

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Freedom Post Office
Freedom, Wyoming

Docket No. A2011-93

ORDER AFFIRMING DETERMINATION

(Issued January 10, 2012)

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, 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,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 (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 28, 2011, Gary Hokanson, Ida Hokanson, and Dee Hokanson (Petitioners) filed petitions with the Commission seeking review of the Postal Service’s Final Determination to close the Freedom, Wyoming post office (Freedom post office).² On October 4, 2011, additional citizens of Freedom, Wyoming filed a petition.³ On October 6, 2011, the Commission also received comments from Rebecca May.⁴ The Final Determination to close the Freedom post office is affirmed.

II. PROCEDURAL HISTORY

On September 30, 2011, the Commission established Docket No. A2011-93 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

On October 13, 2011, the Postal Service filed the complete Administrative Record with the Commission, after determining that it filed an incomplete Administrative

² Petition for Review received from Gary Hokanson regarding the Freedom, Wyoming post office 83120, September 28, 2011 (G. Hokanson Petition); Petition for Review received from Ida Hokanson regarding the Freedom, Wyoming post office 83120, September 28, 2011 (I. Hokanson Petition); Petition for Review received from Dee Hokanson regarding the Freedom, Wyoming post office 83120, September 28, 2011 (D. Hokanson Petition).

³ Petition for Review received from Citizens of Freedom, Wyoming regarding the Freedom, Wyoming post office 83120, October 4, 2011. An identical petition was filed on October 6, 2011 signed by additional citizens. Comments Received from Concerned Citizens of Freedom, Wyoming, October 6, 2011.

⁴ Comment letter received from Rebecca May, October 6, 2011.

⁵ Order No. 886, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 30, 2011.

Record on October 12, 2011.⁶ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁷

Two of the Petitioners filed Participant Statements supporting their Petitions.⁸ Neither the Petitioners nor the Public Representative filed reply briefs.

III. BACKGROUND

The Freedom post office provides retail postal services and service to 168 post office box customers and 75 delivery customers. Administrative Record, Item 15 at 1-2; Final Determination at 2. The Freedom post office, an EAS-11 level facility, has retail access hours of 8:30 a.m. to 4:30 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturday. Lobby access is available 24 hours a day Monday through Saturday. *Id.*

The postmaster position became vacant on June 1, 2009 when the Freedom postmaster was promoted. A non-career officer-in-charge (OIC) was installed to operate the office. Retail transactions average 14 transactions daily (16 minutes of retail workload). Office receipts for the last 3 years were \$30,871 in FY 2008, \$25,058 in FY 2009, and \$24,642 in FY 2010. There are four permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$41,210 annually, less a one-time expense of \$10,000 for the movement of the Freedom post office facilities. *Id.* at 8.

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing [Errata], October 13, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Freedom, WY Post Office and Extend Service by Highway Contract Route Service (Final Determination).

⁷ United States Postal Service Comments Regarding Appeal, November 21, 2011 (Postal Service Comments).

⁸ Participant Statement received from Ida Hokanson, October 26, 2011 (I. Hokanson Participant Statement); Participant Statement received from Gary Hokanson, November 2, 2011 (G. Hokanson Participant Statement).

After the closure, retail services will be provided by the Afton, Wyoming post office located approximately 21 miles away.⁹ *Id.* at 2. Delivery service will be provided by highway contract route carrier service to cluster box units (CBUs) through the Afton post office. The Afton post office is an EAS-18 level office with retail hours of 8:30 a.m. to 5:00 p.m., Monday through Saturday. Eleven post office boxes are available at the Afton post office. Retail services also will be available from the Thayne, Wyoming post office, which is 6 miles from Freedom.¹⁰ The Thayne post office is an EAS-15 level office, with retail hours of 7:30 a.m. to 4:00 p.m., Monday through Friday, and 8:45 a.m. to 11:45 a.m. on Saturday. Thirteen post office boxes are available at the Thayne post office. *Id.* The Postal Service will continue to use the Freedom name and ZIP Code. *Id.* at 3, Concern No. 3.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Freedom post office. Petitioner I. Hokanson argues that the economic savings projected by the Postal Service is inaccurate as it fails to include commercial revenue, that the Freedom post office closure will result in a loss of the town's identity, and that the proposed delivery service will cost Freedom customers more. I. Hokanson Participant Statement at 1-3.

Petitioner G. Hokanson argues that the alternate service offered by the Postal Service fails to provide a maximum degree of regular and effective service, that it is illegal to close a post office that is not financially self-sustaining, and that the economic savings projected by the Postal Service are inaccurate. G. Hokanson Participant Statement at 2. He also expresses particular concern about the possibility that prescription drugs left in mailboxes may be adversely affected by weather conditions, and about vandalism and theft. *Id.*

⁹ MapQuest estimates the driving distance between the Freedom and Afton post offices to be approximately 21.8 miles (27 minutes driving time).

¹⁰ Mapquest estimates the driving distance between the Freedom and Thayne post offices to be approximately 6.7 miles (9 minutes driving time).

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

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

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

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Freedom 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 Petitioners regarding the effect on postal services, effect on the Freedom community, and economic savings. *Id.* at 10.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal

Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On March 30, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Freedom post office. Final Determination at 2. A total of 255 questionnaires were distributed and 81 were returned. On May 18, 2011, the Postal Service held a community meeting at the Freedom Community Park Shelter to address customer concerns. Seventy-eight customers attended. *Id.*

The Postal Service posted the proposal to close the Freedom post office with an invitation for comments at the Freedom, Afton, and Thayne post offices from

June 6, 2011 through August 7, 2011. *Id.* The Final Determination was posted at the same three post offices from August 29, 2011 through September 30, 2011. *Id.* at 1.

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

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Freedom, Wyoming is an unincorporated community located in Lincoln County, Wyoming. *Id.* at 6. The community is administered politically by Lincoln County, Wyoming and Caribou County, Idaho. Police protection is provided by the Lincoln County Sheriff's Department. Fire protection is provided by the Thayne Fire Department. The community is comprised of farmers, ranchers, retirees, summer home owners, 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 Freedom community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Freedom post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-6, 7-8.

Petitioners raise the issue of the effect of the closing on the Freedom community. G. Hokanson Petition at 2; G. Hokanson Participant Statement at 3; I. Hokanson Petition at 2; I. Hokanson Participant Statement at 2; D. Hokanson Petition

at 1. The Postal Service contends that it considered this issue and explains that the community identity will be preserved by continuing the use of the Freedom name and ZIP Code. Postal Service Comments at 8.

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

Effect on employees. The Postal Service states that the Freedom postmaster was promoted on June 1, 2009 and that an OIC has operated the Freedom 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 9.

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 Freedom 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 Freedom customers. Postal Service Comments at 5. It asserts that customers of the closed Freedom post office may obtain retail services at the Thayne and Afton post offices located 6 and 21 miles away, respectively. Final Determination at 2. Delivery service will be provided by highway contract route service carrier through the Afton post office. *Id.* For customers choosing not to travel to the Thayne or Afton post offices, the Postal Service explains that retail services will be available from the carrier. *Id.* at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners argue that the rural delivery service will not provide the Freedom community with a maximum degree of effective and regular services. G. Hokanson Petition at 1; G. Hokanson Participant Statement at 2; I. Hokanson Petition at 1; D. Hokanson Petition at 1. In particular, Petitioners express concerns about the inconvenience of conducting retail transactions, the effect of weather on prescription

medications left in mailboxes, and the potential for vandalism and theft. G. Hokanson Petition at 1; G. Hokanson Participant Statement at 2; I. Hokanson Petition at 1; D. Hokanson Petition at 1.

The Postal Service responds that it considered Petitioners' concerns about the provision of postal services to Freedom post office customers. Regarding mail security concerns, the Postal Service states that the locked CBUs provided for Freedom customers will offer a secure, sheltered environment for all mail received there. Postal Service Comments at 6. Regarding convenience concerns, the Postal Service states that delivery to CBUs provides similar access to retail service, while alleviating the need to travel to the post office. *Id.*

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 has considered the issues raised by customers concerning effective and regular service.

