

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

Etna Post Office
Etna, New York

Docket No. A2011-61

ORDER REMANDING DETERMINATION

(Issued December 22, 2011)

I. INTRODUCTION

On September 2, 2011, Heather Marshall filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Etna, New York post office (Etna post office).¹ Between September 19 and September 27, 2011, the Commission received four more petitions for review.² After reviewing the record in this proceeding, the Commission remands the Final Determination to close the Etna post office.

¹ Petition for Review received from Heather Marshall regarding the Etna, NY Post Office 13062, September 2, 2011 (Marshall Petition).

² Petition for Review received from Dr. Tony Lednor regarding the Etna, NY Post Office 13062, September 19, 2011 (Lednor Petition); Petition for Review received from the Etna Community Association regarding the Etna, NY Post Office 13062, September 23, 2011 (ECA Petition); Petition for Review received from Judith A. Auble-Zazzara regarding the Etna, NY Post Office 13062, September 26, 2011 (Auble-Zazzara Petition); Petition for Review received from Sharon J. Searles regarding the Etna, NY Post Office 13062, September 27, 2011 (Searles Petition).

II. PROCEDURAL HISTORY

On September 8, 2011, the Commission established Docket No. A2011-61 to consider the appeal, designated a Public Representative,³ and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On September 19, 2011, the Postal Service filed the Administrative Record with the Commission.⁵

Petitioner Marshall filed supplemental comments.⁶ Petitioners Searles and the Etna Community Association filed participant statements.⁷ The Postal Service filed comments requesting that the Commission affirm the Final Determination to close the Etna post office.⁸

III. BACKGROUND

Etna, New York, is an unincorporated community (hamlet) located in the Town of Dryden, Tompkins County, New York.⁹ The community is administered politically by the Town of Dryden.¹⁰ Police protection is provided by the Tompkins County Sheriff.

³ The designated Public Representative left the employ of the Commission on November 23, 2011. A replacement was not named.

⁴ Order No. 842, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 8, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, September 19, 2011; *see also* United States Postal Service Notice of Filing of Addendum, December 20, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Etna, NY Post Office and Extend Service by Rural Route Service (Final Determination).

⁶ Heather Marshall Supplemental Comments, September 27, 2011 (Marshall Supplemental Comments).

⁷ Participant Statement Received from Sharon J. Searles, October 12, 2011 (Searles Statement); Participant Statement Received from Etna Community Association, October 12, 2011 (ECA Statement).

⁸ United States Postal Service Comments Regarding Appeal, October 27, 2011 (Postal Service Comments).

⁹ Administrative Record, Item No. 16, at 1; <http://dryden.ny.us/information/town-information>.

¹⁰ The Administrative Record states that Etna is administered politically by "President of Community Center—Frank Thorne." Administrative Record, Item No. 16, at 1. This presumably refers to

Administrative Record, Item No. 16, at 1. Fire protection is provided by the Etna Volunteer Fire Department. *Id.*

The Etna post office has provided retail postal services to the community and post office box service to 156 customers. Administrative Record, Item 13. No delivery customers were served through this office. *Id.* The Etna post office, an EAS-11 level facility, had retail access hours of 8:00 a.m. to noon and 1:30 p.m. to 5:30 p.m., Monday through Friday, and 8:15 a.m. to noon on Saturday. Final Determination at 2. Lobby access hours were the same as retail access hours. *Id.*

The postmaster position became vacant when the Etna postmaster retired on July 30, 2010. *Id.* An officer-in-charge (OIC) was installed to operate the office.¹¹ Retail transactions averaged 59 transactions daily (142 minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$79,126 in FY 2008; \$76,657 in FY 2009; and \$68,146 in FY 2010. *Id.* There were three permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$29,336 annually. *Id.* at 10.

According to the Final Determination, after the closure, retail services will be provided by the Freeville post office located approximately three miles away.¹² Delivery service will purportedly be provided by rural carrier through the Freeville post office. *Id.* at 2. The Freeville post office is an EAS-18 level office, with retail hours of 8:00 a.m. to 11:00 a.m. and noon to 4:45 p.m., Monday through Friday, and 9:00 a.m. to 12:00 a.m. on Saturday. *Id.* One hundred eighty-two post office boxes are available. *Id.* The

the Etna Community Association, a Petitioner, and its president, Frank H. Thorne. See ECA Petition at 3. The Etna Community Association is a non-profit organization, not a governmental entity. See Searles Statement at 6.

¹¹ Final Determination at 2. The Final Determination at 10 also states that the postmaster relief is a noncareer employee. However, the record does not support this statement. See Administrative Record, Item No. 15, line 7; *id.*, Item No. 18 (zero noncareer employees); *id.*, Item No. 42 (zero noncareer employees); *id.*, Item No. 44 (zero noncareer employees).

¹² *Id.* at 2. MapQuest estimates the driving distance between the Etna and Freeville post offices to be approximately 2.7 miles (4 minutes driving time).

Postal Service asserts that it will continue to use the Etna name and ZIP Code. *Id.* at 9, Concern No. 2.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Etna post office. They argue that the estimated cost savings from the closing are inaccurate. ECA Petition at 2-3; Searles Petition at 4; ECA Statement at 3; Searles Statement at 3. They state that the Postal Service did not provide a substantive response to some customer concerns. Instead, the Postal Service simply noted the concerns in the record without addressing them. Searles Petition at 1. They allege factual errors in the record. Auble-Zazzara Petition at 2-4; Searles Statement *passim*. Petitioners contend that closing the Etna post office and providing rural delivery service will split the Etna community, because part of the hamlet is served by a route emanating from Freeville and part is served by a route emanating from Ithaca. Auble-Zazzara Petition at 4. Part of the community does not receive delivery service of any kind. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Etna post office. Postal Service Comments at 2, 8. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services, (2) the impact on the Etna community, and (3) the economic savings expected to result from discontinuing the Etna post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration. *Id.* at 1-2. The Postal Service contends that it will continue to provide regular and effective postal services to the Etna community when the Final Determination is implemented. *Id.* at 4. The Postal Service also addresses the concerns raised by Petitioners regarding the effect on the Etna community, economic savings, and effect on postal employees. *Id.* at 4-7.

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.

In making a determination on whether to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Etna community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Etna post office, customers raised concerns regarding the effect of the closure on the community, the effect on postal services, and economic savings. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-10.

Petitioners allege numerous errors and omissions in the Postal Service's description of the Etna community. Auble-Zazzara Petition at 2-4; Searles Statement at 4-6. The Postal Service contends that it considered the effect on the community and

asserts that the community identity will be preserved by continuing the use of the Etna name. Postal Service Comments at 5. The Final Determination states that the Postal Service will continue to use the Etna name *and* ZIP Code. Final Determination at 9, Concern No. 2; see *also* Administrative Record, Item No. 22, at 3, 6, 10, 18, 36, 38, 53, 54¹³ *id.*, Item No. 25, at 2-3; *id.*, Item No. 33, at 5, Concern No. 20; *id.* at 7, Concern No. 2; *id.*, Item No. 38,¹⁴ at 3, 13, 15, 31; *id.*, Item No. 41, at 9, Concern No. 2. However, many Etna patrons will not be able to continue using the Etna name, unless they rent a box at Freeville.

Etna is served by two rural routes, one emanating from Ithaca and the other from Freeville. Administrative Record, Item No. 38, at 21. Mail destined for Ithaca is dispatched through the Elmira SCF, while mail destined for Freeville is dispatched through Syracuse.¹⁵ Freeville is in the Albany District, Northeast Area, while Ithaca is in the Western New York District, Eastern Area.¹⁶ Etna residents served from Ithaca will need to use the Ithaca name and ZIP Code, while those served from Freeville may be able to continue using the Etna name and ZIP Code.

Petitioner Searles asserts that the Community Fact Sheet, Post Office Survey Sheet, and the Proposal Fact Sheet contain errors and omissions. Searles Petition at 2-3; Searles Statement at 2-6; see *also* Auble-Zazzara Petition at 2-4. The Inspection Service reported two instances of mail theft or vandalism. Administrative Record, Item No. 14, at 1. However, the Post Office Survey Sheet reports "none known." *Id.*, Item

¹³ Some pages of Item No. 22 are out of order, and page numbers are repeated. The page numbers cited here are to the Item No. 22 pages appearing after Item No. 37 in file <http://www.prc.gov/Docs/75/75867/EtnaNYAdminRecord-Part3.pdf>, September 19, 2011.

¹⁴ Item No. 38 contains some repeated page numbers. Page numbers in boldface type appear in file <http://www.prc.gov/Docs/75/75867/EtnaNYAdminRecord-Part3.pdf>, September 19, 2011; the others appear in file <http://www.prc.gov/Docs/75/75867/EtnaNYAdminRecord-Part4.pdf>, September 19, 2011.

¹⁵ See Final Determination at 8, Concern No. 25; http://pe.usps.com/cpim/ftp/manuals/dmm_old/L005.pdf.

¹⁶ See "USPS Realigns Area and District Offices," Mailing Systems Technology, November 5, 2009, <http://www.mailingsystemstechnology.com/ME2/dirmod.asp?sid=A30B1B73BF2F49CB8E1C75867F016788&nm=&type=news&mod=News&mid=9A02E3B96F2A415ABC72CB5F516B4C10&tier=3&nid=ABB0498DD87D45B6A57E286E678B5CF4>.

No. 15, at 1. The Proposal Fact Sheet reports zero schools, churches, or organizations in the area. *Id.*, Item No. 18, line 17. However, the post office shares a parking lot with a church. Searles Statement at 6. The post office shares a building with the Etna Community Association. *Id.* The Community Survey Sheet reports that fire protection is provided by the Etna Fire Department, but the fire department does not count as an organization on the Proposal Fact Sheet. See Auble-Zazzara Petition at 3. The Proposal Fact Sheet reports zero businesses in the Etna area. Petitioners Auble-Zazzara, ECA, Marshall, and Searles provide lists of businesses in Etna. Auble-Zazzara Petition at 4; ECA Statement at 2; Marshall Supplemental Statement at 1; Searles Petition at 3. The Community Survey Sheet does not provide the requested list of special community events. Petitioners Auble-Zazzara and Searles provide such lists. Auble-Zazzara Petition at 3; Searles Statement at 4.

The final determination states: “Businesses and organizations include: none.” Final Determination at 9.

Based on its review of the record and the many discrepancies cited, the Commission finds that the Postal Service has not given meaningful consideration to the effect on the community of closing the Etna post office.

Effective and regular service. The Commission is unable to determine from the record whether or how the Postal Service will provide effective and regular postal services to all members of the Etna community. In the final determination the Postal Service states that it will “provide delivery . . . services by rural route service under the administrative responsibility of the Freeville Post Office” Final Determination at 2. However, Etna patrons repeatedly point out that some of their streets are not served by a rural route or are served by a route emanating from Ithaca, not Freeville.¹⁷ The Postal Service’s response to this concern is, “Per the cover letter that was included with the

¹⁷ Petitioner Auble-Zazzara submitted a map identifying Etna streets served by Freeville, streets served by Ithaca, and streets with no delivery service. Auble-Zazzara Petition at 6.

questionnaire, an extension of rural delivery would be afforded to customers of the Etna community.”¹⁸

This statement is unsupported in the record. The Postal Service has numerous reasons for not providing rural route delivery on specific streets or roads. For example,

Proposed extensions of rural routes should ordinarily serve an average of at least one family for each additional mile of travel, including retrace. An extension is generally not approved by the U.S. Postal Service when the road to be traveled is private or is not maintained and in good condition.¹⁹

A road must be at least 14 feet wide. A road must not dead-end at a private driveway. If a carrier would have to back up in order to turn around, there must be no children frequenting the area.²⁰ The record does not indicate why the Postal Service does not deliver on certain streets in Etna. Nor does it indicate that the reasons for not delivering

¹⁸ Final Determination at 5, Concern No. 2. Petitioner Searles lives on a street that does not receive delivery, and she so informed the Postal Service in her returned questionnaire. File <http://www.prc.gov/Docs/75/75867/EtnaNYAdminRecord-Part2.pdf>, September 19, 2011, at pdf page 42. It is difficult to associate this statement with a specific customer response letter. The Postal Service's letters to customers addressing their concerns are grouped together and physically separated from returned customer questionnaires and customer comments on the Proposal to close. The Commission is accustomed to locating a completed questionnaire next to the Postal Service's response letter in Item No. 22 of the administrative record. The list of documents at the beginning of the Etna administrative record describes Item No. 22 as "Returned customer questionnaires and Postal Service response letters." However, the Etna administrative record contains two separate Item Nos. 22. The first Item No. 22 contains customers' returned questionnaires and begins at pdf page 40 of file <http://www.prc.gov/Docs/75/75867/EtnaNYAdminRecord-Part1.pdf>, September 19, 2011, running through pdf page 64 of file <http://www.prc.gov/Docs/75/75867/EtnaNYAdminRecord-Part2.pdf>, September 19, 2011. More returned customer questionnaires are contained in Item No. 38 at 1-14. The second Item No. 22 contains the Postal Service's responses to the returned customer questionnaires in the first Item No. 22. The second Item No. 22 appears after Item No. 37 at pdf page 5 of file <http://www.prc.gov/Docs/75/75867/EtnaNYAdminRecord-Part3.pdf>, September 19, 2011. The Postal Service's response to Petitioner Searles's returned questionnaire appears in that file at pdf page 57. Customer comments on the Proposal to close appear after the 14 pages of returned questionnaires in Item No. 38. Following the customer comments are various memos to the record, corrections to Item Nos. 15-17, and customer comment forms received late. Next in Item No. 38 are Postal Service response letters to the customers whose returned questionnaires and optional comment forms were included at the beginning of Item No. 38. All of the Postal Service response letters, regardless of where they appear in the administrative record, are dated September 9, 2011, which is a week *after* the first appeals in this case were filed with the Commission.

¹⁹ Petition for Change in Rural Delivery, <http://about.usps.com/forms/ps4027.pdf>.

²⁰ Docket No. A2011-53, Administrative Record, Item No. 47, at 5, Concern No. 22.

will no longer apply after the Etna post office is closed. Nor does it indicate that the Postal Service investigated this issue.

Petitioner Searles raises this issue in her petition and in her participant statement. Searles Petition at 4; Searles Statement at 2; see *also* ECA Petition at 2. Petitioner Auble-Zazzara (former postmaster of Etna) states,

Freeville post office is not going to deliver on Lower Creek Road or Etna Road. What are these customers choices? . . . Is this a true and th[orough], well thought out plan for ALL ETNA customers? NO the goal is to close Etna by not providing a postmaster, and a ½ baked plan to serve some of the Etna post office customers.

Auble-Zazzara Petition at 4 (original emphasis). Yet the Postal Service does not address her concern. There is no mention of this issue in the Postal Service's one page discussion of effective and regular service in its comments. See Postal Service Comments at 4-5. The discussion is mute with regard to streets in Etna that do not receive rural delivery.

Effect on employees. The Postal Service states that the Etna postmaster retired on July 30, 2010 and that an OIC has operated the Etna post office since then. Final Determination at 2. 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 11.

The Commission finds that 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. The Postal Service has satisfied its obligation to consider the effect of the closing on employees at the Etna post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Economic savings. The Postal Service estimates total annual savings of \$29,336. *Id.* at 10. It derives this figure by summing the following costs: postmaster salary and benefits (\$48,569) and annual lease costs (\$4,480) minus the cost of replacement service (\$23,713). *Id.*

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 Etna postmaster retired on July 30, 2010. Final Determination at 2. The office has since been staffed by a non-career OIC who, upon discontinuance of the office, may be separated from the Postal Service. On paper, the postmaster position and the corresponding salary will be eliminated. Because the Etna post office has been staffed by an OIC, taking full credit for the maximum possible postmaster salary and benefits of \$48,569 seems to be an unrealistically inflated measure of the salary cost that will actually be avoided.

Although the Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv), there is considerable room for improvement in the analysis.

VI. CONCLUSION

Based on the concerns discussed above upon review of the record, the Commission concludes that the Postal Service has not adequately considered the requirements of 39 U.S.C. § 404(d)(2)(A)(i) and (iii). Accordingly, the Postal Service's determination to close the Etna post office is remanded.

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.

It is ordered:

The Postal Service's determination to close the Etna, New York 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 Etna, New York 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