

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

RECEIVED
MAY 16 4 30 PM '00
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:
ROANOKE, WV 26423
(ROBERT J. CONLEY,
PETITIONER)

Docket No. A2000-1

MOTION OF UNITED STATES POSTAL SERVICE
TO DISMISS PROCEEDINGS
(May 16, 2000)

This matter commenced with a letter received by the Postal Rate Commission that purports to invoke its jurisdiction to consider an appeal of a Postal Service final determination to close the Roanoke, West Virginia Post Office. The Final Determination to close the suspended Roanoke Post Office was posted March 4, 1998. Appeals to Post Office closings must be filed within 30 days of the date a Final Determination is posted. Since the petitioner did not file an appeal until March 10, 2000, nearly two years late, it should be dismissed.

PROCEDURAL HISTORY

This matter has navigated through the post office discontinuance process twice, with the result that the Roanoke, West Virginia Post Office was closed on June 6, 1998.¹

The first proposal to close the Roanoke, West Virginia Post Office was posted with an invitation for public comment at the Walkersville/Crawford, West Virginia Post Office from March 6, 1984 through May 5, 1984. Thereafter a Final Determination to close the Roanoke Post Office was posted at the Walkersville/Crawford Post Office

¹*Postal Bulletin* 21984 (November 5, 1998) at 58 (copy attached as Exhibit 1).

from December 4, 1984 to January 3, 1985. That Final Determination was appealed to the Postal Rate Commission on December 24, 1985, and the matter was remanded by the Postal Rate Commission on April 10, 1985.²

On July 7, 1997, a revised proposal to close the Roanoke, West Virginia Post Office was posted at the Walkersville/Crawford Post Office, where it remained through September 19, 1997.

The Final Determination to close the Suspended Roanoke, West Virginia Post Office and Continue to Provide Rural Route Service was posted at the Walkersville/Crawford Post Office from March 4, 1998 through April 6, 1998.³ No appeals were filed. A Postal Bulletin Post Office Change Announcement Form was completed and submitted to Postal Service Headquarters Address Management for publication in the *Postal Bulletin*, where it subsequently appeared.⁴

On March 10, 2000, Robert J. Conley, on behalf of the Lewis County Commission, filed an appeal with the Postal Rate Commission objecting to the closing of the Roanoke, West Virginia Post Office. Petitioner appeals the Roanoke Post Office closing on the grounds that the Postal Service did not follow the post office closure procedures required by law, under 39 U.S.C. § 404(b). Petitioner claims that the Postal Service did not give the required 60 day public notice of a proposed post office closing, nor of a discontinued ZIP Code.

²Commission Opinion, Docket No. A85-11, Roanoke, West Virginia 26423 (April 10, 1985).

³Final Determination To Close The Suspended Roanoke, WV Post Office And Continue To Provide Rural Route Service. A true and correct copy of the cover sheet showing the beginning and ending posting dates is attached as Exhibit 2.

⁴*Postal Bulletin* 21984 (November 5, 1998) (See Exhibit 1).

FACTUAL BACKGROUND

Roanoke is an unincorporated rural community located in Lewis County, approximately 11 miles from Walkersville, West Virginia, the nearest large community. Operation of the Roanoke Post Office was temporarily suspended on February 19, 1982, due to the depletion of the community and the area being purchased by the Corp of Engineers for the Stonewall Jackson Dam Site. Prior to the suspension of service, the Roanoke, West Virginia Post Office provided over-the-counter postal services for eight hours per day. Fourteen families received mail through post office boxes. No general delivery or carrier delivery service was offered at the post office.

On July 7, 1997, a revised proposal to close the Roanoke, West Virginia Post Office was posted at the Walkersville/Crawford Post Office subsequent to the Commission remand. It was removed on September 19, 1997. The cover sheet of the revised proposal showing the posting dates is attached as Exhibit 3. No comments were received. Finally, a Final Determination to close the Roanoke, West Virginia Post Office was posted at the Walkersville/Crawford Post Office from March 4, 1998 through April 6, 1998. This time no appeals were filed. A Postal Bulletin Post Office Change Announcement Form was completed, and submitted to Postal Service Headquarters Address Management for publication in the *Postal Bulletin*. Since no appeals were filed within 30 days after the posting of the Final Determination notice, the post office was officially discontinued the first Saturday 90 days after posting the final determination.

All customers were advised they may continue to use Roanoke, West Virginia as their address in order to retain community identity. However, they were required to change their ZIP Code to 26447, that of Walkersville, West Virginia. This change was necessary to ensure effective and regular service.

ARGUMENT

The legal question presented in this case is whether or not an appeal filed just under 2 years past the filing deadline can be considered. Under 39 U.S.C. § 404(b)(5) and 39 C.F.R. § 241.3(a)(2)(iv), any person regularly served by the affected post office may appeal the decision to the Postal Rate Commission within the first 30 days after the written determination is made available. Any such appeal must be received by the Commission within 30 days of the posting of the final determination. In the instant case, the appeal was not received by the Commission until after approximately 2 years of the posting of the final determination. Therefore, the appeal is untimely, and should be dismissed.

Petitioner argues that there was no public notice by stating that “[t]here has been no public notice of a proposed post office closure nor of a discontinued ZIP Code: nothing in the local newspaper, nothing in the patron’s boxes, no posting in the post office.”⁵ However, Exhibit 3 provides evidence to the contrary. The Proposal and Final Determination notices were both posted at the Walkersville/Crawford Post Office. This was the proper procedure under 39 C.F.R. § 241.3(d)(4)(v).

Since no appeal was filed pursuant to 39 U.S.C. § 404(b)(5), the Postal Service published the official closing date of the Roanoke Post Office in the Postal Bulletin, effective the first Saturday 90 days after the Final Determination was posted.⁶ This was proper procedure under 39 C.F.R. § 241.3(g)(1)(iii)(2).

The Postal Service followed the proper procedures in the closing of the Roanoke, West Virginia Post Office. No appeal was filed during the 30 day period allowed by law. Therefore, the closing of the Roanoke Post Office was proper and met

⁵Participant Statement by Petitioner (Exhibit 4).

⁶See Exhibit 1.

all legal requirements. The late appeal should be dismissed as untimely and moot.

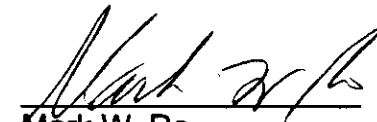
CONCLUSION

WHEREFORE, the United States Postal Service respectfully requests that this matter be dismissed.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorney:



Mark W. Ro

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



Mark W. Ro

Attorney, International and Rate Making
United States Postal Service
475 L'Enfant Plaza West, SW, Rm 6524
Washington, DC 20260-1137
May 16, 2000

Post Offices

Post Office Changes Number 98-20

Old/ New	Finance No.	ZIP Code	State	P.O. Name	County/ Parish	Station/Branch/ Unit	Unit Type	Effective Date	Comments
Old	11-8925	33630	FL	Tampa	Hillsborough	Main Office	Post Office	10/10/1998	Establish a new ZIP Code for post office boxes. Use Tampa FL 33689 as last line of address for new post office boxes in a new classified branch.
New	11-8925	33689	FL	Tampa	Hillsborough	Sabal Park Postal Store	Classified Branch	10/10/1998	
Old	55-2874	26806	WV	Fort Seybert	Pendleton	Main Office	Post Office	8/8/1998	Post office and ZIP Code discontinued. Establish a place name. Fort Seybert WV becomes an acceptable last line for use with ZIP Code 26802.
New	55-1026	26802	WV	Brandywine	Pendleton	Fort Seybert	Place Name	8/8/1998	
Old	55-7212	26290	WV	Saint George	Tucker	Main Office	Post Office	6/6/1998	Post office and ZIP Code discontinued. Establish a place name. Saint George WV becomes an acceptable last line for use with ZIP Code 26287.
New	55-6222	26287	WV	Parsons	Tucker	Saint George	Place Name	6/6/1998	
Old	55-0312	26816	WV	Arthur	Grant	Main Office	Post Office	6/13/1998	Post office and ZIP Code discontinued. Establish a place name. Arthur WV becomes an acceptable last line for use with ZIP Code 26847.
New	55-6306	26847	WV	Petersburg	Grant	Arthur	Place Name	6/13/1998	
Old	55-8868	26462	WV	Wolf Summit	Harrison	Main Office	Post Office	7/25/1998	Post office and ZIP Code discontinued. Establish a place name. Wolf Summit WV becomes an acceptable last line for use with ZIP Code 26426.
New	55-7224	26426	WV	Salem	Harrison	Wolf Summit	Place Name	7/25/1998	
Old	55-7014	26423	WV	Roanoke	Lewis	Main Office	Post Office	6/6/1998	Post office and ZIP Code discontinued. Establish a place name. Roanoke WV becomes an acceptable last line for use with ZIP Code 26447.
New	55-8388	26447	WV	Walkersville	Lewis	Roanoke	Place Name	6/6/1998	

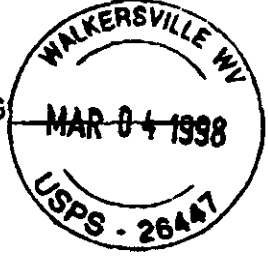
—Address Management, Operations Support, 11-5-98


EXHIBIT

tabular

1

DOCKET NO 26423
 ITEM NO 49
 PAGE 7

DATE OF POSTING  **MAR 04 1998**
 WALKERSVILLE WV
 USPS - 26447

DATE OF REMOVAL  **APR 06 1998**
 WALKERSVILLE WV
 USPS - 26447

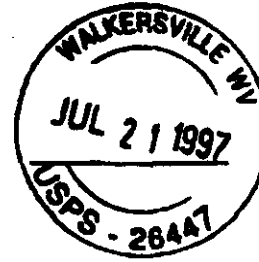
**FINAL DETERMINATION TO CLOSE
 THE SUSPENDED
 ROANOKE, WV POST OFFICE
 AND CONTINUE TO PROVIDE
 RURAL ROUTE SERVICE**

DOCKET NUMBER 26423

EXHIBIT
2

DOCKET NO	26423
ITEM NO	37
PAGE	1 of 8

DATE OF POSTING:



DATE OF REMOVAL:

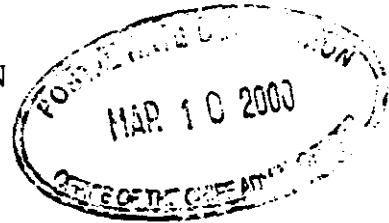


REVISED PROPOSAL
TO CLOSE
THE SUSPENDED
ROANOKE, WV POST OFFICE
AND CONTINUE TO PROVIDE
RURAL ROUTE DELIVERY SERVICE

DOCKET NUMBER 26423

EXHIBIT
<u>3</u>

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268



In the Matter of:

Roanoke, WV 26423
Post Office State ZIP Code

Docket No: 26423

Lewis County Commission, Petitioner(s)

PARTICIPANT STATEMENT

1. Petitioner(s) are appealing the Postal Service's Final Determination concerning the Roanoke post office. The Final Determination was posted March 4, 1998.
(date)

2. In accordance with applicable law, 39 U.S.C. § 404(b)(5), the Petitioner(s) request the Postal Rate Commission to review the Postal Service's determination on the basis of the record before the Postal Service in the making of the determination.

3. Petitioners: Please set out below the reasons why you believe the Postal Service's Final Determination should be reversed and returned to the Postal Service for further consideration. (See pages of the Instructions for an outline of the kinds of reasons the law requires us to consider.) Please be as specific as possible. Please continue on additional paper if you need more space and attach the additional page(s) to this form.

The Postal Service did not follow the post office closure procedure required by law.

According to the amendment to Title 39, USC Section 404 (b) (as amended) and Postal Reorganization Act of 1970, the public must be given 60 days notice of a proposed action to enable the persons served by a post office to evaluate the proposal and provide comments.

There has been no public notice of a proposed post office closure nor of a



Thursday, October 29, 1998

discontinued zip code: nothing in the local newspaper, nothing in the
patron's boxes, no posting in the post office.

We just arbitrarily began getting mail with the Roanoke address marked out and
Walkersville 26447 handwritten instead. Thus, the beginning of this most arduous
task of reversing the decision to close our rural post office.

