

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

Auburn Post Office
Auburn, West Virginia

Docket No. A2011-94

ORDER AFFIRMING DETERMINATION

(Issued January 20, 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 28, 2011, Save the Auburn Post Office Committee and the Auburn Town Council (Petitioners) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Auburn, West Virginia post office (Auburn post office).² The Final Determination to close the Auburn post office is affirmed.

II. PROCEDURAL HISTORY

On September 30, 2011, the Commission established Docket No. A2011-94 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On October 13, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ On December 23, 2011, the Postal Service filed supplementary memoranda to the Administrative Record to clarify details about replacement service and the availability of post office boxes.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review received from the Auburn Town Council, Save the Auburn Post Office Committee regarding the Auburn, West Virginia post office 26325, September 28, 2011 (Petition).

³ Order No. 887, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 30, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 13, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Auburn, West Virginia Post Office and Extend Service by Highway Contract Route Service (Final Determination).

⁵ United States Postal Service Notice of Filing of Supplement to the Administrative Record, December 23, 2011 (Notice).

⁶ United States Postal Service Comments Regarding Appeal, November 22, 2011; Erratum to Comments of United States Postal Service, December 23, 2011 (together, Postal Service Comments).

On October 27, 2011, Petitioners filed a participant statement supporting their Petition.⁷ On December 8, 2011, the Public Representative filed a reply brief.⁸ Petitioners also filed reply comments.⁹ On December 27, 2011, the Postal Service filed a response to the reply comments.¹⁰

III. BACKGROUND

The Auburn post office provides retail postal services and service to 47 post office box customers. Final Determination at 1. One hundred twenty delivery customers are served through this post office. *Id.* The Auburn post office, an EAS-11 level facility, has retail access hours of 8:00 a.m. to 12:00 p.m. and 12:30 p.m. to 4:30 p.m., Monday through Friday, and 9:30 a.m. to 10:30 a.m. on Saturday. *Id.* at 1. Lobby access hours are 8:00 a.m. to 4:30 p.m. Monday through Friday and 9:30 a.m. to 10:30 a.m. on Saturday. *Id.*

The postmaster position became vacant on January 30, 2010 when the Auburn postmaster retired. *Id.* An officer-in-charge (OIC) was installed to operate the post office. *Id.* Retail transactions average 45 transactions daily (40 minutes of retail workload). *Id.* at 1. Post office receipts for the last 3 years were \$14,326 in FY 2008; \$13,300 in FY 2009; and \$11,241 in FY 2010. There are no permit or postage meter customers. By closing this office, the Postal Service anticipates savings of \$47,804 annually. *Id.* at 6.

⁷ Comments received from Save the Auburn Post Office Committee, December 8, 2011 (Participant Statement).

⁸ Reply Brief of the Public Representative, November 22, 2011 (PR Reply Brief).

⁹ Rebuttal to US Postal Service Comments on November 22, 2011 received from the Auburn Town Council and the Save the Auburn Post Office Committee, December 15, 2011 (Petitioners' Reply Comments).

¹⁰ Response of United States Postal Service to Reply Comments, December 27, 2011 (Postal Service Response). The Postal Service Response was accompanied by a Motion for Leave to File Response to Reply Comments. The motion is granted.

After the closure, retail services will be provided by the Troy post office located approximately 9 miles away.¹¹ Delivery service will be provided by both rural carrier and highway contract route (HCR) service.¹² The Troy post office is an EAS-13 level facility, with retail hours of 8:00 a.m. to 12:00 p.m. and 12:30 p.m. to 4:15 p.m., Monday through Friday, and 8:30 a.m. to 10:15 a.m. on Saturday. *Id.* Thirty-seven post office boxes are available. *Id.* The Postal Service will continue to use the Auburn name and ZIP Code. *Id.* at 6, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Auburn post office. They express concerns about effective delivery of accountable mail and large parcels. Petition at 1. They assert that they are uncomfortable with leaving money in a mailbox in order to conduct postal transactions with a rural carrier. *Id.* They contend that the closure will be detrimental to the Auburn community and that the Troy post office has an insufficient number of post office boxes to accommodate Auburn customers. *Id.* at 3, 7.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Auburn 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 Auburn community; and (3) the economic savings expected to result from discontinuing the Auburn post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Auburn post office should be affirmed. *Id.* at 2.

¹¹ *Id.* at 1. MapQuest estimates the driving distance between the Auburn and Troy post offices to be approximately 9.83 miles (24 minutes driving time).

¹² The Final Determination states that delivery service will be provided by HCR service to cluster box units (CBUs). Final Determination at 1. The Postal Service clarifies that replacement delivery service to the Auburn community will be provided by extending both the existing rural route and HCR service.

The Postal Service explains that its decision to close the Auburn 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;
- the projected population decline 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 Auburn 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 Auburn community, economic savings, and effect on postal employees. *Id.* at 5-15. Also, the Postal Service asserts that it has addressed the limited number of post office boxes available at the Troy post office. *Id.* at 7-8.

Reply Comments. Petitioners respond to several statements in the Postal Service's comments and note that the Auburn community is served by both a rural carrier and HCR. Petitioners' Reply Comments at 1. The Public Representative argues that the Postal Service assumes that not all Auburn post office box customers will want to rent a box at the Troy post office. PR Reply Brief at 2. He states he would find it more assuring if the Postal Service would guarantee Post Office Box Service to all Auburn customers that wanted to continue Post Office Box Service at the Troy post office, which he contends would promote effective and regular postal services.

The Public Representative asserts that the economic savings of the Postal Service are likely inflated because the calculations were based on a postmaster salary as opposed to the actual salary of the OIC. *Id.* However, he concludes that the Final

Determination appears procedurally in order and that no persuasive argument has been presented that would prevent the Commission from affirming the determination. *Id.*

Postal Service Response. The Postal Service responds to the reply comments of Petitioners and the Public Representative. It indicates that the Troy post office has reserved space for general delivery items that can be converted to additional post office boxes if demand warrants. Postal Service Response at 2. It asserts that replacement delivery service to the Auburn community will be provided by extending both the existing rural route and the existing HCR service. *Id.* It notes that the estimated annual replacement service cost will increase to \$8,105.33 as a result, reducing the economic savings to \$43,328.67. *Id.* at 2-3. It states that it has added memoranda to the Administrative Record to clarify these points. See Notice.

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. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On March 21, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Auburn post office. Final Determination at 1. A total of 180 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 54 questionnaires were returned. *Id.* On April 8, 2011, the Postal Service held a community meeting at the Auburn Community Building to address customer concerns. Seventy customers attended. *Id.*

The Postal Service posted the proposal to close the Auburn post office with an invitation for comments at the Auburn and Troy post offices from June 1, 2011 through August 2, 2011. Final Determination at 1. The Final Determination was posted at the same two post offices from September 2, 2011 through October 4, 2011.¹³

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).

¹³ Administrative Record, Item No. 50. On November 14, 2011, the Postal Service submitted date-stamped cover pages of the Final Determination. United States Postal Service Notice of Filing, November 14, 2011.

Effect on the community. Auburn, West Virginia is an unincorporated community located in Ritchie County, West Virginia. Administrative Record, Item No. 16. The community is administered politically by the City of Auburn. *Id.* Police protection is provided by the Ritchie County Sheriff's Department and the West Virginia State Police. *Id.* Fire protection is provided by the Volunteer Fire Department. *Id.* The community is comprised of cottage industry commuters, farmers, retirees, gas company employees, 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 Auburn community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Auburn 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 6.

Petitioners raise the issue of the effect of the closing on the Auburn community. Petition at 3. They argue that the residents of Auburn do not work in Troy, making it less likely for the residents to visit the Troy post office. *Id.* The Postal Service responds that Petitioners' arguments do not clearly contradict the Administrative Record. Postal Service Comments at 11. It notes that according to the Petition, residents shop in Gilmer County, which is where the Troy post office is located. *Id.* at 11-12. It also contends the community identity will be preserved by continuing the use of the Auburn name and ZIP Code. *Id.* at 11.

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 Auburn postmaster retired on January 30, 2010 and that an OIC has operated the Auburn post office since

then. Final Determination at 6. It asserts that the OIC will either be offered another OIC opportunity or be separated and that no other Postal Service employee will be adversely affected. Postal Service Comments at 15.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Auburn 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 Auburn customers. *Id.* at 5. It asserts that customers of the closed Auburn post office may obtain retail services at the Troy post office located 9 miles away. Final Determination at 1. Delivery service will be provided by both rural carrier and HCR service. Postal Service Response at 2. The 47 post office box customers may obtain Post Office Box Service at the Troy post office, which has 37 post office boxes available. Final Determination at 1.

For customers choosing not to travel to the Auburn post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 7. 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 express concern about the delivery of mail and large parcels effectively. Petition at 1. The Postal Service responds that the carrier will attempt delivery to a customer's residence and in the event the customer is not home a notice will be left in the mailbox. Postal Service Comments at 6.

In addition, Petitioners raise issues about potential theft from leaving money in a mailbox for the rural carrier when purchasing money orders. Petition at 1. The Postal Service responds that it made an inquiry regarding this risk and found there to be only two reports of mail theft or vandalism in the area. Postal Service Comments at 8. It states that it has advised customers that a lock can be placed on their mailbox. *Id.*

Petitioners and the Public Representative express concern regarding the limited number of post office boxes available at the Troy post office. Petition at 7; PR Reply

Brief at 2. The Postal Service asserts that it may install swivel units or consider centralized delivery through CBUs and/or parcel lockers if the number of post office boxes at the Troy post office are inadequate. Postal Service Comments at 8. It also states that it conducted further research indicating that the Troy post office has reserved space for general delivery items that can be converted to additional post office boxes if there is a need. Postal Service Response at 2.

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 a total annual savings of \$47,804. Final Determination at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$7,155), minus the cost of replacement service (\$3,630). *Id.* It also notes a one-time expense of \$1,200 for installing the CBUs. *Id.*; Administrative Record, Item No. 15.

In its response to reply comments of Petitioners and the Public Representative, the Postal Service clarifies that replacement delivery service will be provided by extending both the existing rural route and existing HCR service. Postal Service Response at 2. As a result, it explains that the estimated annual replacement service cost is \$8,105.33 is higher than the original estimate of \$3,630. *Id.* at 2-3. It maintains that it will still realize a significant annual savings of \$43,328.67.¹⁴

The Public Representative contends that the calculation of economic savings based upon a postmaster salary as opposed to the actual salary of the OIC is problematic and “likely inflates any economic benefits that the Postal Service will realize by closing this office.” PR Reply Brief at 2.

¹⁴ *Id.* at 3. The Postal Service submitted post-record information revising estimated replacement service costs in the Final Determination and other parts of the Administrative Record. Notice at 2. As the Commission previously stated, its responsibility in adjudicating appeals of Postal Service determinations to close or consolidate post offices is limited to “the record before the Postal Service in the making of such determination[s].” Docket No. A2011-74, Order No. 1123, Order Remanding Determination, January 10, 2012 at 8 n.13 (*citing* 39 U.S.C. § 404(d)(5)). The Commission has not relied on post-record information when evaluating this appeal.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Auburn post office postmaster retired on January 30, 2010. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be offered another OIC opportunity or be separated from the Postal Service. Postal Service Comments at 15. The postmaster position and the corresponding salary will be eliminated.¹⁵ Furthermore, notwithstanding that the Auburn post office has been staffed by an OIC for approximately 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).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

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

¹⁵ See, e.g., Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10; Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13.

It is ordered:

The Postal Service's determination to close the Auburn, West Virginia post office is affirmed.

By the Commission.

Ruth Ann Abrams
Acting Secretary

DISSENTING 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).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Auburn post office has been operated by an officer-in-charge (OIC) since the former postmaster retired on January 30, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time position.

Also, the Postal Service already claims billions of dollars in savings from reducing labor costs. The savings from substituting OICs in postmaster positions throughout the nation has already been included in those billions. Counting the savings of a full postmaster salary is in effect double counting. There are inherent and blatant contradictions in the record that must be corrected on remand.

Further, the Postal Service has not accounted in its economic analysis for the cost of installing Cluster Box Units or additional post office boxes which the Service has promised.

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 Commission has often expressed a concern -- I have consistently expressed the concern -- that the maintenance of adequate service requires providing an adequate number of post boxes in the receiving facility. The Auburn post office serves 47 post

office box customers, yet the designated administrative receiving office in Troy only has 37 post office boxes available. Thus, the record does not show that the Postal Service has sufficiently considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

The Troy post office, designated as the administrative receiving office for Auburn customers, is 9.83 miles driving distance, according to MapQuest. Legislation has been introduced recently that would preclude the closure of a post office in cases where the nearest post office is more than ten 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.

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 Auburn, West Virginia 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 January 2010, 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 Auburn post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley