

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

Little America Post Office  
Little America, Wyoming

Docket No. A2012-64

ORDER DISMISSING APPEAL

(Issued February 1, 2012)

On November 14, 2011, Byron Wall (Petitioner) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Little America, Wyoming post office (Little America post office).<sup>1</sup> On November 22, 2011, the Postal Service filed a motion to dismiss this proceeding on grounds that the appeal was not timely filed.<sup>2</sup>

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<sup>1</sup> Petition for Review received from Byron Wall regarding the Little America, Wyoming Post Office 82929, November 14, 2011 (Petition).

<sup>2</sup> Motion of United States Postal Service to Dismiss Proceedings, November 22, 2011 (Motion to Dismiss). The Motion to Dismiss includes, as Exhibit 3, a copy of the cover page to the Final Determination to Close the Little America, WY Post Office and Continue to Provide Service by Highway Contract Route Service (Final Determination).

On November 29, 2011, Petitioner filed an answer to the Motion.<sup>3</sup> The Motion to Dismiss is granted.

*Procedural history.* On November 30, 2011, the Commission established Docket No. A2012-64 to consider the appeal, designated a Public Representative, and issued a procedural schedule.<sup>4</sup> Petitioner filed a participant statement supporting his Petition.<sup>5</sup> The Public Representative filed comments on January 24, 2012.<sup>6</sup>

The Commission issued an information request asking the Postal Service to provide a complete copy of the Final Determination to close the Little America post office.<sup>7</sup> On January 11, 2012, the Postal Service filed the Final Determination with the Commission.<sup>8</sup>

*Commission analysis.* The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section states that a decision to close a post office may be appealed to the Commission within 30 days after the determination to close is made available to persons served by the post office. Appeals that are mailed to the Commission are considered received on the postmark date. 39 U.S.C. § 404(d)(6)(A).

The Final Determination was posted at the Little America and Rock Springs post offices from August 29, 2011 through September 30, 2011. Postal Service Response at 2-3. The deadline for appealing the Final Determination was September 28, 2011.

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<sup>3</sup> Answer of Petitioner to Motion of United States Postal Service to Dismiss Proceedings, November 29, 2011. In his answer, Petitioner does not address the timeliness issue raised in the Motion to Dismiss.

<sup>4</sup> Order No. 1006, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 30, 2011.

<sup>5</sup> Participant Statement received from Byron Wall, December 29, 2011.

<sup>6</sup> Public Representative Comments, January 24, 2011.

<sup>7</sup> Commission Information Request No. 1, January 10, 2012.

<sup>8</sup> United States Postal Service Response to Commission Information Request No. 1, January 11, 2012 (Postal Service Response).

See 39 U.S.C. § 404(d)(5). Under section 404(d)(6)(A), the Commission received the Petition on November 3, 2011.<sup>9</sup>

Petitioner explains that he initially sent two letters of appeal to the Post Office Review Coordinator. Petition at 1. He asserts that he was told to send appeals there, but later discovered that appeals should be submitted to the Commission. *Id.*

The Final Determination includes a notice informing customers of their appeal rights. Final Determination at 7. More specifically, the notice states that any person served by the Little America post office may appeal the decision to close that facility to the Commission within 30 days of the date the Final Determination is posted. *Id.* The notice, which is required by Postal Service regulations (39 CFR 241.3(f)(2)(ii)), also provided the Commission's mailing address.

The Postal Service adhered to its regulations and provided prospective appellants with notice of their appeal rights. The Motion to Dismiss is granted, and the appeal is dismissed as untimely. Docket No. A2012-64 is closed.

*It is ordered:*

1. The Motion of United States Postal Service to Dismiss Proceedings, filed November 22, 2011, is granted.
2. Docket No. A2012-64 is closed.

By the Commission.

Ruth Ann Abrams  
Acting Secretary

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<sup>9</sup> The Postal Service provides a copy of the Express Mail envelope Petitioner used to mail his appeal, which was postmarked on November 3, 2011. Motion to Dismiss, Exhibit 1.