continue to receive regular and effective postal services. PR Reply Brief at 5-6.

The Postal Service has attempted to consider and respond to the issues raised by customers concerning effective and regular service.

Economic savings. The Postal Service estimates total annual savings of \$33,979. Final Determination at 5. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,740) and annual lease costs (\$4,800) minus the cost of replacement service (\$1,561). *Id.*

Petitioners question the Postal Service's calculation of economic savings because the current OIC's salary is lower than a postmaster's salary. Petition at 1. The Public Representative states that the Postal Service has considered the economic savings due to the closing, but questions whether the Postal Service will realize the full amount of its estimated cost savings. PR Reply Brief at 6. The Ottosen Post Office was run by an OIC at a lower cost than a postmaster, and whether the OIC is terminated or reassigned will impact the actual cost savings realized. *Id.* The Postal Service contends that a postmaster's salary was the appropriate figure to use in its cost savings estimate since the postmaster position would have been filled by a career employee had the Ottosen post office not been subject to a discontinuance action. Postal Service Comments at 9.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs that are not eliminated by the discontinuance of a post office.⁸ That does not appear to have happened in this instance. The Ottosen postmaster retired on April 3, 2008. Final Determination at 2. The office has since been run by an OIC who, upon discontinuance of the post office, may be separated from the Postal Service. *Id.* at 6. On paper, the postmaster position and the corresponding salary will be eliminated. However, even if the presumably lower salary of the OIC were substituted, it appears that closing would still provide a net financial benefit to the Postal Service.

⁸ See, e.g., Docket No. A2011-16, Order No. 843, Order Affirming Determination, September 8, 2011; Docket No. A2011-18, Order No. 865, Order Affirming Determination, September 20, 2011; Docket No. A2011-19, Order No. 912, Order Affirming Determination, October 20, 2011; Docket No. N2009-1, Advisory Opinion Concerning the Process for Evaluating Closing Stations and Branches, March 10, 2010.

Petitioners also contend that the building rent is already paid through 2015, therefore closing the post office would not result in a savings of the cost of rent. Petition at 1. The Public Representative notes that the Postal Service's lease obligation continues through 2015 unless other arrangements are made. *Id.* The Postal Service agrees that the lease runs through May 31, 2015, but states it has paid the rent only through the current term. The lease termination date of May 31, 2015 does not mean the Postal Service will continue to lease the property through the end of the contract term." *Id.*

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(ii) and (iv).

VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Ottosen post office is affirmed.

It is ordered:

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

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, it reveals that the Postal Service has not adequately considered economic savings as required by 39 U.S.C. 404(d)(2)(A)(iv).

It is not the statutory responsibility of the Postal Regulatory Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings.

It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011 have the respite of a five month moratorium.

The citizens of Ottosen, Iowa and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF COMMISSIONER LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since April 2008, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition, the current lease does not terminate until May 31, 2015, and does not have a 30-day termination clause. The Postal Service should note that any savings from the lease will not be realized for at least three years. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Ottosen post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley