

ORDER NO. 1172

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

Scott Post Office
Scott, Mississippi

Docket No. A2012-3

ORDER AFFIRMING DETERMINATION

(Issued January 25, 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, 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 October 5, 2011, the Scott Action Committee of Concerned Citizens (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Scott, Mississippi post office (Scott post office).² The Final Determination to close the Scott post office is affirmed.

II. PROCEDURAL HISTORY

On October 7, 2011, the Commission established Docket No. A2012-3 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 20, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ A corrected version was filed on November 3, 2011.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

Petitioner filed a participant statement supporting its Petition.⁷ The Public Representative did not file a reply brief.

² Petition for Review received from the Scott Action Committee of Concerned Citizens regarding the Scott, Mississippi Post Office, October 5, 2011 (Petition).

³ Order No. 899, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 7, 2011.

⁴ United States Postal Service Notice of Filing, October 20, 2011.

⁵ United States Postal Service Notice of Filing Corrected Administrative Record—Errata, November 3, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Scott, MS Post Office and Establish Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, November 29, 2011 (Postal Service Comments).

⁷ Participant Statement received from the Scott Action Committee of Concerned Citizens, November 9, 2011 (Participant Statement).

III. BACKGROUND

The Scott post office provides retail postal services and service to 96 post office box customers. Final Determination at 2. No delivery customers are served through this office. *Id.* The Scott post office, an EAS-11 level facility, has retail access hours of 8:15 a.m. to 12:30 p.m. and 1:00 p.m. to 3:45 p.m., Monday through Friday, and 7:30 a.m. to 9:45 a.m. on Saturday. *Id.* Lobby access hours are 8:00 a.m. to 3:30 p.m., Monday through Friday, and 7:30 a.m. to 9:45 a.m. on Saturday. *Id.*

The postmaster position became vacant on April 30, 2010, when the Scott postmaster retired. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office.⁸ Final Determination at 2, 5. Retail transactions average 26 transactions daily (28 minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$22,450 in FY 2008; \$20,798 in FY 2009; and \$14,476 in FY 2010. *Id.* There is one permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$46,319 annually. *Id.* at 5.

After the closure, retail services will be provided by the Benoit post office located approximately 6 miles away.⁹ Delivery service will be provided by rural carrier through the Benoit post office. *Id.* at 2. The Benoit post office is an EAS-13 level office, with retail hours of 8:00 a.m. to 4:15 p.m., Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday. *Id.* One hundred and thirty-one post office boxes are available. *Id.* The Postal Service will continue to use the Scott name and ZIP Code. *Id.*, Concern No. 1.

⁸ In its comments, the Postal Service states that the OIC was a career employee and that upon implementation of the Final Determination, the OIC "will return to her official position at the Greenville Post Office." Postal Service Comments at 2 (record citation omitted). However, neither the record citation provided by the Postal Service, nor any other record evidence, support the assertion that the OIC is a career employee. On the contrary, record evidence consistently states that the OIC is a non-career employee. See, e.g., Administrative Record, Item No. 15 at 1; *id.*, Item No. 18; *id.*, Item No. 42.

⁹ *Id.* MapQuest estimates the driving distance between the Scott and Benoit post offices to be approximately 6.2 miles (8 minutes driving time).

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Scott post office. Petitioner suggests there are numerous factual and financial inaccuracies contained in the Final Determination. Petition at 1, 7. Petitioner contends the closure of the Scott post office will adversely affect the community. *Id.* at 1-6; Participant Statement at 2-4.

Petitioner disputes the Final Determination's conclusion that following closure of the Scott post office, customers will receive effective and regular service. Petition at 5; Participant Statement at 4-6. Petitioner asserts further that employees will be adversely affected by the closure. Petition at 3. Petitioner also argues the estimated cost savings from the closure are inaccurate. *Id.* at 1, 6; Participant Statement at 2, 3.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Scott post office. Postal Service Comments at 2. The Postal Service believes the appeal raises four main issues: (1) the effect on postal services, (2) the impact on the Scott community, (3) the economic savings expected to result from discontinuing the Scott post office, and (4) the impact on employees. *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 Scott post office should be affirmed. *Id.* at 14-15.

The Postal Service explains that its decision to close the Scott 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 Scott community when the Final Determination is implemented. *Id.* at 14.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Scott community, economic savings, and effect on postal employees. *Id.*

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 10, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Scott post office. Final Determination at 2. A total of 115 questionnaires were distributed to delivery customers of the Scott post office. *Id.* Other questionnaires were made available at the retail counter of the Scott post office. *Id.* A total number of 38 questionnaires were returned. *Id.* On March 24, 2011, the Postal Service held a community meeting at the Scott Learning Center to address customer concerns. *Id.* Eighty-three customers attended. *Id.*

The Postal Service posted the proposal to close the Scott post office with an invitation for comments at the Scott and Benoit post offices from April 26, 2011 through June 27, 2011. *Id.* at 2. The Final Determination was posted at the same two post offices from August 29, 2011 through September 30, 2011. *Id.* at 1; Administrative Record, Item No. 49.

