

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

Watson Post Office
Watson, Alabama

Docket No. A2011-56

ORDER REMANDING DETERMINATION

(Issued December 21, 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 26, 2011, Lori Parsons (Petitioner) filed a petition seeking review of the Postal Service’s Final Determination to close the Watson, Alabama post office (Watson post office).² After reviewing the record in this proceeding, the Commission remands the Final Determination to close the Watson post office.

II. PROCEDURAL HISTORY

On August 30, 2011, the Commission established Docket No. A2011-56 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 12, 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 Petitioner filed a Participant Statement

² Petition for Review received from Lori Parsons regarding the Watson, Alabama Post Office 35181, August 26, 2011 (Petition). Accompanying the Petition were individual comment letters from 20 patrons of the Watson post office and a petition with 175 signatures all opposing the Postal Service’s final determination.

³ Order No. 831, Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 30, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, September 12, 2011 (Administrative Record). The Administrative Record includes, as Item No. 39, the Final Determination to Close the Watson, Alabama Post Office and Continue to Provide Service at the Community Post Office (Final Determination).

⁵ United States Postal Service Comments Regarding Appeal, October 20, 2011 (Postal Service Comments).

supporting her Petition.⁶ On November 8, 2011, the Public Representative filed reply comments.⁷

III. BACKGROUND

The Watson post office is an EAS-11 level facility. Final Determination at 5. It has 120 post office boxes. *Id.* No carrier delivery services emanate from this office. *Id.* Administrative Record, Item No. 16 at 4. It has no permit mailers or postage meter customers. Final Determination at 5. Its lobby is open 24 hours Monday through Saturday. *Id.* Window service is provided from 7:00 a.m. to 11:30 a.m. and 1:00 p.m. to 4:00 p.m., Monday through Friday, and on Saturdays from 7:45 a.m. to 9:30 a.m. *Id.*

In 2009, retail transactions averaged 20 transactions daily for 20 minutes of retail workload. Administrative Record, Item No. 8 at 1. Office receipts for the last 3 years covered by the Postal Service's evaluation were \$24,396 in FY 2006; \$24,216 in FY 2007; and \$26,768 in FY 2008. Final Determination at 5. By closing this office, the Postal Service anticipates savings of \$ 39,151 annually.⁸

The postmaster position became vacant on December 31, 2008, when the postmaster retired. Final Determination at 5. An officer-in-charge (OIC) and a Postmaster Replacement (PMR) operate the office. *Id.* Both would be transferred to other postal facilities if the Watson office were closed. *Id.* No other employees would be affected. *Id.*

After the closure, retail services will be provided by the Brookside CPO located approximately 2.6 miles away.⁹ Delivery service by rural carrier through the Gardendale

⁶ Participant Statement received from Lori Parsons, September 28, 2011 (Participant Statement).

⁷ Reply Comments of the Public Representative, November 8, 2011 (Public Representative Reply Comments).

⁸ Final Determination at 9. The Postal Service acknowledges that the estimated of savings of \$39,151 in its Final Determination reflects mathematical errors. Correcting the math would bring the savings estimated by the Postal Service to \$42,151. See United States Postal Service Comments, October 20, 2011, at 10.

⁹ Administrative Record, Item No. 20. MapQuest estimates the driving distance between the Watson post office and the Brookside CPO to be approximately 3.2 miles (7 minutes driving time).

post office may be requested by patrons who reside in the line of travel of an existing rural carrier route. Administrative Record, Item No. 24 at 5. The Brookside CPO has the same hours as the Watson post office. Final Determination at 5. 355 post office boxes are available. Administrative Record, Item No. 35 at 2. Customers transferring their box rental to Brookside will not change their addresses. Final Determination at 5. Rural route carrier delivery from the Gardendale post office 7.4 miles away may be requested by those in the line of travel of an existing carrier route. *Id.* Customers receiving rural carrier delivery will receive a new carrier route address consisting of the Watson community name but a new ZIP Code. *Id.* at 7.

