

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

Velpen Post Office
Velpen, Indiana

Docket No. A2011-59

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 30, 2011, Karen Brown (Petitioner Brown) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Velpen, Indiana post office (Velpen post office).² The Commission also received timely petitions from Sammy and Marilyn Beadles (Petitioner Beadles); Lana Fieth (Petitioner Fieth); Scott and Shanique Satterfield (Petitioner Satterfield); and Mary Ann Winehell (Petitioner Winehell).³ After reviewing the record in this proceeding, the Commission affirms the Final Determination to close the Velpen post office.

II. PROCEDURAL HISTORY

On September 1, 2011, the Commission established Docket No. A2011-59 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

² Petition for Review received from Karen Brown regarding the Velpen, IN. Post Office 47590, August 25, 2011 (Brown Petition).

³ The petitions submitted by Petitioners Fieth and Winehell were both filed August 31, 2011. The petitions submitted by Petitioner Beadles and Petitioner Satterfield were filed on September 19, 2011.

⁴ Order No. 839, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 1, 2011.

On September 8, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

On October 5, 2011, Petitioners Brown, Beadles, and Satterfield filed Participant Statements supporting their petitions.⁷

III. BACKGROUND

The Velpen post office provides post office box service to 29 customers, delivery service to 278 customers, and retail services. There is one permit or postage meter customer. Final Determination at 2. The Velpen post office, an EAS-11 level facility, has retail access hours of 8:30 to 11:30 a.m. and 12:30 to 3:45 p.m., Monday through Friday, and 9:15 a.m. to 11:15 a.m. on Saturday. *Id.* Lobby access hours are 7:30 a.m. to 4:30 p.m., Monday through Friday and 8:00 a.m. to 12 noon on Saturday. *Id.*

The postmaster position became vacant on January 3, 2009, when the Velpen postmaster was promoted. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* Retail transactions average 32 transactions daily (30 minutes of retail workload). *Id.* Office receipts for the past 3 years were \$19,373 in FY 2008; \$26,397 in FY 2009; and \$13,487 in FY 2010. *Id.* By closing this office, the Postal Service anticipates savings of \$46,890 annually. *Id.* at 12-13.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, September 8, 2011 (Administrative Record). The Administrative Record includes, as Item No. 41, the Final Determination to Close the Velpen, IN Post Office and Extend Service by Rural Route Service (Final Determination). In a supplemental filing, the Postal Service replaced the original Administrative Record in its entirety to address the omission of Item Nos. 23 through 40. See United States Postal Service Notice of Filing (Erratum), October 20, 2011.

⁶ United States Postal Service Comments Regarding Appeal, October 24, 2011 (Postal Service Comments).

⁷ See Participant Statements of Petitioner Beadles (Beadles Participant Statement), Petitioner Brown (Brown Participant Statement) and Petitioner Satterfield (Satterfield Participant Statement). All 3 Participant Statements were filed October 5, 2011.

After the closure, retail and rural delivery services to cluster box units (CBUs) will be provided by the Otwell post office located approximately 6 miles away.⁸ *Id.* The Otwell post office is an EAS-13 level office, with retail hours of 8 a.m. to 11:30 a.m. and 1 p.m. to 3:45 p.m., Monday through Friday, and 8:45 a.m. to 10:45 a.m. on Saturday. *Id.* There are 69 available post office boxes. *Id.* The Postal Service will continue to use the Velpen name and ZIP Code. *Id.* at 5 (Response to Concern No. 2).

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Velpen post office. All express concern about the responsiveness of the Postal Service to questions posed at the community meeting. Beadles Participant Statement at 1; Brown Participant Statement at 2; and Satterfield Participant Statement at 2. Each of these 3 Petitioners also address the effect of the closing on the Velpen community. Brown Participant Statement at 1; Beadles Participant Statement at 1-2; Satterfield Participant Statement at 1-3. Petitioner Beadles and Petitioner Satterfield question the consistency of the Postal Service's decision with statutory provisions directing the Postal Service to provide the Velpen community with a maximum degree of effective and regular postal services. Beadles Participant Statement at 2; Satterfield Participant Statement at 1. They also contend that the estimated cost savings from the closing are inaccurate because they are based on the salary and benefits of a postmaster rather than the OIC. Beadles Participant Statement at 2-3; Satterfield Participant Statement at 1-2.

Petitioner Beadles further asserts that the Postal Service did not consider lack of internet access; hardship on the elderly in terms of traveling to another office; and other harm, including the inconvenience of trying to purchase money orders and stamps and send accountable mail. Beadles Participant Statement at 1-2. Petitioner Satterfield notes that the price of gas to and from the replacement office raises affordability issues;

⁸ *Id.* at 2. MapQuest estimates the driving distance between the Velpen and Otwell post offices as approximately 7.2 miles (10 minutes driving time).

and claims that parking at the replacement office poses raises safety concerns due to the location on a busy highway. Satterfield Participant Statement at 1-2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Velpen post office. Postal Service Comments at 13. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services, (2) the impact on the Velpen community, and (3) the economic savings expected to result from discontinuing the Velpen post office. *Id.* at 2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Velpen post office should be affirmed. *Id.*

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

- the postmaster vacancy;
- a minimal workload and declining office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- limited expected population, residential commercial or business growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Velpen community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Velpen community, economic savings, and effect on postal employees. *Id.* at 5-11.