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: (1) the effect on the community; (2) the effect on postal employees; (3) whether a maximum degree of effective and regular postal service will be provided; and (4) the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Scott, Mississippi is an unincorporated community located in Bolivar County, Mississippi. Administrative Record, Item No. 16. The community is administered politically by the Bolivar County Board of Supervisors and a county administrator. Postal Service Comments at 8. Police protection is provided by

the Bolivar County Sheriff Department.⁹ *Id.*; Administrative Record, Item No. 16. Fire protection is provided by the Scott Volunteer Fire Department. *Id.* The community is comprised of farmers, retirees, and those who work in local businesses or commute to work in nearby communities.¹⁰ *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 Scott community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Scott 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.

Petitioner asserts that the closing of the Scott post office will have an adverse affect on the identity of the Scott Community. Petition at 1-6; Participant Statement at 2-5. The Postal Service contends that it has considered this issue and explains that the community identity will be preserved by continuing the use of the Scott name and ZIP code in street addresses and in the National Five-Digit ZIP Code and Post Office Directory. Postal Service Comments at 9.

⁹ The Postal Service concedes that Petitioner's claim that Administrative Record, Item No. 16 (Community Survey Sheet) incorrectly lists the local government, police protection, and school district as administered by Washington County. It admits further that the Final Determination repeats this error. The Postal Service contends that the Post Office Coordinator has been made aware of this error, but argues that the errors identified by Petitioner are not consequential to the findings in the Final Determination. Postal Service Comments at 8 n.29.

¹⁰ Petitioner argues that the community is made up of "PhD's, other scientific researchers, highly skilled technicians, business owners, other professionals as well as employed workers, some of who are commuters, and a few retirees." Petition at 5. The Postal Service responds by asserting that it does not intend its description of the community to be exhaustive. Postal Service Comments at 8 n.30. The Postal Service also notes that Petitioner's statement is contradicted in Mr. and Mrs. Jackson's letter in the Participant Statement that "[m]ost of Scott's population consist[s] of retirees and senior citizens that live on fixed incomes...." *Id.*; Participant Statement at 5.

Petitioner also contends that the loss of the Scott post office would have a detrimental effect on their business community. Petition at 3-4, 6; Participant Statement at 2-4. Petitioner suggests that the Postal Service erred in listing the number of schools, churches, organizations and businesses as zero. Petition at 6. The Postal Service responds stating that a zero was inadvertently inserted in the tally of these facilities; however, it did list six major businesses and two churches. Postal Service Comments at 9 n.35. It further notes that while it may have erred in not noting four additional businesses listed by Petitioner located in the service area, the inclusion of these businesses to those already considered by the Postal Service would not affect its ability to provide effective services to them. *Id.* The Postal Service asserts that there is no indication that the Scott business community will be adversely affected. *Id.* at 8; Administrative Record, Item No. 22 (indicates citizens will continue to use local businesses if the Scott post office is closed).

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 Scott postmaster retired on April 30, 2010 and that an OIC has operated the Scott post office since then. Postal Service Comments at 14; Final Determination at 2, 5. The OIC is a non-career employee who, after the Final Determination is implemented, may be separated from the Postal Service. *Id.* at 5 n.7, *supra*. No other Postal Service employee will be adversely affected. Postal Service Comments at 14.

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 Scott 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 96 customers, as well as local businesses. Postal Service Comments at 4, 7. It asserts that customers of the closed Scott post office may obtain retail services at the Benoit post office located 6 miles away. Final Determination at 2. Delivery service will be provided by rural

carrier through the Benoit post office. *Id.* The Scott post office box customers may obtain Post Office Box service at the Benoit post office, which has 131 boxes available. *Id.*

In its Petition and Participant Statement, Petitioner raises the issue of whether the Postal Service can continue to provide a maximum degree of effective and regular postal services to the Scott community, noting the convenience of the Scott post office. Petition at 6; Participant Statement at 2, 4-5. For customers choosing not to travel to the Scott post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments 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.*

