

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

Evansdale Post Office
Evansdale, Iowa

Docket No. A2011-103

ORDER REMANDING DETERMINATION

(Issued January 18, 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, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

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

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 30, 2011, Chad Deutsch, Mayor of Evansdale, Iowa (Petitioner Deutsch) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Evansdale, Iowa post office (Evansdale post office).² On October 11, 2011, Craig Chilton (Petitioner Chilton) likewise filed a petition seeking review of the Final Determination to close the Evansdale post office.³ The Final Determination to close the Evansdale post office is remanded for further consideration.

II. PROCEDURAL HISTORY

On October 5, 2011, the Commission established Docket No. A2011-103 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On October 17, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed an Application for Non-Public Treatment of financial and customer information relating to operations at the Evansdale post office and other nearby postal retail facilities.⁶ The Postal Service subsequently filed

² Petition for Review received from Chad Deutsch, Mayor of Evansdale, Iowa regarding the Evansdale, Iowa post office 50707, September 30, 2011 (Deutsch Petition).

³ Petition for Review received from Craig Chilton regarding the Evansdale, Iowa post office 50707, October 11, 2011 (Chilton Petition).

⁴ Order No. 896, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 5, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 17, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Evansdale, IA Post Office and Continue to Provide Service by Independent Post Office (Final Determination). See also United States Postal Service Notice of Supplemental Filing, December 7, 2011.

⁶ United States Postal Service Notice and Application for Non-Public Treatment, October 17, 2011 (Application for Non-Public Treatment).

comments responding to issues raised by Petitioners Deutsch and Chilton and requesting that the Commission affirm the Final Determination.⁷

Petitioner Chilton filed a Participant Statement supporting his Petition.⁸ On November 21, 2011, Petitioner Deutsch filed an initial brief.⁹ On December 12, 2011, the Public Representative filed reply comments.¹⁰ On December 19, 2011, Petitioner Deutsch filed a reply brief responding to the Postal Service comments.¹¹

III. BACKGROUND

The Evansdale post office provides retail postal services and service to 133 post office box or general delivery customers. Final Determination at 2. No delivery customers are served through this post office. The Evansdale post office, an EAS-15 level facility, has retail access hours of 8:30 a.m. to 11:00 a.m. and 12:00 p.m. to 4:00 p.m., Monday through Friday, and is closed on Saturday. *Id.*; Administrative Record, Item No. 18. Lobby access hours are 7:45 a.m. to 6:00 p.m., Monday through Friday, and none on Saturday. Final Determination at 2.

Retail transactions average 185 transactions daily (82 minutes of retail workload). Post office receipts for the last 3 years were \$270,763 in FY 2008; \$244,212 in FY 2009; and \$253,050 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$62,935 annually. *Id.* at 6.

⁷ Comments of United States Postal Service, December 2, 2011 (Postal Service Comments).

⁸ Participant Statement received from Craig Chilton, November 4, 2011. On November 7, 2011, Craig Chilton submitted a second participant statement correcting minor typographical errors. See Participant Statement from Craig Chilton, November 7, 2011. All citations refer to the second participant statement (Chilton Participant Statement).

⁹ Initial Brief of Petitioner Chad Deutsch, November 21, 2011 (Petitioner Deutsch Initial Brief).

¹⁰ Reply Comments of the Public Representative, December 12, 2011 (PR Reply Comments).

¹¹ Reply Brief of Petitioner Chad Deutsch, December 19, 2011 (Petitioner Deutsch Reply Brief).

After the closure, retail services will be provided by the Waterloo post office located approximately 3 miles away.¹² *Id.* at 2. Delivery service will be provided by a rural independent post office administered by the Waterloo post office. The Waterloo post office is an EAS-24 level office, with retail hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.¹³ There are 220 post office boxes available. *Id.* The Postal Service will continue to use the Evansdale name, but not the 50707 ZIP Code. *Id.* at 6.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Evansdale post office. Petitioner Deutsch argues that the impact on the growing Evansdale community of 5,000 residents was not considered. Deutsch Petition at 1. Petitioner Deutsch also contends that because the Evansdale post office has a newly signed 5-year lease with no early release, there are no financial savings. *Id.* Petitioner Deutsch's initial brief and reply brief reiterate the concerns raised in his Petition. *See generally* Deutsch Initial Brief, Deutsch Reply Brief. Further, Petitioner Deutsch notes information in the Final Determination indicating that employee costs may increase. Deutsch Reply Brief at 3-4 (citing Final Determination at 7).

Petitioner Chilton argues that the closing would negatively impact the community due to the difficulty and inconvenience in accessing the Waterloo post office and the planned change in ZIP Code. Chilton Petition at 2-3; Chilton Participant Statement at 4. Petitioner Chilton also argues that because the Evansdale post office is profitable and subject to a 5-year lease and the clerk assigned to the post office will be relocated, there are no financial savings that would accrue in closing the post office. Chilton Petition at 3-4; Chilton Participant Statement at 3. Further, Petitioner Chilton questions

¹² MapQuest estimates the driving distance between the Evansdale and Waterloo post offices to be approximately 3.1-3.5 miles (7-8 minutes driving time respectively).

¹³ The hours that retail services may be available at the Waterloo post office on Saturdays are not clear from the Administrative Record. *See* Administrative Record, Item 16 at 2; Final Determination at 2.

the decision to close the Evansdale post office in favor of other locations. Chilton Petition at 4.

Petitioners Deutsch and Chilton both contend that post office notice procedures were not followed. Deutsch Petition at 1; Chilton Participant Statement at 4-9. They argue that less than 60 days' notice was provided to customers and that written notice was provided individually to only the small number of post office box holders. *Id.* Petitioner Deutsch specifically rejects the Postal Service's argument that the Evansdale post office is exempt from the 39 U.S.C. § 404(b) notice provisions. Deutsch Initial Brief at 4-5. Petitioner Deutsch also argues that the Administrative Record is incomplete and includes incorrect information regarding, *e.g.*, lease information, questionnaire tallies, and rural delivery service. Deutsch Initial Brief at 6, 17-18, 19-20, 27.

Postal Service. The Postal Service contends that the Commission lacks jurisdiction to hear Petitioners' appeal and that, in any event, it should dismiss the appeal. Postal Service Comments at 1, 8. The Postal Service believes the appeal raises four main issues: (1) the effect on postal services; (2) the impact on the Evansdale community; (3) the economic savings expected to result from discontinuing the Evansdale post office; and (4) compliance with section 404(b) notice requirements. *Id.* at 2, 3, 6. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Evansdale post office should be affirmed. *Id.* at 2, 8. The Postal Service also asserts that it satisfied the notice provisions of 39 U.S.C. section 404(b). *Id.* at 2.

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

- a minimal workload and declining 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.

Postal Service Comments at 3-7. The Postal Service contends that it will continue to provide regular and effective postal services to the Evansdale community when the Final Determination is implemented. *Id.* at 6.

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, the effect on the Evansdale community, economic savings, and the effect on postal employees. *Id.* at 2, 3, 6.

Public Representative. Regarding the procedural concerns, the Public Representative states that this case is complicated by the fact that the Postal Service classifies the facility as a branch and maintains that certain notice and other procedural requirements do not apply to the closing of a branch. PR Reply Comments at 5. The Public Representative notes, however, that although some Evansdale patrons did not receive notice or have an opportunity to comment, the Postal Service is aware that many patrons are dissatisfied with the plan to close the Evansdale post office. *Id.* at 9.

Regarding the economic analysis, the Public Representative states that, as the Evansdale post office does not fit the mold of low revenue post offices in areas with declining populations and appears to be thriving, the Postal Service should be encouraged to more fully explain its rationale for the closure beyond relying on the ability to provide alternative effective and regular service. *Id.* at 7. The Public Representative also states that the Evansdale annual lease cost is a material factor affecting the soundness of the Postal Service's annual savings estimates, and that the omission of this offset undermines the soundness of the savings estimate. *Id.*

Regarding the assessment of the customer survey responses, the Public Representative suggests that the Postal Service clarify the role of the surveys in the closing decision process. *Id.* at 8. The Public Representative concludes that the Commission may need to consider the appropriateness of the alternative effective and

regular service standard in evaluating post office discontinuances as its applicability to profitable facilities will continue to be questioned by the public. *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 April 8, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Evansdale post office. Final

Determination at 2. A total of 133 questionnaires were distributed and 66 were returned. On April 25, 2011, the Postal Service held a community meeting at the local AMVETS post to address customer concerns. One-hundred-fifteen (115) customers attended. *Id.*

As the Public Representative notes, the Postal Service initiated its discontinuance investigation prior to the effective date of new regulations that apply uniform discontinuance procedures to Postal Service-operated retail facilities regardless if classified as a post office, station, or branch. PR Reply Comments at 5-6; see also Postal Service Comments at 7, n.3. Thus, notice under the circumstances can be somewhat problematic. Nonetheless, in this case, a timely appeal has been filed, the Postal Service has responded to concerns raised by the mailing community, and the matter has been adjudicated before the Commission. Given that the matter is being remanded on other grounds, the Commission finds it unnecessary to address notice issues further.

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. Evansdale, Iowa is an incorporated community located in Black Hawk County, Iowa. Final Determination at 6. The community is administered politically by a mayor and a council. Police protection is provided by the Evansdale Police Department. Fire protection is provided by the Evansdale Fire Department. The community is comprised of retirees, the self-employed, and those who work in local businesses or commute to work in nearby communities. *Id.*

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 Evansdale community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Evansdale 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 2-5.

Petitioners raise the issue of the effect of the closing on the Evansdale community. Deutsch Petition at 1; Chilton Petition at 2-3. The Postal Service contends that it considered this issue and cited questionnaire responses as evidence that the discontinuance of the Evansdale post office would not have an adverse impact on the local business community, and that growth of a community does not depend on the location of a post office. Postal Service Comments at 5. The Postal Service further explains that the community identity will be preserved by continuing to use the Evansdale name in the new address, though the ZIP Code will change. *Id.* at 6.

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 affected Evansdale postal employees will be reassigned to other postal facilities. *Id.* at 6; Final Determination at 6. No other Postal Service employee will be adversely affected.

The Commission finds that the Postal Service has considered the possible effects of the post office closing on the employees when it stated that the employees will be reassigned. The Postal Service has satisfied its obligation to consider the effect of the closing on employees at the Evansdale 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 Evansdale customers. Postal Service Comments at 3-4. It asserts that customers of the closed Evansdale post office may obtain retail services at the Waterloo post office located 3 miles away, or the Raymond post office located 4 miles away. Final Determination at 2; Postal

Service Comment at 4.¹⁴ Delivery service will be provided by an independent post office through the Waterloo post office. Final Determination at 2. The Evansdale post office box customers may obtain Post Office Box service at the Waterloo post office, which has 220 boxes available. *Id.*

For customers choosing not to travel to the Waterloo post office, 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 customer interaction with the carrier at the mailbox. *Id.*

Petitioners argue that travel to the Waterloo or Raymond post offices will be inconvenient. The Postal Service explains, however, that carrier service is beneficial to many senior citizens and those who face special challenges because they do not have to travel to the post office for service. Postal Service Comments at 5. Where existing delivery methods cause extreme hardship, alternate arrangements can be made. *Id.* Regarding concerns about mail security, the Postal Service states that customers may place locks on their mailboxes. Final Determination at 3, Concern No. 8; Postal Service Comments at 4.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$62,935. Final Determination at 6. It derives this figure by summing the following costs: Manager and/or Craft savings (\$32,760), benefits (\$10,975) and annual lease costs (\$19,200). *Id.*

Petitioners contest the accuracy of the Postal Service's estimated savings, contending that no labor savings will be realized since employees at the Evansdale post office will be relocated by the Postal Service. In addition, they argue that because the current lease of the Evansdale post office extends to January 31, 2016 no savings

¹⁴ MapQuest estimates the driving distance between the Evansdale and Raymond post offices to be approximately 3.63 miles (6 minutes driving time).

attributable to the lease will materialize for 4 years. See Chilton Participant Statement at 3; Petitioner Deutsch Initial Brief at 27.

The Postal Service indicates that employees at the Evansdale post office will be reassigned to other postal facilities. Postal Service Comments at 6; see also Final Determination at 6. It takes the position that all positions associated with the Evansdale post office will be eliminated upon its discontinuance. Postal Service Comments at 6-7.

The Commission has previously observed that the Postal Service should include in its estimate of savings only those costs likely to be eliminated by the closing. In this case, since the employee is simply being transferred to another facility and the lease continues until January 2016, there is no rational basis to conclude that the Postal Service will realize any savings until after the lease expires (or if it were able to sublet the property sooner). Thus, the Commission concludes that the Postal Service has not satisfied the requirements of section 404(d)(2)(iv).

Under section 404(d)(2)(iv), the Postal Service may, if it wishes, close a facility even if there are no (or even negative) savings. It has not done that here. Rather, it claims savings that it will not realize for at least 4 years. That result is not consistent with section 404(d)(2)(iv).¹⁵

The Postal Service has not satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

As discussed above, the Postal Service has not adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Evansdale post office is remanded for further consideration.

¹⁵ The Postal Service indicates its projected savings estimate was reduced by 25 percent to take into account a projected increase in clerk hours at the Waterloo post office following the discontinuance of the Evansdale post office. Final Determination at 7.

It is ordered:

The Postal Service's determination to close the Evansdale, Iowa post office is remanded for further consideration.

By the Commission.

Shoshana M. Grove
Secretary