

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

Deering Post Office  
Deering, Missouri

Docket No. A2012-58

ORDER REMANDING DETERMINATION

(Issued February 24, 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, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

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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'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 November 7, 2011, Douglas James (Petitioner) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Deering, MO post office (Deering post office).<sup>2</sup> The Final Determination to close the Deering post office is remanded for further consideration.

## II. PROCEDURAL HISTORY

On November 22, 2011 the Commission established Docket No. A2012-58 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>3</sup>

On November 22, 2011 the Postal Service filed the Administrative Record with the Commission.<sup>4</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>5</sup>

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<sup>2</sup> Petition for Review received from Douglas James regarding the Deering, MO Post Office 63840, November 7, 2011 (Petition).

<sup>3</sup> Order No. 992, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 22, 2011.

<sup>4</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, November 22, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Deering, MO Post Office and Establish Service by Rural Route Service (Final Determination). The Postal Service filed an erratum to the Administrative Record on November 25, 2011. The Postal Service then filed a supplement to the Administrative Record on December 28, 2011, Finally, the Postal Service filed an erratum to the supplement to the Administrative Record on January 10, 2012,

<sup>5</sup> United States Postal Service Comments Regarding Appeal, January 3, 2012 (Postal Service Comments).

Petitioner did not file a participant statement or a reply brief. On January 18, 2011, the Public Representative filed Reply Comments.<sup>6</sup>

### III. BACKGROUND

The Deering post office provides retail postal services and service to 70 post office box or general delivery customers.<sup>7</sup> No delivery customers are served through this office. Final Determination at 2. The Deering post office, an EAS-55 level facility, provides retail service from 8:30 a.m. to 2:00 p.m. Monday through Saturday. *Id.* Lobby access hours are 24 hours daily Monday through Saturday. *Id.*

The postmaster position became vacant on October 10, 2008 when the Deering postmaster was promoted. *Id.* at 2. A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* Retail transactions average 11 transactions daily (10 minutes of retail workload). *Id.* Office receipts for the last 3 years were \$13,191 in FY 2008; \$16,169 in FY 2009; and \$12,230 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$33,664 annually. *Id.* at 7.

After the closure, retail services will be provided by the Wardell post office located approximately 17 miles away.<sup>8</sup> Delivery service will be provided by rural carrier through the Wardell post office. *Id.* The Wardell post office is an EAS-13 level office, with retail hours of 8:30 a.m. to 4:00 p.m. Monday through Friday, and 8:30 a.m. to 9:00 a.m. on Saturday. *Id.* Forty post office boxes are available. *Id.* Retail service is also available at the Braggadocio post office, an EAS-11 level office, located approximately

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<sup>6</sup> Comments of the Public Representative, January 18, 2012 (Public Representative Reply Comments).

<sup>7</sup> Final Determination at 2. While the Final Determination states that there are 70 post office box customers, the Administrative Record also indicates that there are 67 post office box customers. It is unclear from the record which number is correct. *Compare* Administrative Record, Item Nos. 1, 7; 8 at 1, and 13 at 2.

<sup>8</sup> *Id.* at 2. MapQuest estimates the driving distance between the Deering and Wardell post offices to be approximately 16.5 miles (23 minutes driving time).

four miles away.<sup>9</sup> *Id.* at 2. Window service hours at the Braggadocio post office are from 7:30 a.m. to 4:30 p.m. Monday through Friday and 7:30 a.m. to 8:30 a.m. on Saturday. *Id.* There are 66 post office boxes available for rent. *Id.*

The Postal Service will continue to use the Deering name and ZIP Code. *Id.* at 6, Concern No. 7.

#### IV. PARTICIPANT PLEADINGS

*Petitioner.* Petitioner opposes the closure of the Deering post office. Petitioner argues that the distance between the Deering and Wardell post offices, (17 miles and requiring a 34 mile round trip), is too far to provide effective postal service for Deering customers. Petition at 1. Petitioner adds that this would result in extreme inconvenience for the community's elderly residents, disabled residents, lower income families, the school, and the Deering business community. *Id.* Finally, Petitioner questions why the Postal Service did not consider alternatives to closing the Deering post office, such as reducing hours of operation. *Id.*

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Deering 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 Deering community, and (3) the economic savings expected to result from discontinuing the Deering 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 Deering post office should be affirmed. *Id.* at 12.

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<sup>9</sup> *Id.* at 2. MapQuest estimates the driving distance between the Deering and Braggadocio post offices to be approximately 3.9 miles (7 minutes driving time). There appear to be some inconsistencies between the Postal Service's estimated distances in the Administrative Record and MapQuest's. The Postal Service's record contains addresses that MapQuest is unable to locate, and handwritten notes correcting certain mileages from those identified on its website, as well as a 4.9 miles distance between the Deering and Braggadocio post offices. See Administrative Record, Item No. 3, at 3. However, the Final Determination states that the Braggadocio post office is located 4 miles away. Final Determination at 2.

The Postal Service explains that its decision to close the Deering 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);
- very little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

*Id.* at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the Deering community when the Final Determination is implemented. *Id.* at 5.

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 Deering community, economic savings, and effect on postal employees. *Id.* at 2.

*Public Representative.* The Public Representative concludes the Postal Service followed all applicable procedures. Public Representative Comments at 1. However, he highlights two uncontested facts for the Commission's consideration.

First, he notes that the administrative office, the Wardell post office, is located an inordinate distance (17 miles) from the Deering post office, notwithstanding that the Braggadocio post office is located only 4 miles away. While he further notes that the Braggadocio post office is on the Retail Access Optimization Initiative (RAOI) to be considered for closing, he contends that the Postal Service has not explained its choice of such a distant administrative office. *Id.* at 1-2.

Second, the Public Representative observes that the Deering post office has 70 post office box customers. *Id.* at 2. However, the Wardell post office has only 40 available post office boxes for rent, and the nearby Braggadocio post office has 66 post office boxes available. *Id.* The Public Representative notes that both post offices have

fewer post office boxes available than are needed to serve Deering postal customers, and the fact that the Braggadocio post office may close increases the likelihood of a shortage of post office boxes. *Id.* He states that the Postal Service fails to address this disparity in either its Final Determination or Comments. *Id.*

The Public Representative suggests the Commission consider remanding the Final Determination to provide the Postal Service an opportunity to address the distance issue, as well as the issues concerning effective and regular service. *Id.* at 2.

## 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.

This proceeding presents an unusual factual circumstance which requires that the matter be remanded to the Postal Service.

Under section 243 of the Postal Service's Handbook PO-101, August 2004, if a decision is made to continue proceeding with a discontinuance investigation, the Operations manager must "then develop a questionnaire and send it to customers for additional information and comments."

In this case, the cover letter accompanying the questionnaires sent to customers of the Deering post office, dated June 16, 2011, informed them that the Postal Service

“would like to provide pickup and delivery of your mail, as well as the sale of stamps and all other customary postal services, by rural route service emanating from the Bragg City Post Office.” Administrative Record, Item 21 at 1. However, in its official proposal to close the Deering post office, which was posted July 13, 2011 at the Deering, Braggadocio, and Wardell post offices, the Postal Service changed what was stated in its questionnaire cover letter to Deering post office customers. The official proposal states that it [Postal Service] is “proposing to close the Deering, MO Post Office and provide delivery and retail services by rural route service under the administrative responsibility of the Wardell Post Office, located 17 miles away.” *Id.*, Item 33 at 2.

The change in the proposed administrative office denied the customers an opportunity to inform the Postal Service about concerns they might have had regarding the selection of the Wardell post office before the closure proposal was posted on July 13, 2011. Although the record does not indicate why the Wardell post office was selected instead of the Bragg City post office, the Commission notes that the Bragg City post office is on the RAOI as a candidate for review to be discontinued. Moreover, the record identifies other more nearby post offices. However, there is no discussion of any of these offices as a possible administrative office.<sup>10</sup> Because the Wardell post office is 17 miles away from the Deering post office, the change in administrative responsibility from the Bragg City post office, which is 10.8 miles from Deering versus the actual selection of a post office 17 miles away, is an important fact that should have been revealed to Deering post office customers prior to the closure proposal.<sup>11</sup>

In addressing customers’ concerns, the Postal Service refers rather generically to an administrative office without identifying either the specific office or that it had

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<sup>10</sup> See Administrative Record, Item No. 4, which, in addition to the Bragg City and Braggadocio post offices, lists the Gobler and Steele post offices, located 3.5 and 8.1 miles, respectively, from the Deering post office. The Gobler post office is on the RAOI.

<sup>11</sup> While letters responding to other customer questionnaires dated June 21, 2011 also state that the formal proposal would be posted in the Bragg City, Braggadocio, and Deering post offices, a letter sent to other customers dated July 12, 2011 state that the proposal would be posted in the Wardell, Braggadocio, and Deering post offices. Administrative Record, Item No. 22. The closure proposal was posted on July 13, 2011.

changed. See Administrative Record, Item No. 23 and Final Determination at 3, 6 Customers expressed concerns about traveling to Bragg City to pick up their mail. Administrative Record, Item No. 22 at 13. The Postal Service's responses do not indicate that the premise for the comment is wrong and respond as if it is immaterial that the distance to Wardell is seven miles greater than the distance to Bragg City. Final Determination at 2-5. In this case, the Postal Service should have provided a more informative response that indicated the actual alternatives available to them.

Issues with the Administrative Record make it difficult for the Commission to determine if the Postal Service provided proper notice to customers. The Postal Service filed three versions of the Administrative Record with the Commission. The first version, while substantially incomplete, contained a complete proposal to close the Deering post office, Item 41. When the Postal Service filed a supplement to the Administrative Record, Item 41 was missing a page that was contained within the first filing. The Postal Service then had to file an erratum to the Administrative Record to include the missing page. Moreover, the complete record contains both a proposal to close and a revised proposal to close the post office; however, based on the dates of the documents, both appear to have been posted during the exact same time period, and both appear to contain the exact same language.<sup>12</sup> It is unclear what the purpose of the revised version was. This makes the Commission question if this is an Administrative Record that can be relied upon by the Commission in reviewing the Postal Service's decision.

Based on the record before it, the Commission cannot conclude that the Postal Service has satisfied 39 U.S.C. § 404(d). Accordingly, the determination to close the Deering post office is remanded to the Postal Service for further consideration.

Aside from the issues with notice, a review of the record raises several concerns which merit attention on remand.

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<sup>12</sup> See Proposal to Close the Deering, MO Post Office and Establish Service by Rural Route Service, Administrative Record, Item No. 33; Proposal to Close the Deering, MO Post Office and Establish Service by Rural Route Service (Revised), Administrative Record, Item No. 41.



*Effective and regular service.* Both Petitioner and the Public Representative argue that the Wardell post office is too distant from Deering for customers to retrieve undeliverable packages or accountable mail. Petition at 1. PR Reply Comments at 1-2. The Public Representative also notes that the Postal Service never explained the reason for assigning administrative office delivery service duties to a post office that is so distant from the Deering post office. PR Reply Comments at 1-2.

The Postal Service indicates it intends to provide rural route delivery emanating from the Wardell post office. This may be adequate. However, there is some ambiguity in the record regarding two issues. First, as the Public Representative notes, there are only 40 post office boxes available at Wardell compared to 70 (or 67) at Deering. Retail services are also available at the Braggadocio post office, which has 66 post office boxes available.<sup>13</sup> The record does not address the shortfall in the number of boxes available to Deering customers. It may be that there will be adequate service available, but from this record the Commission cannot conclude if there will be effective and regular service. On remand, the Postal Service should provide a more robust discussion of all the alternatives available to provide customers with effective and regular service.

Second, it appears from the record that the Postal Service does not intend to install cluster box units (CBUs). However, the Final Determination states that an advantage of the proposal is that CBUs can offer security. Final Determination at 5. Despite this statement, nowhere in the Administrative Record or Final Determination is there a proposal to install CBUs. On remand, the Postal Service should clarify whether CBUs will be installed. If so, it should include an estimate of the installation costs.

*Economic savings.* The Postal Service estimates total annual savings of \$33,664. Final Determination at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,064) and annual lease costs (\$3,600). *Id.*

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<sup>13</sup> The Public Representative observes that the Braggadocio post office, which has 66 post office boxes available, is one of the low volume offices being considered for possible discontinuance under the Retail Access Optimization Initiative. Public Representative Reply Comments at 2.

The Postal Service is required to accurately analyze the economic savings likely to result from the closure of the Deering post office. However, two concerns regarding economic savings are raised by the Administrative Record. First, the estimated savings fail to include any costs for replacement service. While the Rural Route Cost Analysis Form indicates that rural route service would cost approximately \$4,900 annually, this figure is not reflected in the Final Determination. Administrative Record, Item No. 17, at 2. Although this inconsistency may not entirely negate any savings, it raises concerns about the adequacy of the Postal Service's procedures.

Second, the lease expires December 31, 2015, but does not contain an early termination clause. *Id.*, Item No. 15. On remand, the Postal Service should include in its economic savings estimate any additional expenses incurred from closing the Deering post office, including lease payments or termination fees.

Observance of procedures in post office closing cases is necessary to ensure the development of an adequate and reliable Administrative Record. The Administrative Record provides the Postal Service with the information needed to make an informed decision, and the Commission relies upon it in reviewing the Postal Service's decision.

*It is ordered:*

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

By the Commission.

Ruth Ann Abrams  
Acting Secretary