

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

Woodgate Post Office  
Woodgate, New York

Docket No. A2011-70

ORDER AFFIRMING DETERMINATION

(Issued December 30, 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.”<sup>1</sup> 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, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

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

the Postal 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 September 13, 2011, John B. Isley filed a petition on behalf of the Woodgate Citizens Committee, John B. Isley, William Karn, and Walter Paprock (Petitioners) with the Commission seeking review of the Postal Service’s Final Determination to close the Woodgate, New York post office (Woodgate post office).<sup>2</sup> After reviewing the record in this proceeding, the Final Determination to close the Woodgate post office is affirmed.

## II. PROCEDURAL HISTORY

On September 15, 2011, the Commission established Docket No. A2011-70 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>3</sup>

On September 28, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>4</sup>

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<sup>2</sup> Petition for Review received from John B. Isley regarding the Woodgate, NY Post Office 13494, September 13, 2011 (Petition).

<sup>3</sup> Order No. 854, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 15, 2011.

<sup>4</sup> The Administrative Record is included with the United States Postal Service Notice of Filing, September 28, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Woodgate, NY Post Office and Extend Service by Rural Route Service (Final Determination).

Petitioners filed a participant statement supporting the Petition.<sup>5</sup> The Postal Service filed comments requesting that the Commission affirm its Final Determination.<sup>6</sup> Petitioners and the Public Representative filed reply briefs.<sup>7</sup>

A request for suspension of closure was included with the Petition. It is the Postal Service's practice not to close a post office pending the appeal.

### III. BACKGROUND

The Woodgate post office has provided retail postal services and service to 126 post office box customers or general delivery customers and 96 delivery route customers. Final Determination at 2. The Woodgate post office, an EAS-11 level facility, had retail access hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:45 p.m., Monday through Friday, and 8:00 a.m. to 10:30 a.m. on Saturday. *Id.* at 2. Lobby access hours were 8:00 p.m. to 3:00 p.m., Monday through Friday, and 8:00 a.m. to 11:00 a.m. on Saturday. *Id.*

The postmaster position became vacant on October 2, 2009 when the Woodgate postmaster retired. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 2, 19. Retail transactions averaged 21 transactions daily (25 minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$52,361 in FY 2008; \$45,198 in FY 2009; and \$35,957 in FY 2010. There were no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$42,492 annually. *Id.* at 18.

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<sup>5</sup> Petitioners Brief and Statement in Support of Their Petition for Appeal and Suspension, October 17, 2011 (Participant Statement).

<sup>6</sup> United States Postal Service Comments Regarding Appeal, November 21, 2011 (Postal Service Comments).

<sup>7</sup> Petitioner's Reply to Postal Service Comments Regarding Appeal, November 21, 2011 (Petitioners' Reply Brief); Reply Brief of the Public Representative, November 22, 2011 (PR Reply Brief).

After the closure, retail services will be provided by the Forestport post office located approximately 7 miles away.<sup>8</sup> Delivery service will be provided by rural carrier through the Forestport post office. The Forestport post office is an EAS-15 level post office, with retail hours of 9:00 a.m. to 12:00 p.m. and 2:00 p.m. to 4:45 p.m., Monday through Friday, and 9:30 a.m. to 11:00 a.m. on Saturday. There are 431 post office boxes available at the Forestport post office. *Id.* The Postal Service will continue to use the Woodgate name and ZIP Code for all Woodgate customers who already have street delivery. *Id.* at 9, Concern No. 40.

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners oppose the closure of the Woodgate post office. Petitioners assert the Woodgate closure will negatively impact the Woodgate community by depriving it of a fundamental level of postal services in violation of 39 U.S.C. §101(b). Petition, ¶¶ 11, 4; Participant Statement at 2, 4. Petitioners claim that the Postal Service exaggerated the closure's expected economic savings and acted in an arbitrary and capricious manner by relying on one month to evidence declining revenues and by failing to provide informative financial documents to the community. Petition, ¶¶ 9-10; Participant Statement at 2-3. Petitioners claim the Postal Service operated in bad faith by voluntarily failing to fill the postmaster vacancy then listing the vacancy as a reason for closure, and by recently adding a 60-day termination clause to the Woodgate facility lease. Petition, ¶¶ 6-8; Participant Statement at 2.<sup>9</sup>

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Woodgate post office. Postal Service Comments at 2. The

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<sup>8</sup> *Id.* at 19. MapQuest estimates the driving distance between the Woodgate and Forestport post offices to be approximately 7.03 miles (8 minutes driving time).

<sup>9</sup> Petitioners also claim that the Postal Service's determination to close the Woodgate post office is in violation of the National Environmental Policy Act (NEPA). Petition, ¶ 5. The Postal Service contends, in this instance, it is exempt from NEPA requirements. Postal Service Comments at 9; see also 39 CFR § 775.6(b)(15).

Postal Service believes the appeal raises four main issues: (1) the effect on postal services; (2) the impact on the Woodgate community; (3) the economic savings expected to result from discontinuing the Woodgate post office; and (4) the effect on postal employees. *Id.* at 1-2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes the determination to discontinue the Woodgate post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Woodgate 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);
- 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 Woodgate community when the Final Determination is implemented. *Id.* at 3; Final Determination at 2.

The Postal Service also asserts that it has followed all statutorily required procedures and addresses the concerns raised by Petitioners regarding the effect on postal services, effect on the Woodgate community, economic savings, and effect on postal employees. Postal Service Comments at 1-2, 14.

*Public Representative.* The Public Representative finds that the Postal Service performed in accordance with 39 U.S.C. § 404(d), and did not act in an arbitrary and capricious manner. He concludes that the determination to close the Woodgate post office should be affirmed. PR Reply Brief at 7, 10. However, the Public Representative notes that while the Postal Service considered the economic savings, the amount of the savings are questionable and could be better ascertained with more detailed and accurate calculations. *Id.* at 9.

## 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 May 3, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Woodgate post office. Final Determination at 2. A total of 127 questionnaires were distributed and 120 were returned. On May 12, 2011, the Postal Service held a community meeting at the

Woodgate post office lobby to address customer concerns. Ninety-four customers attended. *Id.*

The Postal Service posted the Proposal to Close the Woodgate, NY Post Office and Extend Service by Rural Route Service (Revised) (Proposal) with an invitation for comments at the Woodgate and Forestport post offices for approximately 60 days, from May 25, 2011 through July 26, 2011. *Id.* Item No. 44 at 1. The Final Determination was posted at the same two post offices for approximately 30 days, from August 24, 2011 through September 25, 2011. Final Determination at 1.

Based on a review of the record, 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.* Woodgate, New York is an unincorporated community located in Oneida County, New York. Administrative Record, Item No. 16. The community is administered politically by the Town of Forestport.<sup>10</sup> Police protection is provided by the New York State Police at Remsen. Fire protection is provided by the Woodgate Fire Department. The community is comprised of 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.

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<sup>10</sup> While the Administrative Record indicates that the Woodgate community is administered politically by "no known source," Administrative Record Item No. 16, the Woodgate County Legislator, a member of the Oneida County Board of Legislators, informed the Commission that the Woodgate community is politically administrated by the Town of Forestport.

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 Woodgate community and solicited input from the community with questionnaires. In response to the closure Proposal, 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 2-12.

Petitioners claim the Postal Service did not adequately respond to community concerns provided "computer generated," "pre-determined" responses and failed to provide financial information concerning the Woodgate post office. Petition, ¶¶ 6, 9. There are a number of common questions asked of communities in which postal facilities are undergoing discontinuance reviews. The Postal Service may provide previously developed responses so long as those responses address the concerns raised by Woodgate customers. A review of the Final Determination shows the Postal Service responded appropriately to many specific and general customer concerns submitted in written questionnaires, posed at the Woodgate community meeting, and received during the Proposal comment period. Final Determination at 2-16.

Petitioners contend their input was limited since they did not have access to the relevant financial information being used by the Postal Service to support the Woodgate post office closure. Petition, ¶ 9. While the Postal Service must solicit consumer input and respond to consumer concerns, it is not obligated to provide commercially sensitive, facility-specific, financial data relevant to a closing, such as revenue and volume, prior to the posting of the Proposal and Administrative Record.

Finally, Petitioners claim the closure of the Woodgate post office will be detrimental to local businesses and discriminates against rural customers who lack basic internet and cellular services and are dependent on postal service to pay bills. *Id.* ¶ 7. There is no indication that closure of the Woodgate post office will negatively affect Woodgate businesses and organizations. In fact, documentation provided by Woodgate customers evidences that customers will continue to patronize local

businesses when the Woodgate post office is discontinued. See Administrative Record at 22; Final Determination at 19, Concern No. 6.

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 Woodgate postmaster resigned on October 2, 2009, and that an OIC has operated the Woodgate post office since then. Final Determination at 19; Postal Service Comments 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. Postal Service Comments at 5.

Petitioners assert that the Postal Service acted in bad faith by not filling the postmaster vacancy and then citing the vacancy as a basis for closure. At bottom, this claim raises a labor/management issue. The record does not support the claim that the Postal Service acted in bad faith. The postmaster vacancy, by itself, should not be used as a factor in determining whether or not to close a retail facility. A review of the record indicates that the vacancy was one of several factors used to support the closure of the Woodgate post office. Postal Service Comments at 5; see Final Determination at 2.