The Watson post office provides general delivery services to 184 patrons. Final Determination at 5. These are former box holders at the nearby Brookside post office who lost post office box service in 2008 when flooding destroyed the Brookside post office. Since Watson has a rental box capacity of only 120, almost all of which were already rented, the 184 Brookside box renters were accommodated by general delivery service at the Watson post office. See Administrative Record, Item Nos. 11 and 30.

Insufficient rental box capacity to accommodate the displaced Brookside boxholders, and an alleged shortage of parking space at the Watson post office led to the Postal Service to consider contracting with the municipality of Brookside to install a Contract Post Office (CPO) in its municipal center that would have enough rental boxes and enough parking to accommodate both the Brookside and Watson patrons.¹⁰

On April 13, 2009, the Postal Service notified Watson box holders and retail patrons of its “tentative plans” to consolidate the Watson post office into a higher capacity Contract Post Office intended to serve both the Brookside and the Watson communities. The April 13 notice included an invitation to attend a community meeting on April 29, 2011, at the Brookside municipal center.

¹⁰ The Brookside CPO has 355 rental boxes with room to expand, as opposed to 120 at the Watson post office. It also has three dedicated parking spaces as opposed to one at the Watson post office. See Administrative Record, Item Nos. 20 and 24.

On April 15, 2009, the Postal Service distributed questionnaires to box customers of both the Brookside and Watson post offices soliciting their views regarding the possible change in service at the Watson post office. Administrative Record, Item No. 35 at 2.

Forty eight patrons attended the community meeting in Brookside. At the meeting, a petition was presented to the Postal Service containing 175 signatures opposing the Postal Service's proposal to close the Watson post office. Administrative Record, Item No. 25 at 1-7.

On July 18, 2009, the Proposal to close the Watson post office was posted at the Watson post office. On September 18, 2009, it was removed. A Revised Proposal was posted at the Watson post office on November 24, 2009 and removed January 30, 2010. Administrative Record, Item No. 35 at 1. The Final Determination to close the Watson post office was not posted until July 25, 2011, at the Watson post office. Administrative Record, Item No. 41 at 1. There was no indication that the Final Determination was posted at the Brookside CPO or the Gardendale post office.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Watson post office. In her comment letter that is included in the Notice of Filing Under Section 404(d), she argues that the revenue data on which the Postal Service relies is two years out of date and gives a misleading revenue picture. She argues that the Watson post office had higher revenue than the Brookside post office did before it was destroyed by the flood, and that according to the Birmingham News, the population of the Watson area is expected to grow 9 percent annually as the result of a recent extension of the interstate highway, while the community of Brookside is not expected to grow.¹¹

¹¹ See Letter of Lori Rich Parsons attached to the Notice to the United States Postal Service of Filing Under 39 U.S.C. section 404(d), August 29, 2011.

She argues that the Postal Service's estimate of savings from closing the Watson post office is unrealistic because it ignores the views expressed by "almost all" Watson box rental customers at the meeting that they will seek rural delivery rather than rent boxes at Brookside, imposing considerable costs that the Postal Service does not factor into its savings estimate. She also says that the Brookside CPO will not take credit or debit cards. She observes that almost all retail customers rely on credit or debit cards, and that for that reason, Watson patrons will go to Gardendale for retail service rather than to the Brookside CPO, which will require more labor costs at Gardendale that the Postal Service has not factored into its savings calculations. *Id.*

The Petitioner says that the lease at the Watson post office lease was recently extended to 2013 and is not month-to-month as the Postal Service claims, and that this obligation wasn't included in the Postal Service's savings estimate. *Id.*

Finally, the Petitioner says that the Postal Service justified the "sole source" contract for the Brookside CPO on the ground that the Brookside community had already built space in its new municipal center for a CPO that could accommodate both the Brookside and the Watson postal customers. She asserted that this was improper grounds for awarding a sole source contract. She also argues that the decision to close the Watson post office was prejudged because it was finalized before the written comments of the Watson patrons were received and before the community meeting to discuss the proposal to close the Watson post office was held. *Id.*

Postal Service. The Postal Service argues that after the Watson post office is closed, it will provide its former patrons with regular and effective postal services in a cost effective manner. It argues that the determination to close the Watson post office is justified by the postmaster vacancy, minimal workload, low office revenue,¹² the availability of the same retail services at the Community Post Office three miles away,¹³

¹² Final Determination, at 5, 9: Item No. 34, Item No. 35 Revised Proposal to Close, at 2.

¹³ Final Determination at 5, Item 35 Revised Proposal to Close, at 2.

little recent growth in the area,¹⁴ minimal impact on the community, and the expected financial savings.¹⁵

The Postal Service responds to the Petitioner's arguments concerning the lack of economic growth of the Brookside area and the lack of a credit/debit card payment option at the Brookside CPO by emphasizing that current Watson patrons will have access to many retail services whether or not they choose to patronize the Brookside facility. It mentions Stamps by Mail, Click-N-Ship, purchases from the carrier, and the use of the Forestdale Post Office six miles away, or the Gardendale Post Office, 7.4 miles away. Postal Service Comments at 6-7.

With respect to the award of the Brookside CPO contract before the Watson patrons' written comments were received or their community meeting was held, the Postal Service asserts that the award of the Brookside CPO contract was "intended to serve the residents of Brookside, and not just the residents of Watson." Therefore, it argues "it is evident that Postal Service management did not prejudge the outcome of the discontinuance action here simply because the CPO operator was selected in 2009." *Id.* at 7-8.

The Postal Service argues that the effect of closing the Watson post office on the Watson community will be minimal because the community's name and ZIP Code will be retained in the mailing address. It also emphasizes that the Brookside CPO can serve as a convenient community gathering place and an information center. *Id.* at 9.

The Postal Service argues that it properly considered the savings that would result from the proposed closing. In estimating that it would save, \$42,151, the Postal Service claims that it properly considered the cost of serving additional stops on its rural carrier routes due to current Watson box renters choosing to receive carrier delivery instead. It estimates that this will cost an additional \$3,500. There is no explanation offered as to how that estimate was derived. *Id.* at 10. It also argues that there will be

¹⁴ Final Determination at 9; Item No. 17, Item No. 35 Revised Proposal, at 4.

¹⁵ Final Determination at 8-9; Item No. 34; Item No. 26 Proposal Checklist at 2.

no additional cost at the Brookside CPO of serving current Watson box holders or retail customers because the space is already built, and the contract is a fixed-price contract. *Id.* at 10-11.

With regard to the effect of closing the Watson post office on employees, it points out that the OIC will return to her previously assigned office and the non-career postmaster relief (PMR) will be assigned to a nearby office upon implementation of the final determination. *Id.* at 11.

Public Representative. The Public Representative argues that the Postal Service failed to comply with its own rules governing notice by failing to post a notice at two offices (Brookside CPO and Gardendale post office) that would be affected by the closing of the Watson post office. He argues that defective notice is sufficient grounds for remand. He points out that the economic impact analysis in the administrative record is two years old and is obsolete because the interstate highway has since been extended near Watson, causing population and economic growth in which Brookside would not share. He argues that the Postal Service's conclusion that the effect of closing the Watson post office on the Watson community would be minimal assumes economic stagnation and continuous revenue decline. Assuming facts that are contrary to the record, he argues, fails the "arbitrary and capricious" standard of review set forth in section 404(d)(5)(A). Public Representative Reply Comments at 9-10. He argues that the value of the Postal Service following its own notice rules and receiving additional comment is that it could correct the Postal Service's erroneous conclusions about the economic prospects for the Watson post office on which the Final Determination is based.

The Public Representative also argues that the estimate of savings is unsupported and exaggerated. He concludes that these flaws "rise to the level of failure to consider sufficiently the factors required by section 404(d) and the Final Determination should be remanded." Public Representative Reply Comments, November 8, 2011, at 7-8.

V. 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. Procedural Issues

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 that the Postal Service took the following steps in reaching its Final Determination. On April 13, 2009, the Postal Service notified Watson box holders and retail patrons of its "tentative plans" to consolidate the Watson post office into a higher capacity Contract Post Office intended to serve both the Brookside and the Watson communities. The notice said that it would use the information gathered from

the survey responses and the community meeting to make its decision about whether the services at the Watson office should be consolidated into the proposed Brookside CPO. Administrative Record, Item No. 20.

On April 15, 2009, the Postal Service distributed questionnaires to box customers of both the Brookside and Watson post offices soliciting their views regarding the possible change in service at the Watson post office. Administrative Record, Item No. 35 at 2. A total of 304 questionnaires were distributed and forty four were returned. *Id.* Of the forty four questionnaires that were returned to the Postal Service, four were in favor of the proposed consolidation.

On April 29, 2011, the Postal Service held a community meeting at the Brookside municipal center to address customer concerns. *Id.* Although the Postal Service's April 13, 2009 notice had promised Watson patrons that their written and oral input received on April 29 would be considered in deciding whether the Watson post office would be consolidated into the Brookside CPO, the Postal Service awarded a contract the previous day (April 28, 2009) to the town of Brookside to operate a CPO intended to absorb the services performed by both the preexisting Brookside post office and the Watson post office. The contract requires the town of Brookside to operate its CPO for a fixed fee of \$60,000.¹⁶

The Postal Service posted its Proposal at the Watson post office for 60 days, from July 18, 2009 through September 18, 2009. Administrative Record, Item No. 35 at 2. A Revised Proposal was posted at the Watson post office on November 24, 2009 and removed on January 30, 2010. *Id.* The Final Determination was posted at the Watson post office on July 25, 2011. There is no circular date stamp or any other indication of removal date on the Final Determination. Administrative Record, Item No. 41 at 1.

¹⁶ See letter dated April 28, 2009, from the Contracting Officer, Contract Postal Access Channels to the Town of Brookside, awarding Contract No. 2BCPAC-09-B-0145. (CPO Award Letter). It is not in the Administrative Record. It is an attachment to the petition for review of Lori Parsons which was attached to the Notice to the United States Postal Service of Filing under 39 U.S.C. 404(d), August 29, 2011.

There is no indication in the record that notice of the Proposal, Revised Proposal, or Final Determination a proposal to close the Watson post office was posted at either the Brookside or the Gardendale facilities. The Public Representative argues that this failure violates the Postal Service's own notice rules. He notes that 39 CFR section 241.3(d)(1) requires the posting of Proposals at "each affected office." Citing proposed 39 CFR 241.3(d)(1)(iii),¹⁷ he further notes that in its proposed rules, the Postal Service must post a Proposal prominently at any retail facility "likely to serve a significant number of customers of the USPS-operated retail facility under study." He argues that this is an appropriate guide to apply to the current docket. He notes that most of the Watson patrons commenting on the Proposal in questionnaires or at the community meeting express an intent to use the Gardendale Post Office to rent boxes, use window service where credit cards are accepted, or obtain rural carrier service based in Gardendale. *Id.* at 8-9. He argues that under these circumstances, the failure of the Postal Service to post a notice of the Proposal at the Gardendale post office clearly violates its own rules, and, by itself, justifies remand for a proper posting of the Proposal. He notes that the record is unclear whether the Brookside CPO was in operation at the time that either Proposal was posted at the Watson post office. *Id.*

The Public Representative correctly observes that most Watson patrons responding to the Proposal say that they intend to use the Gardendale post office, rather than Brookside, for the services that they now obtain from the Watson post office. See *e.g.*, Participant Statement of Lori Parsons, September 28, 2011 at 6-7. Fully compliant notice of the Proposal would have included posting it at the Gardendale post office as well as the Brookside CPO. Nevertheless, effective notice of the revised Proposal was given to those experiencing the primary impact of the Proposal and Revised Proposal—the patrons of the Watson post office.

However, the record indicates that the Postal Service committed itself to contracting with the municipality of Brookside to install and operate a CPO with the

¹⁷ Public Representative Reply Comments at 9.

intent of having it absorb all of the services now provided by the Watson post office and did so before the deadline for receiving questionnaire responses to the proposal to close, the input of the community meeting, and the posting of the Proposal and the Revised Proposal.¹⁸

The sequence of events leading to the Final Determination has been recounted above. An investigation of the possibility of consolidating the Watson and Brookside post office service areas into a larger Brookside CPO located midway between the two was initiated in an internal letter by the Postal Service on November 28, 2008. The internal letter says that the proposed CPO “will consolidate retail and PO Box service for the Brookside and Watson Post Offices.” Administrative Record, Item No. 21. The cover letter dated April 13, 2009, for the questionnaires designed to solicit the views of the Watson patrons concerning the Proposal acknowledges that it was the Postal Service’s “tentative plan” to close the Watson post office and establish a Brookside CPO as the alternate service provider. In soliciting comments on that plan, the cover letter states that

We will use the information provided on the survey along with what you share with us at the community meeting in making our final decision. . . . All surveys must be returned by April 29, 2009 [the date of the community meeting].

Administrative Record, Item No. 20.

The day prior to the April 29 deadline for returning questionnaire responses and conducting the community meeting, the Postal Service awarded a fixed-price contract to the Brookside municipality to operate the Brookside CPO. See CPO Award Letter. As late as June 19, 2009, the Postal Service was stating in its written replies to patrons’ questionnaire responses that those responses “will be considered carefully before further action is taken.” See, e.g., Administrative Record, Item No. 21, Reply of Michael

¹⁸ See Petition at 10 (CPO Award Letter).

Allen, Manager, Post Office Operations – Area 3 to Questionnaire Response of Jane Meadows.

The Postal Service argues that the award of the CPO contract to the municipality of Brookside should not be viewed as prejudging the Final Determination because the Brookside CPO was “intended to serve the residents of Brookside, not just the residents of Watson.” Postal Service Comments at 7. Characterizing the Brookside CPO in its comments as a stand-alone facility for the Brookside area, however, conflicts with the Postal Service’s consistent characterizations of the facility throughout the Administrative Record as a consolidating facility. From the Administrative Record, it appears that the decision to consolidate the Watson post office into the Brookside CPO was made prior to solicitation of public input concerning the proposal. See CPO Award Letter. The resulting appearance of prejudgment of the determination to close the Watson post office undermines the public’s confidence in the section 404(d) process.

For the foregoing reasons, the Postal Service has failed to comply with the procedural requirements of section 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. Watson is an unincorporated community located in Jefferson County, Alabama. The Watson area has a population of 219 and is projected to grow by 5 to 9 percent annually. Petition at 1, Administrative Record, Item No. 17. The community is administered politically by Jefferson County. Police protection is provided by the Jefferson County Sheriff’s Department. Fire protection is provided by the Forestdale Fire Department. Final Determination at 4. The community is comprised of retirees, commuters, and the self-employed. *Id.* at 5. There are 11 business in the

Watson area. Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No.21.

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 Watson community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Watson 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 1-4.

Petitioner raises the issue of the effect of the closing on the Watson community. In particular, she mentions the loss of the only bus stop shelter for its school children. Petition at 1; Participant Statement at 6. The Postal Service contends that it considered this issue and explains that the community identity will be preserved by continuing the use of the Watson name and ZIP Code, at least for Watson patrons who rent boxes at the Brookside CPO. It also notes that the Brookside CPO will "continue to serve as a convenient gathering place and an information center" for Watson residents. It acknowledges the loss of the sheltered bus stop, but argues that this should not prevent the consolidation of Watson service into the Brookside CPO. Postal Service Comments at 9.

The Postal Service insists that it has met its burden to consider the effect of closing on the Watson community. *Id.* at 10.

The Postal Service has adequately taken the effect of the post office closing on the community into account as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees.

The Watson postmaster retired on December 31, 2009. Administrative Record, Item No. 1 at 1. The Postal Service states that an Officer in Charge from a nearby office has been installed temporarily to operate the office and will return to her position upon closing of the Watson post office. It also states that the Postmaster Replacement

will be reassigned to a nearby office. The Postal Service states that no other employee will be affected by the closing. Postal Service Comments at 2, 11-12.

The Postal Service has considered the possible effects of the post office closing on the OIC and the PMR when it stated that they return to or be assigned to positions at nearby post offices. The Postal Service has therefore satisfied its obligation to consider the effect of the closing on employees at the Watson post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Petitioner says that retail service at the intended alternative office (the Brookside CPO) is inadequate and inconvenient primarily because it does not accept credit and debit cards. Consequently, she argues, many Watson patrons will have to seek retail service at the Gardendale post office, 7.4 miles away, which is already overcrowded. Participant Statement at 5-6.

The Postal Service contends that it has considered the effect the closing will have on postal services provided to Watson customers. Postal Service Comments at 5-8. Except for acceptance of permit and metered mail, and credit and debit cards, the Postal Service asserts that Watson patrons may obtain retail services at the Brookside CPO post office located 3 miles away. Final Determination at 5; Postal Service Comments at 5-6. Three hundred fifty five rental boxes are available at the Brookside CPO. Administrative Record, Item No. 35 at 2. Delivery service can be requested from the Gardendale post office for those Watson patrons who live in the line of travel of an existing rural carrier route. Final Determination at 5, 7. For customers choosing not to travel to the Brookside CPO, and who qualify for carrier delivery, the Postal Service explains that retail services will be available from the carrier. *Id.* at 6-7.

The Administrative Record indicates that Watson patrons who rely on credit or debit cards, and those who do not qualify for carrier delivery, will find their access to service somewhat reduced by the closing of the Watson post office. Otherwise, adequate and effective service is available at either the Brookside CPO 3 miles away, the Gardendale post office, 7.4 miles away, or the Forestdale post office, 6 miles away. Administrative Record, Item No. 34.

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

Economic savings. The Administrative Record contains four different estimates of the savings that would be captured by closing the Watson post office. In November 28, 2008, it estimated that consolidation of Watson service into the Brookside CPO would save operating costs of the Brookside and Watson post offices of \$82,378. This figure consists of an estimate of \$142,378 combined savings at the Brookside and Watson post offices, offset by the cost of a \$60,000 fixed-price contract to have the municipality of Brookside operate a CPO. No other cost details were provided.

Administrative Record, Item No. 1:

The Proposal to consolidate the Watson post office into the Brookside CPO was posted on July 16, 2009. It estimated a combined savings for both offices of \$85,502. For each office, savings consisted of EAS-11 postmaster salary and fringe benefits of \$42,351 offset by \$3,500 in added costs of replacement service. The annual avoided lease payment was \$4,500 for the former Brookside post office, and \$3,500 for the Watson post office. The \$60,000 cost of the fixed-price Brookside CPO contract was not reflected in the \$85,502 total. Administrative Record, Item No. 32 at 5.

A Revised Proposal was posted on November 24, 2009. It reflected the added cost of the \$60,000 Brookside CPO contract, which reduced the estimated combined savings to \$25,502. Administrative Record, Item No. 35 at 5.

The Final Determination estimates savings confined to the Watson post office as follows:

EAS-11 Postmaster salary	\$31,724
Fringe benefits	\$10,627
Rent	<u>\$ 3,300</u>
Gross annual savings	\$42,651
Less cost of replacement service	<u>\$ 3,500</u>
Net annual savings	\$39,151

Net annual savings (corrected)¹⁹ \$42,151

The Public Representative argues that this estimate is exaggerated. He points out that the Watson postmaster has been replaced by a OIC and an PMR since 2008, and questions whether it is realistic to assume that a postmaster with the attendant higher salary would be reinstated at the Watson post office if it were not closed. He argues that the Postal Service should attempt to calculate the actual compensation for the OIC if her compensation is, in fact, going to be eliminated upon closing the Watson post office.

The Postal Service says that

An Officer in Charge (OIC) from a neighboring office has been installed temporarily. Upon implementation of the final determination, the OIC will return to her position at a nearby office. The Postmaster Relief (PMR) will be reassigned to a nearby office.²⁰

The Public Representative points out these salaries will actually be saved only if the positions to which these employees will return are vacancies waiting to be filled. Since there is no indication that this will be the case, he says, there is no ground for assuming that these salary expenses will be saved. Therefore, he says, they should be removed from the Postal Service's estimate of savings from closing the Watson post office. Public Representative Reply Comments at 12-13. Because the savings estimate consists almost entirely of salary and benefits, the Public Representative argues, the only reliable estimate of savings remaining is rent that would be saved. Even this relatively small savings, he says, would be more than offset by the estimated cost of replacement service of \$3,500. *Id.*

¹⁹ The mathematical error in this calculation was acknowledged in the Postal Service's comments. Correcting the math yields a net annual savings estimate of \$42,151. See Postal Service Comments at 10, n. 13.

²⁰ Postal Service Comments at 2, citing Final Determination at 5, 9.

The Public Representative also points out that most of those responding to the questionnaire and speaking at the community meeting indicated that they have no intention to rent boxes at the Brookside CPO. He points out that the Postal Service's financial analysis fails to consider the income from box rents at the Watson office that will be lost if these intentions are carried out. *Id.* at 14. He calculates that if all of the box renters at the Watson office convert to carrier delivery, lost rental income, even if they were all at the lowest fee group rate (Group 7) would exceed \$3,000 annually. *Id.*

The Public Representative's conclusion that a comprehensive and realistic estimate of savings from closing the Watson post office would show little, if any savings is well reasoned and plausible. If it cannot be shown that any salary costs are saved, and the intentions of the box renters at the Watson facility are carried out, closing the Watson post office would lose money.

The Public Representative doesn't challenge the Postal Service's estimate that replacement service would cost \$3,500. However, there is no indication in the Administrative Record of how much service, or what form of service it represents. Since the Watson patrons who comment are nearly unanimous in their intent to choose carrier delivery rather than box rental at other facilities, it would seem that the Postal Service's \$3,500 estimate should reflect that intent.

Also, the Commission has previously concluded that the postal Service should not compute savings based on compensation costs unless there is a reasonable assurance that closing will actually eliminate those costs.²¹ The Watson postmaster position became vacant on December 31, 2008. Final Determination at 5. The office has since been staffed by an OIC and a PMR who, upon discontinuance of the office, will be transferred to other postal facilities.

²¹ 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.

The Postal Service should clarify with more precision its estimation for replacement service as well as avoided salary costs in its evaluation of the potential economic savings resulting from Watson post office when it reconsiders its decision.

VI. CONCLUSION

The Postal Service has failed adequately to comply with the procedural requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Watson post office is remanded.

It is ordered:

The Postal Service's determination to close the Watson, Alabama post office is remanded.

By the Commission.

Shoshana M. Grove
Secretary

CONCURRING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, 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, in addition to the inadequacies on the record identified in the Commission's decision, it is appropriate to remand the decision to close 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 Watson, Alabama 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. It is my hope that, with this remand, these citizens will have the benefit of the more comprehensive consideration given to the post offices under the moratorium.

Ruth Y. Goldway