



POSTAL RATE COMMISSION

Washington, DC 20268-0001

Office of the Secretary

September 23, 2003

Mr. George Prince
1341 16th Place, S.W.
Birmingham, AL 35211

Re: Petition for Review of Postal Service Closure of Birmingham
Green Station 35237

Dear Mr. Prince:

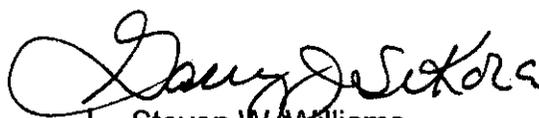
The Postal Rate Commission received your joint petition for review of the United States Postal Service's determination to close the Birmingham Green Post Office on September 17, 2003. For your information, the Commission has assigned Docket No. A2003-1 to this matter.

The Commission's rules direct that I provide you with a copy of PRC Form 61, which is designed to help appellants make a concise statement of the arguments they believe will support their petitions. I am enclosing a copy of Form 61 with this letter.

Your petition of September 17 was accompanied by a five-page document captioned "Participant Statement," together with affidavits, signature pages, and documents that appear to have been prepared by the Postal Service. If you wish, you may rely on these materials as your complete Participant Statement, or supplement them with other information after reviewing Form 61. Alternatively, you may file an initial brief of no more than 30 pages in length.

As the instructions in Form 61 specify, section 115 of the Commission's rules requires that an appellant's Participant Statement or initial brief be filed with my office not more than 35 days following the date on which the petition was filed. In the case of your petition, this deadline will arrive on October 13, 2003.

Sincerely,


Steven W. Williams
Secretary

Enclosure

PLEASE READ THIS ENTIRELY BEFORE
FILLING OUT THE ENCLOSED
"PARTICIPANT STATEMENT"

APPEALS FROM POSTAL SERVICE DETERMINATIONS TO CLOSE OR
CONSOLIDATE POST OFFICES

INTRODUCTION

Congress has provided, by law, that the Postal Service follow a specific procedure and consider certain factors before making a final determination to close or consolidate a post office. The law gives any patron the right to appeal the Postal Service's final determination to the Postal Rate Commission (PRC)--an independent agency not associated with the Postal Service. It is the job of the PRC, when a patron appeals a Postal Service final determination, to decide whether the Postal Service's actions were consistent with the law.

The purpose of this paper is to help explain the Postal Rate Commission's process in dealing with appeals of Postal Service determinations to close or consolidate post offices.

To assist the Postal Rate Commission in its consideration of the appeal from the Postal Service's decision to close or consolidate your post office, you may also want to send a written argument explaining why you believe the Postal Rate Commission

should reverse the Postal Service's determination and return the entire matter to it for further consideration. We have enclosed a "Participant Statement" form that you may choose to use to present your written argument. The section, "PARTICIPANT STATEMENT," beginning on page 6, is of particular interest.

POSTAL RATE COMMISSION AUTHORITY

In cases of appeals from Postal Service determinations to close or consolidate post offices, the PRC has only "appellate jurisdiction"--a very limited authority.

One limitation on the PRC's authority is that we cannot conduct our own fact-finding investigation. The PRC must consider appeals based upon the "record" (the Proposal, Final Determination and other documents involved in the decisionmaking) that the Postal Service collected during the time it was making its decision whether or not to close or consolidate the post office. The Postal Service's regulations require that a copy of the record be available at the affected post office for 30 days after the final determination is posted. After that time, if you want to look at the record you may have to ask the person in charge of your post office where you can look at a copy or how to obtain one.

Due to the limits the law has placed on our authority, the PRC may not return a final determination to the Postal Service merely because the PRC believes a different result might be just as good or better. Rather, the PRC may only examine the Postal

Service's decision and record, and decide whether the Postal Service has stayed within the guidelines the law has set up.

Specifically, the law requires that the PRC affirm the Postal Service's final determination unless the determination is:

- (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 on the record.

Furthermore, the PRC may not change the Postal Service's final determination. It may only (1) affirm (with the result that the Postal Service's decision will stand), or (2) return the entire matter to the Postal Service for further consideration.

POSTAL SERVICE'S AUTHORITY

In keeping with its responsibility to operate the nation's mail system, the Postal Service has been given much authority over post offices, including the power to decide whether an office should be closed or consolidated. However, before reaching a decision to close or consolidate a post office, the Postal Service must follow a procedure set up by law, and also consider specific factors involved in such an action.

PROCEDURE

The law sets out the steps the Postal Service must take before it closes or consolidates a post office. Specifically:

The Postal Service, prior to making a determination . . . as to the necessity for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to insure that such persons will have an opportunity to present their views.

The Postal Service calls its "notice of its intention to close or consolidate" the "Proposal." As noted above, the proposal must be posted for 60 days. During the 60 days patrons are invited to give the Postal Service their comments on the proposed closing or consolidation. The Postal Service calls its determination to close or consolidate the "Final Determination."

Any determination of the Postal Service to close or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made Such determination and findings shall be made available to persons served by such post office.

The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office.

FACTORS TO BE CONSIDERED.

In addition to following the required procedure, the Postal Service must also consider certain factors. The law states:

The Postal Service, in making a determination whether or not to close or consolidate a post office, shall consider--

(A) the effect of such closing or consolidation on the community served by such post office;

(B) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

(C) whether such closing or consolidation is consistent with the policy of the Government . . . 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;

(D) the economic savings to the Postal Service resulting from such closing or consolidation; and

(E) such other factors as the Postal Service determines are necessary.

PARTICIPANT STATEMENT.

We have included a form that you may use, if you choose, for your written argument. The purpose of the Participant Statement is the same as a formal brief--to point out issues that you believe the PRC should consider in its review of the Postal Service's actions. You may choose to file either a Participant Statement or a formal brief. General examples of some issues that would be proper to include would be:

- (1) That the Postal Service did not consider certain issues it is required to consider.
- (2) The facts the Postal Service is relying on have not been established.
- (3) The Postal Service did not follow the procedure required by law.
- (4) The facts in the Postal Service's final determination are true, but they do not prove what the Postal Service says they prove.

It is best to be as specific as possible.

In reviewing Postal Service determinations to close or consolidate post offices, the PRC proceedings can be much less formal than is customary in courts. That is, the PRC does not require patrons appealing Postal Service decisions to meet the usual requirements for the form of papers filed--such as typing the documents. No technical formalities are required. However,

it is important that papers sent to the PRC be legible. It is also important for statements to be clear and as specific as possible.

TIME FOR FILING PARTICIPANT STATEMENT.

The date a Participant Statement (or brief if you choose to file one instead of a Participant Statement) is due is found in the schedule which is attached as an Appendix to the "Notice and Order of Filing of Appeal." You should have a copy of the Notice and Order. If you do not, you should be able to find a copy posted at the post office. Under its rules, the Postal Rate Commission expects to receive briefs on the day specified in the schedule (rather than receiving briefs that are simply postmarked by that day).

FILING THE BRIEF OR PARTICIPANT STATEMENT.

Address the brief or Participant Statement to:

Office of the Secretary
Postal Rate Commission
1333 H St., N.W., Suite 300
Washington, D.C. 20268

Please include the Docket Number the PRC has given your case on your brief and on any other papers you send to the PRC concerning the case.

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

In the Matter of: _____ :
 :
 : Docket No: _____
 _____, _____ State ZIP code
 _____, Petitioner(s) :
 (Name of person(s) filing)

PARTICIPANT STATEMENT

1. Petitioner(s) are appealing the Postal Service's Final Determination concerning the _____, post office. The Final Determination was posted _____ (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 5-6 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.

(please continue on back)

