

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

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)  
Hacker Valley Post Office )  
Hacker Valley, WV 26222 )  
(Retha Casto, Petitioner) )  
\_\_\_\_\_)

Docket No. A2009-1

**MOTION OF THE PUBLIC REPRESENTATIVE  
TO HOLD PROCEEDING IN ABEYANCE**

(July 22, 2009)

On July 15, 2009, the United States Postal Service (Postal Service) filed a motion pursuant to rule 21 of the Commission's rules of practice, 39 CFR 3001.21, seeking dismissal of the instant proceeding.<sup>1</sup> The Public Representative has filed a response in opposition to the Postal Service's motion.<sup>2</sup> In that response, the Public Representative stated its intent to file the instant motion to hold this proceeding in abeyance pending receipt of additional information regarding the status of the Hacker Valley post office.<sup>3</sup>

Argument

The Postal Service's Motion to Dismiss is based upon the assertion that it "has not initiated a discontinuance study or issued any final determination to close the Hacker Valley Post Office ...." Motion to Dismiss at 1. Instead, the Postal Service claims that the operation of the post office has been temporarily "suspended." *Id.* at 2. It is the Public Representative's position that the Postal Service has not yet adequately supported its allegation that operation of the Hacker Valley post office has merely been suspended.<sup>4</sup> On the contrary, the record before the Commission leaves unclear whether the actions taken by the Postal Service constitute a bona-fide "suspension" or a

<sup>1</sup> United States Postal Service Motion to Dismiss Proceeding, July 15, 2009 (Motion to Dismiss).

<sup>2</sup> Response of the Public Representative in Opposition to the United States Postal Service Motion to Dismiss Proceeding, July 22, 2009 (Response in Opposition).

<sup>3</sup> *Id.* at 1.

<sup>4</sup> The basis for the Public Representative's position is set forth in its Response in Opposition and is hereby incorporated by reference.

de facto “discontinuance.” Until the Postal Service provides more definitive support for its contention that this is a bona fide suspension, the Commission should defer action on the Motion to Dismiss.

In order to provide additional time needed for the Postal Service to develop information needed by the Commission, the Commission should hold this proceeding in abeyance while the information is being assembled. The Public Representative has identified information that the Commission should obtain from the Postal Service, including periodic reports on the status of the Postal Service’s efforts to determine whether the Hacker Valley post office will be reopened or will be permanently closed. Response in Opposition at 4. Some of that information should be readily available. Other information may require additional, albeit not unlimited, time to assemble. By ordering that the proceeding be held in abeyance, the Commission will facilitate the development of the complete record needed to determine whether dismissal of the petition for appeal is appropriate.

#### Conclusion

For the reasons set forth above, the Public Representative submits that this proceeding should be held in abeyance pending the submission of additional information by the Postal Service in order to enable the Commission to determine whether the operation of the Hacker Valley Post Office has been suspended or discontinued and whether the Motion to Dismiss should be granted or denied.

Respectfully submitted,

/s/ Richard A. Oliver

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