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. *Id.* § 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. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On February 24, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Velpen post office. Final Determination at 2. A total of 320 questionnaires were distributed and 77 were returned. *Id.* On March 17, 2011, the Postal Service held a community

meeting at the Velpen General Baptist Church to address customer concerns. *Id.* Fifty-seven customers attended. *Id.*

The Postal Service posted the proposal to close the Velpen post office with an invitation for comments at the Velpen and Otwell post offices from May 4, 2011 through July 5, 2011. *Id.* It also posted the Final Determination at these 2 offices on August 19, 2011. *Id.* at 1.

Based on a review of the record, the Commission finds that 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. Velpen, Indiana is an unincorporated community located in Pike County, Indiana. Final Determination at 2. The community is administered politically by the Township Board. *Id.* Police protection is provided by the Pike County Sheriff's Department. *Id.* Fire protection is provided by the Jefferson Township fire department. *Id.* The community is comprised of farmers/retirees and those who work in local businesses or commute to work in nearby communities. *Id.* 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 Velpen community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Velpen post office, customers raised concerns regarding the effect of the closure on

the community.⁹ Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 12.

The Petitioners raise the issue of the effect of the closing on the Velpen community. Brown Participant Statement at 1; Beadles Participant Statement at 1-2; Satterfield Participant Statement at 1-3. The Postal Service contends that it considered this issue and explains that the community identity will be preserved by continuing the use of the Velpen name and ZIP Code. Postal Service Comments at 9.

The Commission finds that the Postal Service has taken the effect on the community into account as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service notes that the Velpen postmaster was promoted on January 3, 2009 and that an OIC has operated the Velpen post office since then. It asserts that after the Final Determination is implemented, the temporary OIC may be separated from the Postal Service and that no other Postal Service employee will be adversely affected. *Id.* at 2.

The Commission finds that the Postal Service considered the possible effects of the closing on the OIC when it stated that the OIC may be separated from the Postal Service. The Commission concludes that this satisfies the Postal Service's obligation to consider the effect of the closing on employees at the Velpen 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 Velpen customers. It asserts as explained in the Administrative Record, that carriers can perform many functions that will alleviate the need to travel to the post office. *Id.* at 6. Moreover, it states that most transactions do not require meeting the carrier and that patrons can schedule carrier pickup for the same time as delivery. *Id.* The Postal Service also

⁹ In response to claims that questions went unanswered at the community meeting, the Postal Service states that, according to the discontinuance coordinator, at least 40 questions were answered at the meeting and that the Manager of Postal Operations responded to 36 comments submitted during the 60-day posting period. Postal Service Comments at 4, n.5.

asserts that customers of the closed Velpen post office may obtain retail services at the Otwell post office located 6 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Otwell post office. *Id.* The 29 post office box customers may obtain Post Office Box service at the Otwell post office, which has available 69 boxes. *Id.*

Petitioner Beadles and Petitioner Satterfield argue that rural delivery service will not provide the Velpen community with a maximum degree of effective and regular services. Beadles Participant Statement at 2; Satterfield Participant Statement at 1. Petitioner Brown expresses concerns regarding medication and checks left in boxes. Brown Participant Statement at 1. The Postal Service's response is that it considered Petitioner's concerns about mail security, noting that local officials solicited information on this point and that there was only one report of mail theft or vandalism. Postal Service Comments at 7. It also says customers may place a lock on their mailboxes. *Id.* It also states that staff at the Otwell post office will carrier will provide special assistance as needed. *Id. at 8.*

Based on a review of the record, the Commission concludes that the Postal Service has considered and responded to the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$46,890. Final Determination at 12-13. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$6,000) minus the cost of replacement service (\$3,389). *Id.*

Petitioner Beadles and Petitioner Satterfield assert that the estimated savings are inaccurate in that they are based on the salary and benefits of a postmaster rather than the OIC, who receives a lower salary and no benefits. Beadles Participant Statement at 2-3; Satterfield Participant Statement at 1-2. The Postal Service responds that discontinuing the Velpen post office would eliminate a permanent career position, thereby allowing the Postal Service to avoid the cost of filling that position in the future. Postal Service Comments at 8.

Petitioner Beadles also objects to including lease cost savings as the current lease has been renewed and will not terminate until November 30, 2015. Beadles Participant Statement at 2-3. The Postal Service asserts that the lease cost savings will arise from November 30, 2015 forward and perhaps earlier if the building can be sublet. It therefore contends it is not necessary to deduct the \$6,000 monthly lease payment from the anticipated annual savings on a long term basis. Postal Service Comments at 10-11. In addition, the Postal Service notes that even if it does have to continue to pay rent through the end of the lease term, the amount in question is a small fraction of the overall estimated economic savings. *Id.* at 11.

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.¹⁰ The Velpen postmaster was promoted on January 3, 2009. Final Determination at 2. The office had since been run by an OIC who, upon discontinuance of the post office, may be separated from the Postal Service. *Id.* at 12. 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, if lower, financial benefit to the Postal Service. This is also the case with the continuing lease obligation.

Upon review of the record, the Commission concludes that the Postal Service has considered the economic impact of its decision as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

Based upon its review of the record, the Commission concludes that the Postal Service has considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Velpen post office is affirmed.

¹⁰ See, e.g., Docket No. A2011-16, Order No. 843, Order Affirming Determination, September 8, 2011.

It is ordered:

The Postal Service's determination to close the Velpen, Indiana 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 Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative 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 Velpen, Indiana 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 January 2009, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition the current lease does not terminate until November 30, 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. There is also a one-time expense of \$1,800 for the installation of cluster box units. 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 Velpen post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley