

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Robert G. Taub, Vice Chairman;  
Mark Acton; and  
Nanci E. Langley

Glenoaks Station Post Office  
Burbank, California

Docket No. A2013-5

ORDER AFFIRMING DETERMINATION

(Issued October 31, 2013)

I. INTRODUCTION

On July 3, 2013, Sharyn Engel, Linda Ly, Sharon Wright, Anna May Nelson, and Charlotte E. Costan filed petitions with the Commission seeking review of the Postal Service's Final Determination to close the Glenoaks station post office (Glenoaks).<sup>1</sup>

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<sup>1</sup> Petition for Review Received from Sharyn Engel Regarding Glenoaks Station Post Office, Burbank, CA 91504; Petition for Review Received from Linda Ly Regarding Glenoaks Station Post Office, Burbank, CA 91504; Petition for Review Received from Sharon Wright Regarding Glenoaks Station Post Office, Burbank, CA 91504; Petition for Review Received from Anna May Nelson Regarding Glenoaks Station Post Office, Burbank, CA 91504; Petition for Review Received from Charlotte E. Costan Regarding Glenoaks Station Post Office, Burbank, CA 91504. All filed on July 3, 2013.

Additional petitions for review were received from Victoria Lova, Sharon Galluccio, George E. and Shari Bloch, and Marlene Keables Benda.<sup>2</sup> Collectively, the interested persons filing petitions shall be referred to as Petitioners. The Final Determination to close the Glenoaks station post office is affirmed.

## II. PROCEDURAL HISTORY

On July 5, 2013, the Commission established Docket No. A2013-5 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 July 15, 2013, the Postal Service filed the Administrative Record with the Commission.<sup>4</sup> On this same date, the Postal Service filed a motion to dismiss the proceedings.<sup>5</sup>

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<sup>2</sup> Petition for Review Received from Victoria Lova Regarding Glenoaks Station Post Office, Burbank, CA 91504, July 8, 2013; Petition for Review Received from Sharon Galluccio Regarding Glenoaks Station Post Office, Burbank, CA 91504, July 19, 2013; Petition for Review Received from George E. and Shari Bloch Regarding Glenoaks Station Post Office, Burbank, CA 91504, July 19, 2013; Petition for Review Received from Marlene Keables Benda Regarding Glenoaks Station Post Office, Burbank, CA 91504, July 19, 2013.

<sup>3</sup> Order No. 1772, Notice and Order Accepting Appeal and Establishing Procedural Schedule, July 5, 2013; Notice of Errata, July 16, 2013.

<sup>4</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing Administrative Record, July 15, 2013; United States Postal Service Notice of Filing of Supplemental Documents for Inclusion in the Administrative Record, July 18, 2013; United States Postal Service Notice of Filing of Supplemental Documents for Inclusion in the Administrative Record, July 19, 2013; (Collectively, the Administrative Record). The Administrative Record includes, as Item No. 38, the Final Determination to Close the Glenoaks, CA Station and Continue to Provide Service by City Delivery (Final Determination).

<sup>5</sup> Motion of the United States Postal Service to Dismiss Proceedings, July 15, 2013; Notice of the United States Postal Service of Filing Errata, July 18, 2013 (Collectively, Motion to Dismiss).

Petitioner Benda and the Public Representative filed answers to the Postal Service's Motion to Dismiss.<sup>6</sup> The Postal Service filed a surreply addressing the Benda Answer.<sup>7</sup>

Petitioners Victoria Lova, Sharon Galluccio, and Sharon Wright filed participant statements supporting their petitions.<sup>8</sup> The Public Representative filed comments.<sup>9</sup> Petitioner Benda filed a response addressing the PR Comments.<sup>10</sup>

### III. BACKGROUND

The Glenoaks station post office provides retail postal services, and general delivery or Post Office Box (P.O. Box) service to 416 customers. Final Determination at 1. No delivery route customers are served through this office. *Id.* at 1. The Glenoaks station post office provides retail service from 9:00 a.m. to 5:00 p.m., Monday through Friday, and is closed on Saturday. *Id.*

Office receipts for the last 5 years were \$1,219,252 in FY 2008; \$976,274 in FY 2009; \$906,510 in FY 2010; \$930,481 in FY 2011; and \$877,111 in FY 2012. *Id.* By closing this office, the Postal Service anticipates savings of \$740,270 over 10 years. *Id.* at 3.

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<sup>6</sup> Reply to the United States Postal Service Motion to Dismiss, July 29, 2013 (Benda Answer); Public Representative Response to United States Postal Service Motion to Dismiss Proceedings, July 23, 2013 (PR Answer). Three pleadings, including the Benda Answer and the Benda Response, see n.10, *infra*, were submitted on behalf of petitioner Benda by Steve Hutkins. While Mr. Hutkins may submit comments on his own behalf in post office appeals proceedings pursuant to 39 C.F.R. § 3025.14(a), he may not do so on behalf of another person except as provided in 39 C.F.R. § 3001.6. The Commission waives this limitation for purposes of this proceeding.

<sup>7</sup> Surreply of the United States Postal Service to Dr. Hutkin's Reply, August 5, 2013 (Postal Service Surreply). This was accompanied by Motion of United States Postal Service for Leave to Surreply, August 5, 2013. This motion is granted.

<sup>8</sup> Participant Statement Received from Victoria Lova, July 31, 2013; Participant Statement Received from Sharon Galluccio, July 31, 2013; Participant Statement Received from Sharon Wright, August 5, 2013.

<sup>9</sup> Public Representative Comments, August 15, 2013 (PR Comments).

<sup>10</sup> Response to Public Representative Comments, August 19, 2013 (Benda Response); see n.6, *supra*. The Benda Response was accompanied by Motion for Leave to Reply to Public Representative Comments, August 19, 2013. This motion is granted.

After the closure, retail services will be provided by the Burbank post office located approximately 1 mile away.<sup>11</sup> Delivery service will be provided by city delivery through the Burbank post office. *Id.*, Administrative Record, Item Nos. 9, 17. The Burbank post office has retail hours of 9:00 a.m. to 6:30 p.m., Monday through Friday, and 9:00 a.m. to 3:00 p.m. on Saturday. Final Determination at 2. The Postal Service will continue to use current mailing addresses, including the ZIP Code. *Id.* at 2, Concern No. 2.

The Postal Service conducted a node study. Administrative Record, Item No. 17, Attachment. The node study indicated the Postal Service plans to expand the Burbank Downtown post office to accommodate the operations from the Glenoaks station post office and to increase its number of P.O. Boxes. *Id.*

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners contend that closure of the Glenoaks station post office will have a negative impact upon the community. Petitioners appreciate the service and convenience of the Glenoaks station post office and would like to see it remain open. They argue that the alternate locations are overcrowded, located in busy areas of town, and inconvenient to access.

*Benda response.* Petitioner Benda contends the Postal Service did not adequately address the closing's effect on the community. Petitioner notes that two people attended the public hearing, which was held on Memorial Day, 2011. She contends this was "hardly a day and time to encourage customer participation." Benda Response at 8. She states that allegedly 132 customer questionnaires were returned, but the Administrative Record only contains 62 of those surveys. If the Postal Service's

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<sup>11</sup> *Id.* MapQuest estimates the driving distance between the Glenoaks station post office and Burbank post offices to be approximately 2.40 miles (5 minutes driving time). The Postal Service also lists a Downtown Burbank post office. MapQuest estimates the driving distance between the Glenoaks station post office and Downtown Burbank post offices to be approximately 1.3 miles (4 minutes driving time).

analysis was based only on the 62 surveys, she contends the analysis may be incorrect. *Id.* at 9.

Petitioner Benda questions whether the actual survey questions were designed to solicit useful information. *Id.* at 10-12. She points out that while the Postal Service is required by its regulations to send a written response to each customer's comments, it only sent out an identical form letter with generic responses to each customer. *Id.* at 13-15.

She argues that to evaluate the effect on the community, the Postal Service should have some sense of the community being impacted. However, she observes that the Postal Service's information in the Administrative Record is sparse and incomplete. *Id.* at 15-18.

Petitioner Benda contends that the Postal Service discussion concerning effective and efficient service paints an incomplete picture. She states that the nonpostal operated alternative access locations provide limited products and services. *Id.* at 19. Furthermore, she contends the Postal Service has underestimated the driving distance to the Burbank post office and the Burbank Downtown post office, and there may be issues with walking to these post offices. *Id.* at 20.

Petitioner Benda questions the Postal Service's calculations of economic savings. She contends the cost savings estimates developed in 2009 may no longer be accurate. The calculations do not include the \$83,258 expense of renovating the Burbank post office or the Burbank Downtown post office to handle additional post office boxes. *Id.* at 22. They do not include the costs of dismantling the Glenoaks station post office. *Id.* They do not include additional costs associated with increased traffic at the other post offices. *Id.* at 23. She also questions the inclusion of employee savings in cost savings because the employees are not being terminated, but being transferred. *Id.* Finally, she asserts the Postal Service has not acknowledged that the Glenoaks station post office was extremely profitable, or the lost revenue that may result from its closure. *Id.* at 23-26.

Finally, Petitioner Benda comments on the timeliness of the Final Determination. She notes the Glenoaks station post office discontinuance study was essentially complete in June 2011. However, the Final Determination was not issued until July 2013. She contends no additional work was done by the Postal Service in the interim. *Id.* at 26.

*Public Representative.* The Public Representative is critical of the approximate 2-year lag between the Postal Service's last solicitation for input and the revised Final Determination. PR Comments at 9. She also notes the Postal Service held the community meeting on a federal holiday. *Id.* Nonetheless, the Public Representative concludes the requisite factors of 39 U.S.C. § 404(d) were considered by the Postal Service in its determination to discontinue service at the Glenoaks station post office. *Id.* at 1.

## 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 March 21, 2011, the Postal Service distributed 1,000 questionnaires to customers regarding the possible change in service at the Glenoaks station post office. Final Determination at 1. A total of 132 questionnaires were returned. *Id.*

On Memorial Day, May 30, 2011, the Postal Service held a community meeting at Glenoaks station to address customer concerns. *Id.* Two customers attended. *Id.* Although the Postal Service did follow its procedures and conducted a community meeting, the Postal Service should hold community meetings at dates and times more conducive to generating representative community input.

The Postal Service posted the proposal to close the Glenoaks station post office with an invitation for comments at the Glenoaks station post office from June 9, 2011 through August 10, 2011. *Id.* at 2. The Final Determination was posted at the same post office beginning July 16, 2013. Administrative Record, Item No. 36.

The length of time it takes the Postal Service to close a facility is of concern because it brings into question the timeliness of the data upon which the Postal Service bases its decisions. In this case, the time from initial proposal to the posting of the Final Determination was over 2 years. Nonetheless, no significant community changes occurring over this time have been brought to the attention of the Commission.

Therefore, the Commission concludes the data upon which the Postal Service bases its decision were not too stale for its intended purpose.

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

*Effect on the community.* Glenoaks is an unincorporated community located in Los Angeles County, California. Administrative Record, Item No. 2; *Id.* Item No. 17 at 2. The community is administered politically by the City of Burbank. *Id.* Item No. 17 at 2. Police protection is provided by the City of Burbank. Fire protection is provided by the City of Burbank. The community is comprised of retirees, self-employed, commuters, students and those who commute to work at nearby communities and may work in local businesses. *Id.*

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 held a public meeting and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Glenoaks station post office, customers raised concerns regarding package delivery and pickup, loss of community identity, and a lack of Postal Service interest in the needs of the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2.

The summary discussion reflects consideration of 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 asserts that "[t]his unit is a retail annex and all employees are part of another installation and their work schedules will be



adjusted to work at the parent facility.” *Id.* at 3. This indicates that there will be no effect upon Postal Service employees, other than a change in work location to a nearby facility.

The Postal Service has considered the possible effects of the closing on employees at the Glenoaks station post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

*Effective and regular service.* The Postal Service asserts that customers of the closed Glenoaks station post office may obtain retail services at the Burbank post office located 1 mile away. Final Determination at 1. Delivery service will be provided by city carrier through the Burbank post office. *Id.* at 2.

The Burbank Downtown post office is also nearby. The Postal Service has discussed the cost of adding additional P.O. Boxes to the Burbank Downtown post office. Administrative Record, Item No. 17 at 8.

Petitioner Benda summarizes responses to the Postal Service’s questionnaires. Benda Response at 14-15. The summary extols the conveniences of the Glenoaks station post office, and the inconvenience of conducting business at the alternative Postal Service locations. None of the comments summarized claim that customers will cease to have access to effective and regular postal services.

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 savings over 10 years of \$740,270. Final Determination at 3. It derives this figure by summing the following costs: Building and Maintenance (\$152,570), Utilities (\$128,890), Transportation (\$67,690), and EAS Craft & Labor (\$391,120). *Id.*

The node study conducted by the Postal Service includes a one-time expense of \$83,258 for the build-out of the Burbank Downtown post office to accommodate Glenoaks Station retail operations. It also includes a \$1,229,888 broker’s opinion value for the Glenoaks Station property. Administrative Record, Item No. 17 at 4.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs unless there is a reasonable assurance that closing will actually eliminate those costs. The Glenoaks station post office was staffed by employees who were already part of another facility, and the management position appeared to be vacant. Final Determination at 3. The Postal Service states that employees' work schedules will be adjusted to work at the other facility. No positions are being eliminated.

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. OTHER ISSUES

The Postal Service filed a motion to dismiss, raising the following grounds. First, the Postal Service contends the appeals were filed before the Final Determination was posted and are thus, untimely. Second, the Postal Service argues the Commission lacks jurisdiction because 39 U.S.C. § 404(d) only applies to post offices, and not to stations or branches such as Glenoaks station post office. Third, the Postal Service asserts the Commission lacks jurisdiction because 39 U.S.C. § 404(d)(5) only applies to discontinuances, and not rearrangements of retail facilities within a community such as in the case of Glenoaks. Motion to Dismiss at 1.<sup>12</sup>

Three petitions for review were filed subsequent to the filing of the Postal Service's Motion to Dismiss and the posting of what it contends is the correct version of the Final Determination. See n.2, *supra*. The three petitions for review were timely filed with the Commission. Accordingly, the matter is properly before the Commission.

The Postal Service also argues that 39 U.S.C. § 404(d) applies only to independent post offices, and not to stations such as Glenoaks station post office. Motion to Dismiss at 6-7. According to the Postal Service, because the facility in

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<sup>12</sup> The Public Representative filed an answer in support of the Postal Service's Motion to Dismiss. Public Representative Response to United States Motion to Dismiss, July 23, 2013. Petitioner Benda responds to certain of the Public Representative's arguments. Benda Response, *supra* at 8-10.

question is a station, the Commission lacks subject matter jurisdiction to review its decision and should dismiss all appeals. *Id.* at 7.

The Commission has repeatedly held that 39 U.S.C. § 404(d) provides appeal rights to persons served by post offices that are labeled for administrative purposes as stations or branches.<sup>13</sup>

Additionally, the Postal Service contends that closing the Glenoaks station post office represents a rearrangement of retail facilities within the community and, therefore, is not subject to appeal under 39 U.S.C. § 404(d). Motion to Dismiss at 1, 4-7. In support, it cites and discusses several Commission orders in which appeals were dismissed for lack of jurisdiction based on the Commission's conclusion that the Postal Service's action constituted a rearrangement of facilities within the community. *Id.* at 4-7. It concludes that "section 404(d) procedural requirements apply only where postal customers lose access to postal services, and postal customers do not lose access to postal services where alternate retail facilities are located in 'close proximity' to the discontinued station." *Id.* at 7. The Public Representative filed an answer in support of the Postal Service's Motion to Dismiss. See n.12, *supra*.

Petitioner Benda contests the Postal Service's Motion to Dismiss. She argues that the phrase "rearrangement of retail facilities" has no statutory basis, but is simply a Commission "creation". Benda Answer at 4-5. In addition, Petitioner distinguishes the orders relied on by the Postal Service, noting that such "'rearrangements' all involved facility actions other than simply closing a post office." *Id.* at 5. Lastly, Petitioner disputes the Postal Service's conclusion that section 404(d) does not apply when it decides to close a retail facility, without regard to the availability of any new facility, when customers do not lose access to postal services based on the proximity of

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<sup>13</sup> See, e.g., Order No. 436, Docket No. A82-10, *In re Oceana Station, Virginia Beach, Virginia*, June 25, 1982, at 4 (*Oceana Station*); Order No. 1480, Docket No. A2006-1, *In re Observatory Finance Station Pittsburg, PA 15214-0651*, September 29, 2006, at 6-12; Order No. 748, Docket No. A2011-16, *Akron-East Station, Akron, Ohio*, June 17, 2011, at 2; Order No. 865, Docket No. A2011-18, *Order Affirming Determination (Valley Falls Station)*, September 20, 2011; Order No. 1037, Docket No. A2011-49, *Order Affirming Determination (Village Station)*, December 12, 2011; Order No. 1317, Docket No. A2012-108, *Order Remanding Determination (South Valley Station)*, April 18, 2012.

alternate retail facilities to the closed facility. Petitioner asserts “[t]here is nothing in the language of 404(d) or [Postal Service regulations] that suggests Congress intended the Commission to decide that some closures were closures under 404(d) while others were outside the scope of 404(d) based simply on the issue of how far away another post office or stores that sell stamps might be.” *Id.* at 8.

The distinctions the Commission has drawn in considering appeals filed under section 404(d) for more than 30 years have worked reasonably well to protect the interests of all stakeholders.<sup>14</sup> Nevertheless, in recognition of the parties’ arguments, it is apparent that there is a sharp disagreement regarding the Commission’s precedent and the scope of section 404(d) to consider Postal Service actions involving the closing of a retail facility. Rather than attempt to address these issues in the instant proceeding, which necessarily is limited to the current parties, the Commission concludes that it would be preferable to initiate a separate proceeding in which all interested parties would have an opportunity to participate. Previously, the Commission deferred consideration of a definition of the term “relocation.”<sup>15</sup> Revisiting these issues in a single proceeding will best serve the interests of all stakeholders as well as judicial economy.

## VII. 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 Glenoaks station post office is affirmed.

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<sup>14</sup> See, e.g., *Oceana Station, supra*; Order No. 37, Docket No. A2007-1, Order Dismissing Appeal on Jurisdictional Grounds, October 9, 2007 (*Ecorse*); Order No. 448, Docket No. A2010-2, Order Dismissing Appeal, April 27, 2010 (*Sundance*); and Order No. 1159, Docket No. A2011-90, Order Dismissing Appeal, January 20, 2012 (*Pimmit Branch*). *But see* Order No. 477, Docket No. A2010-3, Order Dismissing Appeal, June 22, 2010 (*East Elko*).

<sup>15</sup> Order No. 1171, Docket No. RM2011-13, Order Adopting Final Rules Regarding Appeals of Postal Service Determinations to Close or Consolidate Post Offices, January 25, 2012, at 8.

*It is ordered:*

The Postal Service's determination to close the Glenoaks station post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

I would remand the Glenoaks station post office Final Determination to the Postal Service for further action. The Administrative Record presented to us by the Postal Service is woefully incomplete. The many discrepancies within the Administrative Record call into question the Postal Service's good-faith consideration of the community's input. In my judgment, the Postal Service did not satisfy its legal obligation to consult with the community and did not accurately estimate its cost savings.

First, the actions taken with respect to initiating the Administrative Record were careless, duplicative and overly long. The community was unable to ascertain a clear understanding of the Postal Service's review and its plans. For example, the Final Determination was submitted as part of the Administrative Record, yet the Postal Service asked the Commission to dismiss the proceedings for lack of ripeness, claiming that its Final Determination was not in fact an actual Final Determination. Also, one Final Determination contained a notice of appeal rights and instructions, but then it was revised to remove the appeal rights.

Second, the community meeting (a required element of the Postal Service's administrative review process) was held mid-day on Memorial Day, a federal holiday. Only two patrons attended the meeting. I agree with Petitioner Benda that a meeting on a federal holiday does not accommodate the schedules of most people and is therefore not conducive to generating representative community input.

Third, the Postal Service includes the salaries of employees in its estimated savings when these employees will be transferred. The Commission has pointed out in many previous appeal cases that the Postal Service overstates potential savings in this way. The Administrative Record is not accurate in this regard.

In addition, it appears that the Glenoaks station post office is a profitable operation. The Postal Service's decision to close it and capture funds from the sale of

property is, I believe, an unfortunate short-term measure to address the challenges of its current financial situation which may sacrifice long-term potential revenue stability.

Ruth Y. Goldway