

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Complaint of AdvoCare, Inc.

Docket No. \_\_\_\_ - \_\_\_\_\_

COMPLAINT OF ADVOCARE, INC.  
REGARDING POST PLAN REALIGNMENT OF GREAT CACAPON POST OFFICE,  
WV 25422

October 26, 2012

AdvoCare, Inc  
Keith William DeBlasio, Director  
15-A Candlewood Lane  
PO Box 22  
Great Cacapon, WV 25422  
202-271-1623  
202-204-6038 (Fax)  
keith@smartoncrimesolutions.org

As the Executive Director of a nonprofit corporation served by the Great Cacapon Post Office, WV, as well as a resident served by the Great Cacapon Post Office, I wish to appeal the United States Postal Service's (USPS) decision to approve the POST Plan realignment of service hours to eliminate a full-time position for the Great Cacapon Post Office located at 5010 Central Avenue, Great Cacapon, WV 25422-9998 and reduce the weekday window service hours.

The Postal Reorganization Act calls for the Postal Service to “provide a maximum degree of effective and regular postal service to rural areas, communities and small towns...” (39 U.S.C. §101(b)). The Act even requires this where, unlike the revenue producing Great Cacapon Post Office, “the post office is not self-sustaining.” In addition, in seeking community input in order to “determine the best course of action for providing postal services to [our] community,” the Postal Service gave the community options for a discontinuance study **ONLY** if they elected options for closing or transferring the facility operation without permitting us the procedural safeguards, notice, disclosure, and compliance of 39 C.F.R. §241.3.

I know that, once we are deprived of our present post office, we no longer come under the protection of the Postal Reorganization Act and our community is then at the mercy of the Postal Service and other private carriers. However, 39 U.S.C. §403(c) specifically requires that “[in providing **services** and in **establishing classifications**, rates, and fees under this title, the Postal Service **shall not**, except as specifically authorized in this title, **make any undue or unreasonable discrimination among users of the mails**, nor shall it grant any undue or unreasonable preferences to any such user.” It is my position Postal Service’s POST Plan does just that, in violation of the Code.

Further, it is my contention that, had the Letter and Survey (Exhibit A) to the citizens served by the Great Cacapon Post Office, dated 19 September 2012, not been misleading and had that Survey clearly set forth that the citizens served could elect for a discontinuance study complete with the requirements of 39 C.F.R. §241.3(3), that the alleged Survey Results (Exhibit B) presented on 24 October 2012, and used in the Postal Service's decision, would have produced a much different result.<sup>1</sup> Therefore, I add to the issues of this appeal that the Postal Service was intentional deceptive in order to avoid compliance with the Code of Federal Regulations.

It is the intent of this appeal to obtain the appropriate discovery and demonstrate that the Postal Service's realignment of the Great Cacapon Post Office, as well as the procedures utilized, violate the protections 39 U.S.C. §101(b), 39 U.S.C. §403(c), and 39 C.F.R. §241.3(3). In addition, the discovery and study of the financial stability of the Great Cacapon Post Office could reveal that, not only is the Great Cacapon Post Office self-sustaining, as has been admitted by the Postal Service, making this decision arbitrary and discriminatory, but that the overuse of the Postal Service to deliver private carrier mail in this rural area violates the Postal Service's responsibility to not give advantage or disadvantage to other carriers.

**I. The United States Postal Service's (USPS) decision to approve the POST Plan realignment of service hours to eliminate a full-time position for the Great Cacapon Post Office located at 5010 Central Avenue, Great Cacapon, WV 25422-9998 has made an undue and unreasonable discrimination among the local rural users of the mails, granted undue or unreasonable preferences to**

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<sup>1</sup> The survey results presented to the community are also in question as to accuracy and full disclosure, since, in the Complainant's view, many of the completed surveys, while indicating a selection of Item 1, were further defined in the Additional Comments section to indicate that those community members were not actually choosing the "Realignment of Hours" option, but rather an additional alternative; and it is the Complainant's belief that more than five surveys were submitted with "No Selection Made".

**other users, and failed to properly assess the needs and interests of the service community when determining the POST Plan realignment of weekday window service hours.**

- 1) The United States Postal Service's (USPS) decision to approve the Post Plan realignment of service hours to eliminate a full-time position for the Great Cacapon Post Office has created hours not tailored to the community's needs, apparently designed to eliminate the eight (8) hour work day so as to eliminate a full-time position instead of acknowledging the communities interest and needs in maintaining the weekday service hours, and thereby violates 39 U.S.C. §403(c).<sup>2</sup>
- 2) The United States Postal Service's (USPS) decision to approve the POST Plan realignment and reduction of service hours while maintaining similar full service hours in other facilities based on location and size of the community, as opposed to the positive financial income, violates 39 U.S.C. §403(c).<sup>3</sup>
- 3) In surveying the local community and posting information at the Great Cacapon POST Office, the United States Postal Service (USPS) failed to properly assess the needs and interests of the service community, provide adequate options and cost consideration, consider the positive financial income of the facility, incorporate the community input, and consider alternative means of offsetting costs.
- 4) In seeking community input in order to "determine the best course of action for providing postal services to [our] community," the Postal Service gave the community options for a discontinuance study **ONLY** if they elected options for closing or transferring the facility operation, effectively a final discontinuance,

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<sup>2</sup> "In providing services ..., the Postal Service shall not, ...make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user."

<sup>3</sup> "In providing services ..., the Postal Service shall not, ...grant any undue or unreasonable preferences to any such user."

without permitting us the procedural safeguards, notice, disclosure, and compliance of 39 C.F.R. §241.3.

**II. The United States Postal Service (USPS) announced at the meeting on 24 October 2012 that the POST Plan realignment was a final decision and informed the community of the intended new service hours**

- 5) The community input indicated that the needs of the community would be better met by maintaining the full-time weekday window service hours and either eliminating weekend window service hours or considering additional income sources such as increasing contract rates for SmartPost, which is so frequently utilized in this rural community, or increasing box rentals; although neither options would appear necessary given the financial stability of the Great Cacapon Post Office.
- 6) The Great Cacapon Post Office operates “in the black” producing revenue and maintaining a balanced budget, which would eliminate the need to consider reductions to this facility based on any legitimate governmental objective. In fact, based on revenue reports, it would be more effective to consider the elimination or consolidation of other postal units with negative balance sheets.
- 7) With a letter dated 19 September 2012, the United States Postal Service (USPS) announced its intent to reduce the hours of window service each weekday to six (6) hours while maintaining Saturday window service hours unless the community had a strong preference for conducting a discontinuance study for the Great Cacapon Post Office.
- 8) The letter indicated that the United States Postal Service (USPS) was soliciting the community input in order to “determine the best course of action for providing postal services to [our] community.” However, the course of action was

apparently predetermined long before the notice, survey, and request for input, and certainly before the meeting scheduled on 24 October 2012, as is evidenced by the United States Postal Service's (USPS) prepared presentation to the community.

- 9) The survey was misleading to the public even though it allowed the community choose to conduct a discontinuance study, each of those options were connected to what appeared to be an automatically coupled negative outcome and definitive closing of the Great Cacapon Post Office. The survey completely failed to provide the community with notice that opting for a discontinuance study would not automatically create one of the negative outcomes provided in the survey choices, but instead would have initiated the protections and requirements of 39 CFR § 241.3.
- 10) At the meeting of 24 October 2012, with approximately 150 of the residents served in attendance, the "local management" delivered the news that, while the community's feedback was being recorded, the changes were a "done deal."

**III. The United States Postal Service's (USPS) decision to approve the POST Plan realignment has a substantial negative impact on business, the economic stability of the community, as well as the wellbeing of our citizens.**

- 11) The Great Cacapon Post Office is one of only two remaining direct retail business locations left within the community. Reducing the business hours of the Great Cacapon Post Office will not only inevitably reduce the revenue produced by the Post Office, itself, as well as the United States Postal Service (USPS), overall, but the reduced weekday hours will potentially result in the reduced traffic into town that supports a small local deli.

- 12) The realignment of weekday window service hours will cause at-home operations, such as AdvoCare, and wholesale business operators within the community to increase their overall expenses to travel further to another United States Postal Service (USPS) location or increase their costs by forcing them to use site pick-up service from other providers.<sup>4</sup>
- 13) The alternate locations for United States Postal Service (USPS) include locations that require navigating more ominous roads, due to the location of Great Cacapon between two mountain ridges. Both with stressed time limitations and inclement weather conditions, travel to the other United States Postal Service (USPS) locations will present drastically increased hazards.
- 14) This Complainant operates with both elderly and handicapped volunteers, as is represented by many in the community, who will be faced with increased hardships in operating within the realigned structure and limited hours.

**IV. The Complainant is representative of several classes of persons known to be similarly affected by the issues involved in the complaint.**

- 15) The Complainant is representative of individual community members and citizens.
- 16) The Complainant is representative of at-home businesses.
- 17) The Complainant is representative of nonprofit entities.
- 18) The Complainant is representative of volunteers
- 19) The Complainant is representative of elderly and the handicapped.

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<sup>4</sup> It is worthwhile to note that this rural community has limited internet access, making online services an unavailable option for many. Some areas cannot receive internet service or the costs are extremely burdensome and limited due to the satellite option being the only internet service available with a limited broadband usage.

**V. The Complainant expects to obtain the following evidentiary support to support the facts alleged in the complaint:**

- 20) Financial reporting particular to the Great Cacapon Post Office.
- 21) Financial comparisons to other United States Postal Service (USPS) locations not targeted for realignment.
- 22) Data and financials on the use of services that may provide additional supporting revenue, such as SmartPost.
- 23) The methodology used to support the United States Postal Service's (USPS) decision to approve the POST Plan realignment of service hours.
- 24) The procedures implemented in gathering the community data.
- 25) Copies of the surveys and/or specific survey data, including the "Additional Comments" provided.
- 26) The record created by the United States Postal Service (USPS) for the public meeting of 24 October 2012.

**VI. The Complainant contends that the additional facts to support the aforementioned claims, which are within the custody and control of the United States Postal Service (USPS), have not been made public or appropriately disseminated to reflect location revenue and impact.**

**VI. To the best of the Complainant's knowledge the issues presented are not pending in nor have they been resolved by an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party.**



- VII. The Complainant's request for relief is to have the Great Cacapon Post maintained at its status quo with full-time weekday window service hours and its full-time staff.**
- VIII. The Complainant hereby certifies that prior to filing, the complainant attempted to meet or confer with the Postal Service's General Counsel to resolve or settle the complaint and that, after being directed to unavailable staff where voicemail messages were left, the Complainant received no reply.**
- IX. The Complainant hereby certifies that the complaint has been served on the United States Postal Service by emailing it to [PRCCOMPLAINTS@usps.gov](mailto:PRCCOMPLAINTS@usps.gov).**

Respectfully Submitted,



Keith William DeBlasio, Director  
AdvoCare, Inc  
15-A Candlewood Lane  
PO Box 22  
Great Cacapon, WV 25422  
202-271-1623  
202-204-6038 (Fax)  
[keith@smartoncrimesolutions.org](mailto:keith@smartoncrimesolutions.org)



# EXHIBIT A

1 of 2

GREAT CACAPON - PO REVIEW  
PO BOX 59992  
CHARLESTON WV 25350-9992



POSTAL CUSTOMER  
PO BOX 22  
GREAT CACAPON WV 25422-0022

09/19/2012

Dear Customer:

The Postal Service has established a review process for certain Post Offices known as the POST Plan. The Great Cacapon Post Office was among the offices evaluated under the POST Plan criteria. The Postal Service is now soliciting community input through the enclosed survey to help determine the best course of action for providing postal services to your community.

After receiving the results of this survey, the Postal Service will examine the responses and, unless the community has a strong preference (more than 60 percent) for conducting a discontinuance study for the Great Cacapon Post Office and establishing one of the additional sources of services described below, the Postal Service intends to maintain the Great Cacapon Post Office with 6 hours of window service each weekday. Current Saturday window service hours and access to delivery receptacles will not change as a result of the POST Plan realignment of weekday window service hours.

In addition to this survey, the Postal Service will hold a meeting at Great Cacapon Head Start at 217 Spring St, Great Cacapon WV, 25422 on 10/24/2012 at 5:00 PM to answer questions and provide additional information about POST Plan. At the meeting, local management will share the results of the survey, answer questions, and solicit input regarding the time of day the Post Office will be open. Although survey results will be known and shared, the Postal Service will not make a final decision regarding this office until after the public meeting. This will enable the Postal Service to obtain all community input and opinions, from both the surveys and the meeting, before making a final decision.

The Postal Service is also seeking locally established businesses or organizations to serve as contractor-operated postal retail units in communities like yours. If you are interested in operating a postal retail unit, please visit the website at <http://about.usps.com/news/electronic-press-kits/expandedaccess/welcome.htm> for additional information. Generally, these contractor-operated postal retail units will operate in combination with a community's Post Office. However, selection of the third option in the attached survey indicates a preference of your Post Office to be studied for discontinuance with the establishment of a contractor-operated unit as a replacement for the Post Office.

Please return the enclosed survey in the postage-paid envelope provided by 10/10/2012. We kindly request the inclusion of your mailing address so that we can ensure that one survey response is submitted per address. Please note that your response may be entered into a publicly accessible record.

Thank you for your cooperation.

Sincerely,

Paul Bradshaw  
Appalachian District Coordinator



GREAT CACAPON - PO REVIEW  
PO BOX 59992  
CHARLESTON WV 25350-9992



GREAT CACAPON - PO REVIEW  
PO BOX 59992  
CHARLESTON WV 25350-9992

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POST Plan Customer Survey - Great Cacapon Post Office 25422

I. Enter your mailing address here: \_\_\_\_\_

II. Please select the alternative below which you most prefer (choose only one):

1.  Keep the office open, but with realigned weekday window service hours, based on actual office workload. In the case of the Great Cacapon Post Office, hours would be changed from 8 hours each weekday to 6 hours each weekday. Current Saturday window service hours will not change as a result of POST Plan and access to your delivery receptacles will not be impacted by POST Plan.
2.  Conduct a discontinuance study for the office and provide roadside mailbox delivery. Retail and delivery service would be provided through a rural carrier. Mail delivery points will be established or maintained and customers can purchase most postal services through the carrier or other alternate access points. If you currently receive delivery service, Post Plan will not affect that service.
3.  Conduct a discontinuance study for the office and find a suitable alternative location operated by a contractor, usually at a local business. When businesses are found that meet the criteria, these establishments are contracted through the United States Postal Service and offer stamps and flat rate products with service hours generally more expansive than what the local Post Office may be able to offer.
4.  Conduct a discontinuance study for the office and relocate P.O. Box service to a nearby Post Office.



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III. In the event that window service hours are changed to 6 hours per weekday, please indicate your preferences for weekday window service hours. Please note that the "box up" time (i.e. the time when mail is normally delivered to mail receptacles) will likely be affected by the range of hours selected.

My preference for window service hours each weekday would be: \_\_\_\_\_

IV. Additional Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## Great Cacapon Post Office

25422

Potential Retail Operating Hours 6

### Survey Results

After surveying the local community and posting information at the Great Cacapon Post Office, the results of the survey are as follows:

Number of Customer Surveys Mailed: 860

Total Number of Surveys Returned: 376

Total	Percent	
362	96%	Realignment of Hours
4	1%	Delivery Option
2	1%	Village Post Office Option
3	1%	Nearby Post Office Option
5	1%	No Selection Made

If you did not get an opportunity to complete the survey, please fill one out while you are here.

After reviewing the surveys that were returned, and taking into account Postal Service operational needs, retail hours for this location will likely be:

Mon-Fri 09:00 am to 4:15 pm with lunch from 1:00 pm to 2:15 pm

Sat 08:00 am to 11:00 am

Total Saturday window service hours will not be reduced and access to delivery receptacles will not change as a result of the POST Plan realignment of weekday window service hours. We will take into account all information received at this meeting before making a final decision. Access to delivery receptacles will not be reduced from current hours.

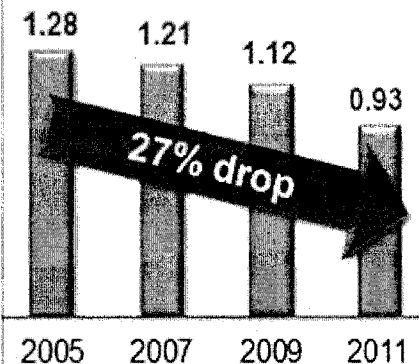
For additional information, please go to <https://usps.com/ourfuturenetwork> and click on the link under "Preserving Post Offices"

### NEARBY POST OFFICES/ALTERNATIVE OPTIONS

	Miles Away
BERKELEY SPRINGS	6
PAW PAW	15



Customer Retail Visits (billions)



### VILLAGE POST OFFICE

Village Post Offices are located within existing communities in a variety of locations, such as local retailers, libraries, town halls or government centers, and are run by the proprietor or respective management.



# EXHIBIT B