

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

Station And Branch Optimization and : Docket No. N2009-1
Consolidation Initiative 2009 :

SUBMISSION OF BRIEF ON BEHALF OF ASSOCIATION
OF UNITED STATES POSTAL LESSORS (AUSPL) REGARDING
THE U.S. POSTAL SERVICE'S STATION AND BRANCH OPTIMIZATION
AND CONSOLIDATION INITIATIVE (DOCKET N2009-1)
(December 1, 2009)

The Association of United States Postal Lessors (AUSPL) hereby submits its brief prepared by Mario Principe, AUSPL Director of Lessor Affairs, said brief is attached hereto and incorporated herein and made a part hereof.

RESPECTFULLY SUBMITTED

By 
Robert Kapusta
Counsel for Association of the United States
Postal Lessors (AUSPL)

Kapusta, Otzel & Averaimo
250 Broad Street
Milford, CT 06460
Tel. (203) 874-6773
Fax (203) 874-5765
rkapusta@aol.com
amy@milfordlegal.com

**BRIEF WRITTEN BY MARIO PRINCIPE, AUSPL DIRECTOR OF LESSOR
AFFAIRS, ON BEHALF OF ASSOCIATION OF UNITED STATES POSTAL
LESSORS (AUSPL)**

The Association of United States Postal Lessors (AUSPL) does not question the right of the Postal Service to discontinue a postal facility where necessary; however, we do believe that all customers have a right to a maximum degree of regular and effective service whether they are served by a station, branch, main office, smaller independent post office, or a community post office. We believe it is reasonable to expect the Postal Service to follow federal law governing the closing of independent post offices and its own rules and guidelines which were developed to assure compliance with the law. We urge the Postal Regulatory Commission to seriously consider that the closing or consolidation of a station or branch should be treated the same as the closing or consolidation of a small independent post office. Our reasons are listed below:

1. The only significant difference among a small post office, a station and a branch is the name these various post offices were given by the Postmaster General or other official in the old Post Office Department more than a century ago. Stations were established not only to keep up with a city's population growth, but also when formerly independent post offices were discontinued and converted to stations of a nearby post office. Sometimes, converting post offices to stations was done to provide free mail delivery to customers. Initially, only customers of the most populous cities were eligible for free delivery. Until 1908, the terms "station" and "branch" were used interchangeably. In May, 1908, to help preserve the identity of communities that lost their post office, the Postmaster General ordered that all postal stations located outside the city limits be called "branches" and those located within the city limits "stations."
2. The extensive shuffling and reducing of postal personnel currently underway and the pressure to reduce the number of facilities will result in 1) unjustified emergency suspensions of small post offices, 2) unnecessary permanent closing of small post offices, and 3) unjustified closing or consolidation of stations and branches. (Please review the documents on proposed emergency suspension of the Clifty, KY, Post Office in Public Representative Richard Oliver's possession as an example of selective enforcement of rules in an attempt to justify an emergency suspension. As of this writing, it was decided to keep the office open for another two years after much public outrage and this decision was overruled by postal headquarters and plans are to emergency suspend service at the end of December, 2009.)
3. With all the cutbacks in personnel, it is doubtful that adequate oversight to ensure postal district compliance with federal law and the Postal Service's own guidelines will be conducted by postal headquarters. Also, with the drastic changes and reductions in personnel there will be many field managers entrusted with the closing or consolidation of post offices, who will need appropriate training. It is extremely vital to have adequate

**BRIEF WRITTEN BY MARIO PRINCIPE, AUSPL DIRECTOR OF LESSOR
AFFAIRS, ON BEHALF OF ASSOCIATION OF UNITED STATES POSTAL
LESSORS (AUSPL)**

oversight and well-trained management personnel to ensure all applicable rules and guidelines are followed. It is reasonable and critical that postal lessors, postal customers,

and all affected employees receive fair treatment when their facilities are being considered for closing or consolidation.

4. Overly zealous postal managers should not be allowed to selectively enforce terms and rules to justify closing or consolidating a facility to comply with demands to cut costs. As of this writing, there is a mandate for a 10 percent reduction in real estate costs. We are very concerned that facilities will be unjustifiably emergency suspended because of this mandate, using the term “unable to negotiate a lease” as an excuse.
5. The haphazard approach that has been used in the station/branch initiative has been 1) unfair to customers, 2) unfair to lessors, and has 3) demonstrated very poor public relations. The number of offices being considered for discontinuance has been reported initially as 3,300 facilities, followed by 1,000, then 740, 413, and currently is at 241 buildings. Many of the facilities were in the midst of long term leases, which did not contain termination clauses. Lessors fear the power of the Postal Service, a government entity, and believe it can violate the terms of the lease and close facilities at will. Further, USPS has advised some lessors that their lease will not be renewed, even though the facility has not appeared on any current or previous list of stations and branches under review for closure/consolidation.
6. Lessors should be notified that their facility is being considered for discontinuance and provided with all documentation used to justify discontinuance of a facility before the event occurs. There should be some assurance that all pertinent factors are considered such as revenue loss, space at the “new” facility, etc.
7. The closing of stations and branches along with the removal of 150,000 street collection boxes is a significant reduction in services, especially for those with limited mobility.
8. The Postal Service has a history of failure to adhere to small post office closing rules required by federal law and, in our opinion, circumventing the rules by emergency suspending small post offices, some without just cause, and not implementing the permanent closing process in a timely manner. By doing so, customers are denied timely input during all stages of the process and timely appeal rights to the Postal Regulatory Commission. The reason why there are so few appeals from affected customers is that the USPS posts proposals/final determinations in other post office(s) because their facility was emergency suspended years ago, and customers are receiving rural delivery or

**BRIEF WRITTEN BY MARIO PRINCIPE, AUSPL DIRECTOR OF LESSOR
AFFAIRS, ON BEHALF OF ASSOCIATION OF UNITED STATES POSTAL
LESSORS (AUSPL)**

highway contract delivery services. How often would customers know documents concerning their former post office were being posted (at another post office) with an invitation for comments or with instructions on how to appeal the decision of the Postal Service? There is no incentive for field managers to implement the permanent discontinuance process after an emergency suspension because they have implemented the cheaper alternative service. Unless appropriate monitoring is done, these irregularities will continue.

In March, 1976, a court called a halt to the closing of 600 post offices, ruling that the Postal Service must conduct a survey in each of the affected communities and must give residents at least 90 days' notice. The current rules for discontinuing small post offices were put into effect in June, 1976. A moratorium on closing small post offices was put into effect by the Postal Service from June 1976 until December 1977. The moratorium was lifted. From June, 1978, through September, 1979, the Postal Service moved to close 90 post offices, 33 of which were already shut down. The PRC received 24 appeals. In all cases, PRC instructed the Postal Service to reconsider because it did not consider the effect on the community.

In March, 1998, a moratorium on management-initiated post office closings was put into effect because of improper handling of the emergency suspension process per a report issued by the Government Accountability Office. The Postal Service was told to remedy the nearly 500 post offices that were emergency suspended by implementing the permanent closing process required by law. The moratorium was lifted after a few years, yet the Postal Service continues to fail to implement the permanent closing process as evidenced by the PRCs findings on emergency suspended post offices triggered by the Hacker Valley, WV, appeal.

Although the information in this section (7) does not deal specifically with the closing or consolidation of stations and branches, we include it to show that the Postal Service has not provided the necessary oversight of the post office closing process and continues to violate the spirit and intent of the law. Emergency suspensions and the closing of stations, branches, and community post offices are not covered under the statutes. Thus, how can we expect the Postal Service to refrain from its unjustified actions? Certainly, an appeal procedure for customers and affected parties of stations, branches, and community post offices is needed. Clearly, the Postal Regulatory Commission is the logical forum for such appeals. We believe the federal law prohibiting USPS from closing rural post offices just to save money is the only factor saving America's rural post offices from extinction! Therefore, AUSPL urges the Commission take action to include stations, branches and community post offices under the same rules as independent post offices.