Petitioner expresses concern for senior citizens. Petition at 5; Participant Statement at 4-5. The Postal Service responds that special provisions are made for hardship cases or special customer needs. Postal Service Comments at 6. The costs related to the installation of mailboxes, the effects of weather damage on mailboxes, and the dependability of rural route service emanating from the Benoit Post Office were also concerns raised by Petitioner. Participant Statement at 2, 5-6. The Postal Service contends that customers are only required to erect a mailbox if they opt for carrier service. Postal Service Comments at 5. Moreover, it explains that rural carriers have demonstrated great responsibility in providing mail service to postal customers and that postmasters also monitor mail volume to determine and correct any delays in mail delivery. *Id.* at 6. The Postal Service explains that the additional workload for carrier service has been considered and it does not expect any delays in delivery. *Id.*

The Postal Service also asserts that safety of customer access is routinely considered in connection with curbside delivery. *Id.* The Postal Service noted that the issue of mail security was raised during the feasibility study and addressed in the administrative record. *Id.* at 7. It asserts that it researched the risk and found that there has only been one report of vandalism in the area. *Id.* Also, customers may place a lock on the mailbox. *Id.*

Petitioner is concerned about the effect the closing would have on local businesses, particularly the Monsanto Company, and hunters who come into the area. Petition at 5-6; Participant Statement at 2-4. The Postal Service responds that customers will continue to receive regular and effective services as carrier delivery will be made to roadside mailboxes close to customers' residences and that customers may opt for Post Office Box service at the Benoit post office. Postal Service Comments at 7. It noted that while seasonal hunters generally do not have a post office box, if they had general delivery, it could continue at the Benoit or another post office. *Id.* Additionally, the Postal Service suggests that the Monsanto Company can choose which delivery alternative, carrier service or a post office box, would best suit its business needs. *Id.*

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 \$46,319. Final Determination at 5. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$2,040) minus the cost of replacement service (\$0). *Id.*

Petitioner asserts that the estimated cost savings are inaccurate. Petition at 1, 6; Participant Statement 2-3. Specifically, Petitioner asserts that the savings amount is inaccurate because the amounts saved are based on the salary and benefits of a postmaster rather than an OIC, who receives a lower salary. Petition at 6. They also contend that the Postal Service's route cost analysis of zero dollars is incorrect. *Id.* The Postal Service responds that discontinuing the Scott post office would eliminate a career position, thereby allowing the Postal Service to avoid the cost of filling that position in the future. Postal Service Comments at 12. It also argues that delivery already emanates out of the Benoit post office and that it has adequately considered the alternate replacement service costs. *Id.*

Petitioner suggests that other strategies, such as entering into a no rent lease with the Monsanto Company, might reduce cost at the Scott post office and that a post office cannot be closed because of declining revenue. Petition at 6; Participant

Statement at 2, 3. The Postal Service responds that carrier service, coupled with service at the nearby Benoit post office, is a more cost-effective solution than maintaining the Scott postal facility and that its estimates are supported by record evidence. Postal Service Comments at 10. It further asserts that a variety of factors, not only declining revenue, informed the decision to discontinue the Scott post office. *Id.* at 11. Petitioner also contends that only a small amount of savings would be realized by this closure. Participant Statement at 3. The Postal Service responds that these savings can make a difference when added together with other initiatives. Postal Service Comments at 13.

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 Scott post office postmaster retired on April 30, 2010. Final Determination at 2. The post office has since been staffed by a career OIC who, upon discontinuance of the post office, may be terminated. The postmaster position and the corresponding salary will be eliminated. *See, e.g.*, Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Scott post office has been staffed by an OIC for over a year, 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 Scott post office is affirmed.

It is ordered:

The Postal Service's determination to close the Scott, Mississippi post office is affirmed.

By the Commission.

Shoshana M. Grove
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 Scott post office has been operated by a noncareer officer-in-charge (OIC) since the former postmaster retired on April 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.

In addition, the economic analysis identified in the Final Determination does not appear to fully account for the costs of replacement of rural or contract delivery service for the 96 customers currently provided post office boxes.

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.

Both the Administrative Record and the Final Determination incorrectly identify the governmental body responsible for local government, the police department and the

school district. The Petitioner also raises questions as to whether the Administrative Record accurately reflects the nature of the population in the community served by the Scott post office, and the number and composition of businesses found in the community. While the Postal Service notes that one letter within the Participant Statement supports the Postal Service's description of the community, I do not believe that this is sufficient to overcome the Petitioner's legitimate questioning of the veracity of the record. Such discrepancies and errors raise questions as to whether the impact on the community was properly examined. Therefore, 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).

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 Scott, Mississippi 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 April 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.¹ 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 Scott post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley

¹ The Postal Service's comments state that "a career employee was installed as the temporary officer-in-charge." However, the Administrative Record indicates that the only affected employee is a non-career PMR. See Administrative Record Item No. 15 at 1; *id.*, Item No. 18; *id.*, Item No. 42.