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 Woodgate 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 Woodgate customers. Postal Service Comments at 5. The Postal Service asserts that customers of the closed Woodgate post office may obtain retail services at the Forestport post office located 7 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Forestport post office. The Woodgate post office box customers may obtain Post Office Box service at the Forestport post office, which has 431 boxes available. *Id.*

Petitioners and others argue the increased travel costs and snow accumulation at mailboxes will negatively affect customer accessibility to postal services and mail. Petition, ¶ 5. A review of the questionnaires shows many Woodgate customers already travel outside the Woodgate community for regular goods, services, and social needs. See Administrative Record, Item No. 22. For customers choosing not to travel to the Forestport post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 19. The Postal Service informed Woodgate customers that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Based on a review of the record, 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 \$42,492. Final Determination at 18. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$13,200), minus the cost of replacement service (\$14,987). *Id.*

Petitioners allege that the Postal Service exaggerated expected economic savings by factoring in the salary of a postmaster as opposed to that of the acting OIC. Participants Statement at 2. 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. The Woodgate postmaster resigned on October 2, 2009. Final Determination at 19. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. *Id.* The postmaster position and the corresponding salary will be eliminated. See Postal Service Comments at 12 (“The [postmaster] position would ultimately have been filled by a career employee had the discontinuance action not been undertaken.”). Furthermore, notwithstanding that the Woodgate post office has been staffed by an OIC for more than 2 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

Petitioners and the Public Representative also suggest that the Postal Service has failed to consider potentially offsetting costs, such as the possible loss of post office box rental revenue. Petition, ¶ 4; PR Reply Brief at 7. While consideration should be given to offsets of projected savings, based on the information available in the Administrative Record, even if all revenue from the Woodgate post office were assumed to be lost due to the closing, the likelihood of projected savings would still exist. See PR Reply Brief at 7-9.

Finally, Petitioners argue the Postal Service acted in bad faith and predetermined the closure of the Woodgate post office, citing to the Postal Service's 2009 insertion of a 60-day termination clause into the Woodgate facility lease. Petition, ¶ 7. The Postal Service's choice to insert a 60-day termination clause is not sufficient to substantiate the claim of a predetermined closure, as opposed to a prudent business decision. The Administrative Record contains substantial evidence, such as declining workload, revenue, and viable postal alternatives, upon which it relied when reaching its Final Determination to close the Woodgate post office.

Upon review of the record in this proceeding, the Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

*Section 101(b)*. Petitioners claim that the Postal Service has violated section 101(b) by failing to provide a maximum degree of effective and regular service to the non-self-sustaining Woodgate post office. Participant Statement at 2. The "maximum degree" standard is not absolute. If it were, it could be used to attack virtually any form or level of service by hypothesizing an even higher quality or quantity of service. Rather, this standard must be interpreted and applied in a specific context by balancing relevant, and sometimes competing, considerations. The record in this case supports the conclusion that the Postal Service has attempted to identify and balance the relevant considerations and, in doing so, has satisfied the statutory standard.

The Postal Service's determination has not been shown to violate section 101(b). In addition to considering workload at the Woodgate post office (revenues declining and

averaging only 21 retail transactions per day), the record shows the Postal Service took into account other factors such as the postmaster vacancy, decline in workload, the area's minimal growth in recent years, and that effective and regular service can be provided through rural route service. Final Determination at 2; Postal Service Comments at 7. The Postal Service did not violate the prohibition in section 101(b) by closing the Woodgate post office and providing delivery and retail services by rural route delivery emanating from the Forestport post office.

## 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 Woodgate post office is affirmed.

*It is ordered:*

The Postal Service's determination to close the Woodgate, New York post office is affirmed.

By the Commission.

Ruth Ann Abrams  
Acting Secretary

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

I dissent in this case.

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). The Postal Service argues that savings should be calculated based on a fulltime postmaster's salary. Yet the Woodgate post office has been operated by an OIC since 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal; yet on the other hand, it argues that the savings should be calculated using a fulltime position. There are inherent and blatant contradictions in the record that must be corrected on remand.

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 5-month moratorium.

The citizens of Woodgate, 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.

Ruth Y. Goldway

## DISSENTING OPINION OF COMMISSIONER LANGLEY

The Postal Service did not adequately comply with 39 U.S.C. § 404(d)(1), which requires that, prior to making a determination to close any post office, the Postal Service must provide notice to customers served by the affected post office to ensure they will have an opportunity to present their views. Under section 243 of the Postal Service's Handbook PO-101, August 2004, if a decision is made to continue proceeding with a discontinuance investigation, the manager, Operations, must "then develop a questionnaire and send it to customers for additional information and comments."

The Woodgate post office provides service to 127 post office box holders and 96 delivery customers. Final Determination at 2. However, the Final Determination states that "127 questionnaires were distributed to delivery customers of the Woodgate post office." *Id.* It appears that 96 customers were not sent the questionnaire and thereby denying them the opportunity to present their views on the record.

In addition, 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 October 2009, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. 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 Woodgate post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley