

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Public Inquiry on Resolving
Suspended Post Offices

Docket No. PI2022-1

PUBLIC REPRESENTATIVE COMMENTS ON
THE POSTAL SERVICE'S PROCESS FOR RESOLVING
SUSPENDED POST OFFICES

(May 16, 2022)

Pursuant to the Notice of Public Inquiry issued on February 3, 2022,¹ the Public Representative hereby offers Comments on the Postal Service's process for resolving suspended offices. In this proceeding, the Commission seeks input from the public to identify and address issues impeding the Postal Service's progress in resolving the suspended post offices in a timely manner.

1. The Commission invites comments on suggested procedures or courses of action that would allow for the Postal Service to expeditiously resolve the 206 suspended post offices remaining from FY 2016 with a special focus on the post offices that have been suspended for more than 5 years.
2. The Commission also invites comments on how the Postal Service should resolve the post offices suspended after FY 2016.
3. The Commission encourages the commenters to discuss specific issues related to the recent suspension of post offices (after FY 2019).

¹ Notice and Order Providing an Opportunity to Comment on the Postal Service's Process for Resolving Suspended Post Offices, Public Inquiry on Resolving Suspended Post Offices, Docket No. PI2022-1, February 3, 2022

Introduction

In its Notice of the public inquiry, the Commission notes that it has monitored the Postal Service's progress in resolving suspensions for multiple fiscal years, primarily via its ACR review proceedings. See, e.g., FY2020 ACD at 212-222. At the end of FY 2016, there were 662 suspended post offices. Of these post offices, 206 remained suspended at the end of FY 2021. *Id. at 2.* The Commission also notes that the Postal Service reports in the FY 2021 ACR that it suspended 212 additional post offices between FY 2017 and FY 2021, which yields a total of 425 post offices remaining suspended at the end of 2021. *Id.*

In its FY 2016 ACD, the Commission stated that it expected the Postal Service to significantly reduce the number of suspended post offices. FY 2016 ACD at 151. In its FY 2020 ACD, the Commission expressed concern regarding the apparent lack of commitment by the Postal Service in addressing and resolving suspended post offices in recent years and announced its intent to initiate a public inquiry docket on the matter. *Id. at 3.*

In its notice, the Commission explains that suspending a post office involves stopping operations because of a lease cancellation, a fire, a natural disaster, or similar emergency. Discontinuing a post office means either (1) closing it without providing a replacement facility in the community, or (2) consolidating it with a retail facility operated by a contractor or private business. 39 C.F.R. § 241.3(a)(2)(iii)-(v). *Id. at 5.*

Procedures for suspending post offices are described in the Postal Service's Handbook PO-101. Postal Service district managers may suspend operations at a post office within their jurisdiction because an emergency or other condition requires such action. Circumstances that may justify suspending a post office include, but are not limited to, any of the following:

- A natural disaster;
- Termination of a lease or rental agreement when suitable alternate quarters are not available in the community, especially when the termination is sudden or unexpected;

- Lack of qualified personnel to operate the post office;
 - Irreparable damage when no suitable alternate quarters are available in the community;
 - Severe damage to, or destruction of, the post office;
 - Challenge to the sanctity of the mail; or
 - Lack of adequate measures to safeguard the post office or its revenues.
- Id.* at 6.

Upon suspension of operations, a suspension review team is formed to evaluate the district manager's decision to suspend, and team members must conduct an on-site visit to the suspended post office. Within 10 business days after the on-site visit, the suspension review team must recommend to the district manager; Vice President, Delivery and Post Office Operations; and national Postmaster organizations (if applicable) whether to suspend the post office. *Id.* If the team recommends suspension, then the Postal Service should initiate the post office discontinuance process described in Section II.B., below. *Id.* If the team finds insufficient justification for suspension, the post office should be reopened unless Postal Service management directs otherwise. If the Postal Service decides not to initiate the discontinuance process, then it "must determine a plan of action to restore service, secure suitable alternate quarters, or take other necessary corrective action." *Id.* at 7.

Although there are no specific statutory or regulatory requirements governing the duration of suspended post offices, Handbook PO-101 requires that the district manager submit the plan of the Vice President, Delivery and Post Office Operations, no later than 90 days after suspending the post office. *Id.* Additionally, Handbook PO-101 states that best practices for suspending a post office involve conducting "timely investigations and follow-up" and submitting a plan of action within 90 days after a post office is suspended.

If the Postal Service decides to discontinue an office, discontinuances must comply with 39 U.S.C. § 404(d) and 39 C.F.R. § 241.3. Before deciding whether to discontinue a post office, the Postal Service must provide adequate notice of its intent to

patrons, who are persons served by a post office, at least 60 days before the proposed discontinuance date to ensure patrons have an opportunity to present their views. 39 U.S.C. § 404(d)(1). When deciding whether to discontinue a post office, the Postal Service must consider the following five factors set forth in 39 U.S.C. § 404(d)(2)(A):

- The effect of the discontinuance on the community served by the post office;
- The effect of the discontinuance on the Postal Service employees working at the post office;
- Whether the discontinuance is consistent with the policy of 39 U.S.C. § 101(b) that “the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;”
- The economic savings to the Postal Service resulting from the discontinuance; and
- Other factors the Postal Service determines are necessary.

To provide the 60-day notice required by section 404(d)(1), the Postal Service prepares a written Proposal to Close² to “describe, analyze, and justify in sufficient detail to Postal Service management and affected customers the proposed service change” resulting from the discontinuance. *Id.* § 241.3(c)(4). The Proposal to Close must consider the factors in 39 U.S.C. § 404(d)(2), explain why the proposed discontinuance is necessary, and assess how the factors supporting the proposed discontinuance outweigh any negative factors. *Id.* at 8.

The Postal Service then posts the Proposal to Close, along with an invitation for comments, for at least 60 days at the post office to be discontinued and other affected post offices. If the post office has been suspended, the Proposal to Close must also be posted at any post office providing alternate service for former customers of the

² For purposes of this Order, the phrase “Proposal to Close” includes all discontinuances, whether the facility at issue is proposed for closure or consolidation with another facility. The discontinuance processes at issue for closures and consolidations are substantially identical. See 39 C.F.R. § 241.3(a)(1)(i), (c)(4).

suspended post office. Interested persons may submit written comments on the Proposal to Close within 60 days after it is posted. *Id.* § 241.3(d)(2)(i).

When the 60-day period expires, the Postal Service considers comments received along with the official record to decide whether to discontinue the post office.³ If the Postal Service proceeds with the discontinuance, the Proposal to Close is renamed “Final Determination,” which is the Postal Service’s written decision to discontinue a post office.⁴ The Final Determination must be in writing and include the Postal Service’s findings regarding the considerations required by 39 U.S.C. § 404(d)(2). 39 U.S.C. § 404(d)(3); 39 C.F.R. § 241.3(a)(3)(ii).

The Postal Service must make the Final Determination available to patrons at least 60 days before the discontinuance takes effect. 39 U.S.C. § 404(d)(3); 39 C.F.R. § 241.3(a)(3)(iii). The Final Determination must be posted prominently for 30 days at the same post offices where the Proposal to Close was posted. 39 C.F.R. § 241.3(g)(1). The Postal Service may not take any action to discontinue the post office until 60 days after the Final Determination is made available to patrons. 39 U.S.C. § 404(d)(4). *Id.*

Any patron may appeal the Final Determination to the Commission within 30 days of its posting. When the Commission receives an appeal, it must review the Final Determination based on the record before the Postal Service when it decided to discontinue the post office. *Id.* The Commission must set aside any determination, findings, and conclusions found to be any of the following:

- Arbitrary, capricious, an abuse of discretion, or otherwise not compliant with the law;
- Without observance of procedures required by law; or

³ 39 C.F.R. § 241.3(a)(3)(ii), (e), (f)(1). The official record is a chronological file of all information the Postal Service considers related to a proposed post office discontinuance, including all information and views submitted by customers. *Id.* § 241.3(d)(4); Handbook PO-101, Appendix A, “Official Record.”

⁴ 39 C.F.R. § 241.3(f)(2); Handbook PO-101, Appendix A, “Final Determination.” The Final Determination is the Postal Service’s determination to close or consolidate a post office under 39 U.S.C. § 404(d). 39 C.F.R. § 241.3(f)(2).

- Unsupported by substantial evidence on the record. 39 U.S.C. § 404(d)(5)(A)-(C). *Id.*

The Commission may either affirm the Final Determination or return the entire matter to the Postal Service for further consideration, but it may not change the Final Determination. *Id.* § 404(d)(5). The Commission may suspend the effective date of the discontinuance until the final disposition of the appeal, which must occur no later than 120 days after the Commission receives the appeal. *Id.* If no appeals are filed with the Commission, the post office is officially discontinued 60 days, at the earliest, after the first day that the Final Determination was posted. 39 C.F.R. § 241.3(g)(2).

As the Commission notes, the Postal Service breaks down the discontinuance process into 30 steps, listed in the Attachment to the Notice along with descriptions for each step to be taken by the Postal Service and corresponding section(s) from Handbook-PO-101. *Id.* at 12. The attachment also describes other actions the Postal Service identified as necessary to discontinue a Post Office that occur after completing Steps 1 through 30. *Id.* at 12. In addition, the District Manager must maintain an official record, which is a chronological file of all the information related to a proposed post office discontinuance, including all information and views submitted by customers. These administrative records, all compiled on paper, frequently run into the hundreds of pages.⁵

Analysis

Library Reference PRC-LR-PI2022-1-1 accompanying the Notice contains detailed information about each of the 206 suspended post offices remaining from FY 2016, including:

- The date the post office was suspended and the reason for suspension;
- Dates for holding the community meeting and posting the Proposal to Close and Final Determination; and

⁵ See Administrative Record filed in Docket No. A2012-4, Balm, FL Post Office 33503.

- Steps Completed and Next Steps in the post office discontinuance process.⁶

The table below summarizes the reasons for suspension by general categories of suspension.

Category	Number of Post Offices	Percent of Total
Lease Issues	128	62.1%
Safety Concerns	44	21.4%
Damaged	19	9.2%
Miscellaneous/Other	15	7.3%
Total	206	100.0%

Approximately 62.1 percent (128) of the 206 post offices remaining under suspension were suspended because the lease was terminated. Examples of reasons for lease termination include a lease terminated by the Postal Service or the lessor, a building closure, or a consolidation of facilities, etc. The second highest category of suspensions is safety concerns with 44 post offices, or 21.4 percent of the total. The remaining suspensions are represented by damaged facilities (19 post offices, or 9.2 percent) and miscellaneous/other (15 post offices, or 7.3 percent).

Of the 206 remaining suspended post offices:

- Three post offices are in the process of reopening;
- Two post offices are in the process of posting their Final Determination;
- 136 post offices are waiting for approval from Postal Service Headquarters to post the Final Determination; and
- 31 post offices have posted their Final Determination for at least 30 days and are waiting for Postal Service Headquarters to approve publication of the notice announcing the closure in the *Postal Bulletin*.⁷

⁶ Library Reference PRC-LR-PI2022-1-1, Excel file "206 Suspension from FY 2016.xlsx."

⁷ The FY 2021 ACR states that 32 suspended post offices are awaiting approval to publish the *Postal Bulletin* notification, and 135 suspended post offices are awaiting approval to post the Final Determination. FY 2021 ACR at 81. The numbers in this Order and Library Reference PRC-LR-PI2022-1-1 differ slightly from those in the FY 2021 ACR because the next step for the Helen post office was

The table below presents the 206 suspended post offices remaining from FY 2016 categorized by the last step completed.

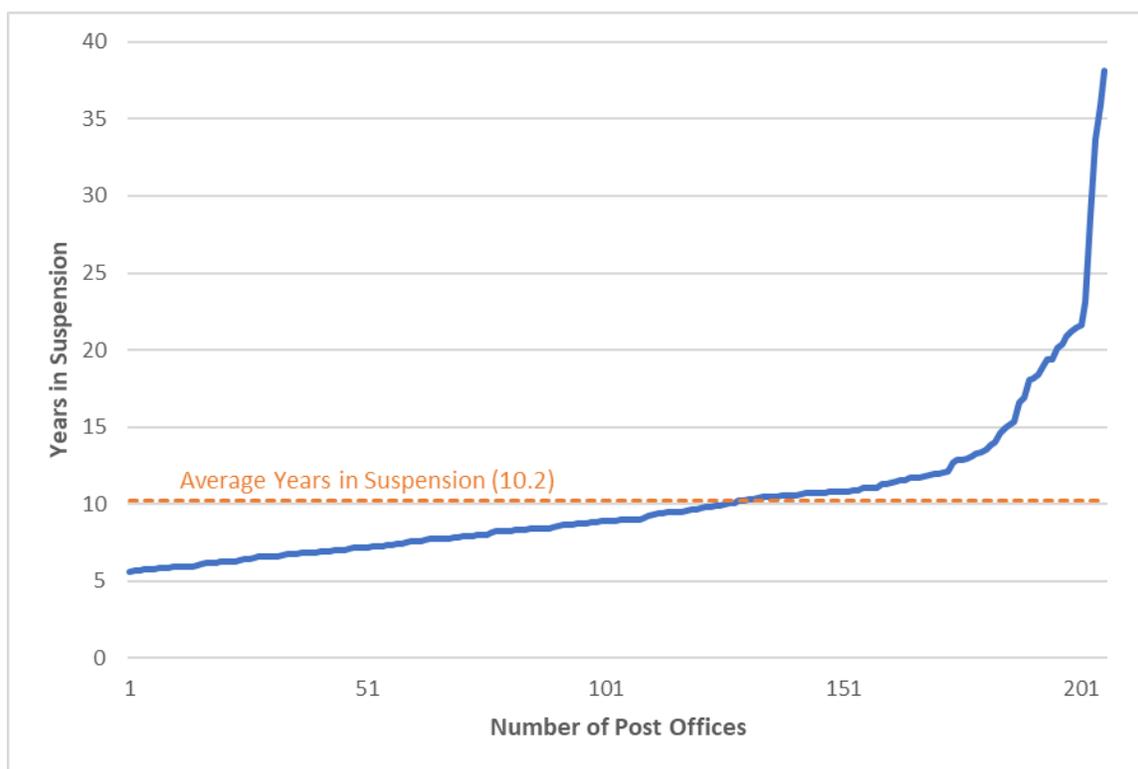
Steps Completed	Number of Post Offices	Percent of Total
1-9	10	4.9%
1-10	1	0.5%
1-12	1	0.5%
1-13	4	1.9%
1-14	1	0.5%
1-16	1	0.5%
1-19	1	0.5%
1-23	1	0.5%
1-29	136	66.0%
1-30	33	16.0%
N/A	17	8.3%
Total	206	100.0%

There are 136 post offices remaining under suspension that have completed steps 1 through 29, which represents 66.0 percent of the total offices. Step 29 is the penultimate step in the discontinuance process in which the Discontinuance Coordinator must certify and enter into the record a completed log of post office discontinuance actions. The second highest category of post offices under suspension includes those that have completed steps 1 through 30 with 33 post offices, which amounts to 16.0 percent of the total. Step 30 is the final step in the discontinuance process prior to publishing the closure in the *Postal Bulletin* in which the Headquarters Review Coordinator reviews the draft Proposal to Close and official record to decide whether to approve the discontinuance and proceed with the Final Determination. The third highest category includes those that do not have a step completion classification with 17 post offices, or 8.3 percent of the total. The remaining categories all represent less than 5.0 percent of the total post offices remaining under suspension.

mistakenly listed as "Postal Bulletin Notification" instead of "HQ Review." See Remaining Suspended Post Offices, Row 11. Thus, the number of suspended post offices awaiting approval to publish the *Postal Bulletin* notification decreased to 31, and the number of suspended post offices awaiting approval to post the Final Determination increased to 136.

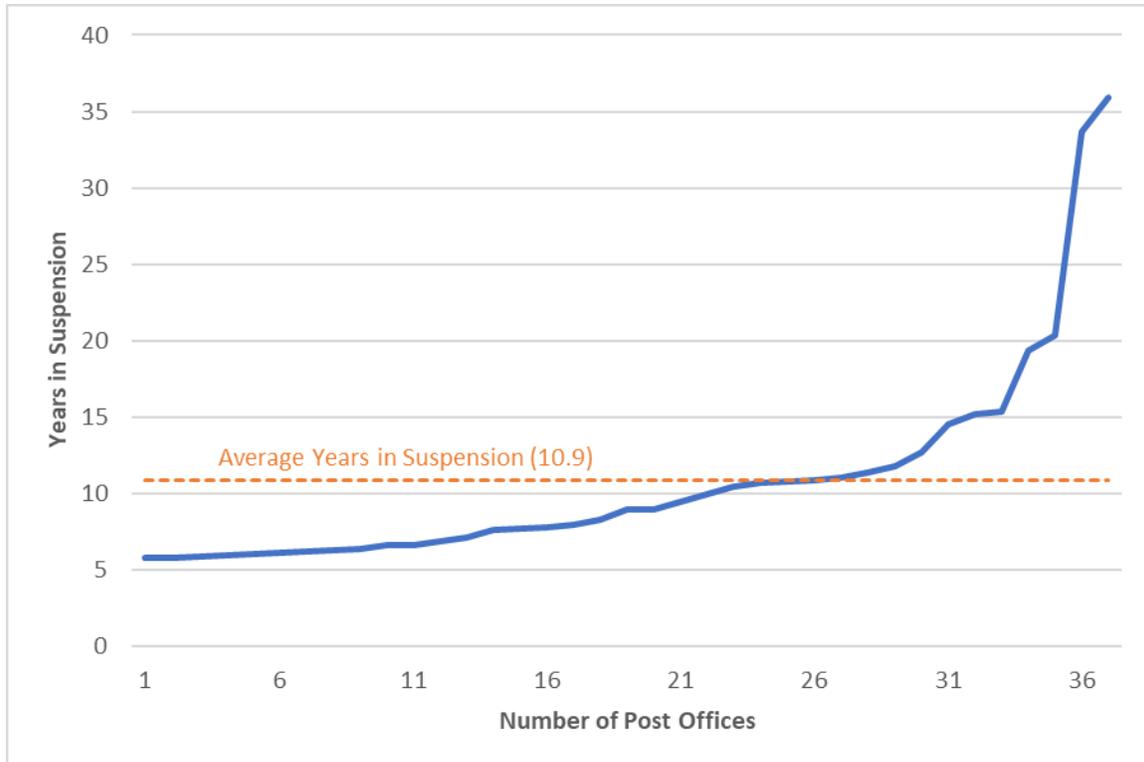
In the instance of the 206 suspended post offices remaining from FY 2016, as shown above, 169 post offices, or 82.19 percent of the total, are nearly at the official conclusion of the discontinuance process. The final step in the discontinuance process is publication of a notice in the *Postal Bulletin*. While the Postal Service has apparently ceased all public-facing activities, presumably the Community Meeting, involving offices involved in the discontinuance process, these 169 offices are well past that point. There is no reason short of lack of initiative for not bringing the discontinuance process to a conclusion for these offices.

The figure below provides a representation of the time in suspension for each suspended post office.



The figure above demonstrates that the majority of post offices have been under suspension for just under approximately 10 years (125 post offices). However, there are also 21 post offices that have remained under suspension for more than 15 years. Indeed, three of these offices were suspended in the 1980s and have been under suspension for much longer than 30 years.

As noted previously, 169 of the 206 post offices under suspension have completed steps 1 through 29 or 30. A closer examination of the remaining 37 post offices that have not advanced nearly as far into the discontinuance process reveals that the average duration under suspension is nearly 11 years. The figure below provides a representation of the time in suspension for the remaining suspended post offices.



Similar to the post offices that have completed steps 1 through 29 and 30, the majority of post offices (26) have less than 10.9 years in suspension, while a few have an extraordinary number of years in suspension. For example, three of the 36 have between 15 and 20 years in suspension, and three have more than 20 years in suspension. The suspended post office in Palo Verde, AZ, for instance, was suspended in 1986 and has only completed steps 1 through 13 of the discontinuance process.

The Postal Service reported in a CHIR response that 217 offices have been suspended between FY 2017 and the end of FY 2021.⁸ Of these, 56 were suspended in FY 2021 alone. While these offices have not been under suspension as long as those offices shown in Library Reference PRC-LR-PI2022-1-1, if the Postal Service continues its pause on public facing activities, these offices will simply remain under suspension for an undetermined and increasing length of time. It must communicate the situation to customers of suspended offices who seldom have any notion as to the fate of their office. As COVID-19 enters its third year of prominence, it would be wise for the Postal Service to prepare to change its Handbook PO-101 discontinuance process to alter or eliminate, to the extent possible, public facing activities. Perhaps where feasible, suspended post offices could remain open while undergoing the discontinuance process. In fact, in its ACR 2021 Report, the Postal Service indicated that after issuing its 10-Year Strategic Plan, it began to address all aspects of its retail operations, including the process for resolving suspended post offices. The Postal Service also stated that it closely examined the remaining suspended post offices to “identify those suspensions that can be resolved outside the PO-101 discontinuance process and independently of the customer-facing activities on which that process relies.” ACD at 29.

Conclusions

The Public Representative recommends that for the post offices under suspension at the conclusion of FY 2016, the Postal Service should waive its discontinuance regulations, if only on a temporary basis, where the requisite documentation or other procedures necessary to the discontinuance process simply cannot occur, such as missing information from an Administrative Record due to the passage of time. However, the Commission should also consider issuing orders to show cause why post offices—whose operations have been suspended for more than some inordinate length of time—should not be considered discontinued and, if appealed, ripe for Commission review. The Public Representative cannot help but

⁸ See Docket No. ACR2021, Response to CHIR No. 11, question 3, February 11, 2022. This file presents general information about the facility and its suspension but does not include data describing the status of the office in the discontinuance process, if any.

question why these offices, so close to completion of the discontinuance process, continue to languish under suspension.

For the offices suspended beginning in FY 2017 and past the Community Meeting stage in the discontinuance process, the Postal Service needs to recommence the discontinuance process, and it needs to develop a revised process that depends less on public facing activities. The Postal Service should consider developing a dashboard displaying the discontinuance status of suspended offices so that the public can evaluate the status of their local post office. The dashboard should show, at a minimum, the data presented in Library Reference PRC-LR-PI2022-1-1 and the 5-digit zip code for each office. The dashboard should include a user interface so that an individual of the public may enter the post office name or 5-digit zip code of their local post office to view its discontinuance status. The Postal Service should also transition public facing activities to electronic communication where possible. Particularly, Step 16 (Posting of Invitation for Comments) should be performed via electronic means in addition to being posted for at least 60 days at the affected post offices.

As part of the implementation of its 10-Year Plan, if the Postal Service files a Nature of Service docket (N-Case), it needs to address all aspects of consumer access to postal services.

The Public Representative respectfully submits to the Commission the foregoing Comments in this proceeding.

Respectfully submitted,

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