

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

Saratoga Post Office  
Saratoga, Arkansas

Docket No. A2012-21

ORDER REMANDING DETERMINATION

(Issued February 1, 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”.<sup>1</sup> The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

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

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

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 18, 2011, Dale Gathright, Jr. (Petitioner Gathright) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Saratoga, Arkansas post office (Saratoga post office).<sup>2</sup> Two additional petitions for review were received from Nelson Wheatley and Linda Wheatley.<sup>3</sup> On November 17, 2011, letters purporting to be notices of appeal were received from three postal customers.<sup>4</sup>

The Final Determination to close the Saratoga post office is remanded for further consideration.

## II. PROCEDURAL HISTORY

On October 24, 2011, the Commission established Docket No. A2012-21 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>5</sup>

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<sup>2</sup> Petition for Review received from Dale Gathright, Jr. regarding the Saratoga, Arkansas Post Office 71859, October 18, 2011 (Gathright Petition).

<sup>3</sup> Petition for Review received from Nelson Wheatley regarding the Saratoga, Arkansas Post Office 71859, November 2, 2011; Petition for Review received from Linda Wheatley regarding the Saratoga, Arkansas Post Office 71859, November 2, 2011. Both petitioners requested Commission review without identifying specific issues. Neither petitioner filed a brief or participant statement. Both petitions will be considered statements of opposition to the closing.

<sup>4</sup> Letter from Gladys Cain, November 17, 2011; Letter from Nellie Ann Motow, November 17, 2011; and Letter from Keith Fricks, November 17, 2011. While each of these letters purports to be notice of appeal, each was untimely. They were nevertheless accepted for filing and will be considered statements of opposition to the closing.

<sup>5</sup> Order No. 925, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 24, 2011.

On November 2, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>6</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>7</sup>

Petitioner Gathright filed a participant statement supporting his Petition.<sup>8</sup> On December 28, 2011, the Public Representative filed comments.<sup>9</sup>

### III. BACKGROUND

The Saratoga post office provides retail postal services and service to 102 post office box customers. Final Determination at 2. One hundred fifty-five delivery customers are served through this office. *Id.* The Saratoga post office, an EAS-11 level facility, provides retail service from 7:30 a.m. to 12:15 p.m. and 1:30 p.m. to 4:00 p.m., Monday through Friday, and 8:30 a.m. to 10:00 a.m. on Saturday. *Id.* Lobby access hours are 24 hours Monday through Saturday. *Id.*

The postmaster position became vacant on January 8, 2011, when the Saratoga postmaster resigned. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 6. Retail transactions average 15 transactions daily (17 minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$19,414 in FY 2008; \$18,204 in FY 2009; and \$18,698 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$51,129 annually. *Id.* at 5.

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<sup>6</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, November 2, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Saratoga, AR Post Office and Continue to Provide Service by Rural Route Service (Final Determination).

<sup>7</sup> United States Postal Service Comments Regarding Appeal, December 12, 2011 (Postal Service Comments).

<sup>8</sup> Participant Statement received from Dale Gathright, Jr., November 28, 2011 (Participant Statement).

<sup>9</sup> Public Representative Comments, December 28, 2011 (PR Comments). The accompanying Public Representative Motion for Late Acceptance of Comments, December 28, 2011, is granted.

After the closure, retail services will be provided by the Columbus post office located approximately six miles away.<sup>10</sup> Delivery service will be provided by rural route service through the Columbus post office. *Id.* at 1. The Columbus post office is an EAS-55 level office, with retail hours of 8:30 a.m. to 2:30 p.m., Monday through Friday, and 8:30 a.m. to 2:30 p.m. on Saturday. *Id.* Thirty-eight post office boxes are available. *Id.* The Postal Service will continue to use the Saratoga name and ZIP Code. *Id.* at 4, Concern No. 1.

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners oppose the closure of the Saratoga post office. Petitioner Gathright contends that the Postal Service failed to consider the effect of the closing on the community and on postal services. Gathright Petition at 1; Participant Statement at 1-2. He contends that the Columbus post office will be unable to accommodate the additional Saratoga customers and that the closing will create a hardship for the Saratoga community and businesses. Participant Statement at 1-2. Petitioner Gathright also suggests that the Saratoga post office should remain open because it is larger than other facilities. *Id.* at 2.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Saratoga post office. Postal Service Comments at 2. The Postal Service believes the appeal raises two main issues: (1) the effect on postal services, and (2) the impact on the Saratoga community. *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 Saratoga post office should be affirmed. *Id.* at 2.

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

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<sup>10</sup> *Id.* at 2. MapQuest estimates the driving distance between the Saratoga and Columbus post offices to be approximately 5.6 miles (10 minutes driving time).

- 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);
- 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 Saratoga 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 and effect on the Saratoga community, economic savings, and effect on postal employees. *Id.* at 2.

*Public Representative.* The Public Representative questions “whether the Postal Service adequately considered (1) its ability to provide a maximum degree of effective and regular service and (2) the potential economic savings from the closure....” PR Comments at 1. The Public Representative suggests that the Commission consider remanding the Final Determination to provide the Postal Service an opportunity to address these issues concerning effective and regular service as well as potential economic savings. *Id.* at 3.

## 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 providing notice of its intent to close. On June 8, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Saratoga post office. Final Determination at 2. A total of 260 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. *Id.* A total of 67 questionnaires were returned. *Id.* On June 23, 2011, the Postal Service held a community meeting at the Saratoga school to address customer concerns. *Id.* Seventy customers attended. *Id.*

The Postal Service posted the proposal to close the Saratoga post office with an invitation for comments at the Saratoga and Columbus post offices from June 29, 2011 through August 30, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from September 29, 2011 through October 31, 2011. 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.* Saratoga, Arkansas is an unincorporated community located in Howard County, Arkansas. Administrative Record, Item No. 16. The community is administered politically by Howard County. *Id.* Police protection is provided by the Howard County Sheriff's Office. *Id.* Fire protection is provided by the Saratoga 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. *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 Saratoga community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Saratoga 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 2-4.

Petitioner and others raised the issue of the effect of the closing on the Saratoga community. *Id.*; Gathright Petition at 1. The Postal Service contends that a community's identity derives from the interest and vitality of its residents and their use of its name. Postal Service Comments at 8. The record indicates that Saratoga customers would be able to retain the Saratoga name and ZIP Code in addresses. Final Determination at 4. The Postal Service also contends that it found no indication that the discontinuance would have an adverse effect on Saratoga businesses. *Id.*

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 Saratoga postmaster resigned on January 8, 2011 and that an OIC has operated the Saratoga post office since then. *Id.* at 2. It asserts that after the Final Determination is implemented, the temporary OIC may be separated from the Postal Service and that no other Postal Service employee will be adversely affected. *Id.* at 5.

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 Saratoga 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 Saratoga customers. Postal Service Comments at 4. It asserts that customers of the closed Saratoga post office may obtain retail services at the Columbus post office located 6 miles away. Final Determination at 2. Delivery service will be provided by rural route service through the Columbus post office. *Id.* The Saratoga post office box customers may obtain Post Office Box service at the Columbus post office. *Id.*

For customers choosing not to travel to the Columbus post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 3. 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.* at 4.

Petitioner argues that the Columbus post office is housed in a building with insufficient space and questions whether it has the capacity to accommodate new customers “based on a lack of rent boxes.” Participant Statement at 1.

The Postal Service states that “[a]lthough not raised in the record, the discontinuance coordinator has confirmed that the Saratoga Post Office Boxes located at the Saratoga Post Office will be moved to the Columbus Post Office, providing the



Columbus Post Office with a sufficient number of Post Office Boxes available for use by Saratoga customers.” Postal Service Comments at 6.

The Public Representative responds to the Postal Service by noting that Petitioner in fact expressed his concern in a letter that the Postal Service acknowledged and included in the record. PR Comments at 2 (citing Administrative Record, Item No. 38 at 5-6). The letter acknowledging receipt of Petitioner’s letter expressing concern over the number of boxes available at the Columbus post office provided no indication that the post office boxes might be moved from the Saratoga post office to the Columbus post office.

It appears from the Administrative Record that the Postal Service did not, prior to issuance of the Final Determination, consider Petitioner’s expression of concern over the adequacy of the number of post office boxes available to new customers at the Columbus post office. In most proceedings before the Commission, representations by Postal Service counsel would be accepted. However, when adjudicating appeals under section 404(d), the Commission must review the Postal Service’s determination to close a post office solely “on the basis of the record before the Postal Service in the making of [its] determination.” 39 U.S.C. § 404(d)(5). Thus, the Commission is barred from accepting counsel’s representation, particularly as it is intended to substantively address a key issue on appeal and one raised by Petitioner. Further, as noted below, the Administrative Record provides no indication that the issue of moving post office boxes from the Saratoga post office to the Columbus post office was considered. It contains no cost estimate associated with such a transfer. On remand, the issue may not prove to be significant if, for example, the available boxes at the Columbus post office satisfy the demand. On the Administrative Record before it, however, the Commission cannot conclude that the Postal Service has satisfactorily 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 \$51,129. Final Determination at 5. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$6,650). *Id.*

The Public Representative questions the accuracy of the Postal Service's estimated economic savings, noting that the Administrative Record indicates that the Postal Service will incur no additional expense in providing rural delivery service. Public Representative Comments at 2-3; see Administrative Record, Item No. 17. The Public Representative notes further that, as indicated by the record, the Saratoga facility lease does not expire until December 31, 2015 and does not contain a 30-day cancellation clause permitting termination before that date. PR Comments at 3 (citing Administrative Record, Item Nos. 15, 42). Accordingly, the Public Representative argues that the additional, ongoing lease costs should be factored into the net annual savings estimate. *Id.* at 3.

The record indicates that the lease for the Saratoga post office does not include a release clause and does not expire until December 15, 2015. Administrative Record, Item No. 15. Therefore, no savings attributable to the lease will materialize for almost 4 years. Despite what appears to be a significant potential delay in the realization of any benefits from the termination of the lease, the Postal Service presents, without explanation, immediate rental savings in its projection of economic savings. Final Determination at 5. Further, the record indicates that no additional cost or time is required for replacement service. Lastly, while the Postal Service now states in its comments that the Saratoga post office boxes will be moved to the Columbus post office (Postal Service Comments at 6), the record contains no cost estimate for this move. Although these omissions may not entirely negate any savings, the Commission cannot conclude that 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 Saratoga post office is remanded for further consideration.

*It is ordered:*

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

By the Commission.

Ruth Ann Abrams  
Acting Secretary