Economic savings. The Postal Service estimates total annual savings of \$41,210. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,299) and annual lease costs (\$6,260), minus the cost of replacement service (\$9,329). *Id.* It also estimates a one-time expense of \$10,000 for the movement of the Freedom post office facilities. Final Determination at 8.

Petitioners assert that the estimated savings are inaccurate. G. Hokanson Petition at 1; G. Hokanson Participant Statement at 2; I. Hokanson Petition at 2; I. Hokanson Participant Statement at 1. Petitioners note that if the estimated \$36,000 to \$42,000 in meter mail revenue had been included in the estimated savings calculation, revenue would have exceeded the cost of keeping the Freedom post office open. *Id.*

The Postal Service responds that whether a particular post office is self-sustaining is not the issue it addresses when it considers discontinuing a post office, but, rather, whether regular and effective postal services can be provided in a more cost efficient way. Postal Service Comments at 8. Petitioner G. Hokanson also notes that

alternatives such as closing post offices on Saturday should have been considered. G. Hokanson Petition at 1; G. Hokanson Participant Statement at 2. The Postal Service responds that while it has considered similar options, case-by-case consideration of how it provides postal services to communities is the most effective means for reducing the costs of delivery. Postal Service Comments at 9.

The Commission has previously stated 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. The Freedom post office postmaster was promoted on June 1, 2009. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the office, may be separated from the Postal Service. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Freedom post office has been staffed by and OIC for over a year, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

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 argue further that the Postal Service's determination to close the Freedom post office is prohibited by section 101(b) which prohibits closing any small post office solely for operating at a deficit. G. Hokanson Petition at 1; G. Hokanson Participant Statement at 2; D. Hokanson Petition at 1.

The Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Freedom post office (revenues declining and averaging only 14 retail transactions per day), the record shows the Postal Service took into account other factors such as the postmaster vacancy, decline in workload, and that effective and regular service can be provided through rural and contract carrier route service. Final Determination at 9. The

Commission concludes that the Postal Service did not violate the prohibition in section 101(b) on closing the Freedom post office solely for operating at a deficit.

VI. CONCLUSION

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

It is ordered:

The Postal Service's determination to close the Freedom, Wyoming post office is affirmed.

By the Commission.

Shoshana M. Grove
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 full-time postmaster's salary. Yet the Freedom post office has been operated by an officer-in-charge (OIC) since June 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 full-time position.

There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative 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 record and present a more considered evaluation of potential savings.

The Final Determination indicates that the Freedom post office has 168 post office box customers. By contrast, the post offices in Afton and Thayne, designated to provide alternative Post Office Box service, have only 11 and 13 post office boxes, respectively. There is no explanation of the effect on customers of this shortfall. Without a more complete explanation of how the closing of the Freedom post office will affect post office box customers, the Postal Service has not satisfied its obligation to consider whether the replacement service it proposes is effective and regular service, as required by 39 U.S.C. § 404(d)(2)(a)(iii).

In addition, the Postal Service has designated the administrative receiving office for Freedom postal customers as Afton, Wyoming, approximately 21 miles from the Freedom post office. The designation of the administrative receiving office can be significant to local postal customers because that will be the location where undeliverable or accountable items are retrieved, where some parcels must be deposited, or certain other “in-person” business is conducted. The Administrative Record does not address with specificity reasonable customer concerns about the large travel distance to the new administrative retail office. Without a more complete explanation of how removing the applicable retail facility to such a distant point will affect the community, the Postal Service has not satisfied its obligation to consider the effect of such closing or consolidation on the community served by the post office, as required by 39 U.S.C. § 404(d)(2)(a)(i).

Recent legislation has been introduced precluding the closure of a post office in cases where the nearest post office is more than 10 miles away. And the Commission in its recent Advisory Opinion (Docket No. N2011-1) found that using optimization modeling, the Postal Service could make better choices about which offices to close that would assure adequate access in rural areas.

Finally, 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. In particular, the Postmaster General said he would review the impact of post office closings in remote and rural areas.

The citizens of Freedom, New Mexico 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 VICE CHAIRMAN 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 June 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 Freedom post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley