

Before the
Postal Regulatory Commission
Washington, DC

Cranberry Post Office
Cranberry, PA 16319
(The Committee for Citizens and Customers
of Cranberry, PA 16319, Petitioners)

Docket No. A2010-1

PUBLIC REPRESENTATIVE'S COMMENTS
IN LIEU OF A REPLY BRIEF

(January 12, 2010)

This document is submitted pursuant to the undersigned's designation, in Order No. 342, as Public Representative.¹ It is accompanied by a contemporaneous Motion for Acceptance of Public Representative's Comments in Lieu of a Reply Brief.

The Comments provide general background on the underlying Cranberry Post Office situation and touch briefly on a 1983 case at the Commission involving a *different* community also referred to as Cranberry (or Cranberry Township), Pennsylvania. The Comments also address ways in which the interests of the general public are implicated in this docket and identify potential avenues for addressing those interests.

I. Background

The Village of Cranberry — and the Cranberry Township in which it is located — are situated in western Pennsylvania, about 80 miles north of Pittsburgh. The name, according to village history, was inspired by a cranberry bog in existence when the community was established in 1835. Another Pennsylvania community, also known as Cranberry or Cranberry Township, is located about 60 miles south of the Village of

¹ Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 19, 2009 (Order No. 342).

Cranberry in adjoining Butler County. It is about 20 miles north of Pittsburgh. Its ZIP Code is 16066. A nearby cranberry bog was also the inspiration for its name.

These communities share another interesting distinction: they are both home to residents who have shown their interest in having a local U.S Post Office by forming committees to present a collective voice at the Commission. In 1983, the citizens of the Cranberry Township in Butler County filed a service complaint under 39 U.S.C. § 3662. They were seeking establishment of a post office because their community did not have one of its own.² They did not obtain a post office as an immediate result of their complaint, but a local post office was established there in the mid-1990s. More recently, in Fall 2009, more than 500 persons who relied on the Cranberry PA Post Office in Venango County (ZIP Code 16319) filed a petition with the Commission seeking resumption of operations at their longstanding local post office.

Although the Complaint and the Appeal are separated by more than 25 years, were filed under different statutory provisions, and stem from different Pennsylvania Townships, the actions of the citizens who filed them speak strongly not only about the deep interest these communities have in a local Postal Service presence, but also about their conviction that our system of government provides them with an opportunity to be heard in a meaningful way at an appropriate time. It is the interests of the general public if the Postal Service and the Commission work collaboratively to reach an understanding on how this opportunity can be provided fairly, effectively, and efficiently to postal customers affected by loss of operations out of their local post office through suspension.

² The Commission has archived documents associated with the 1983 Cranberry PA (Butler County) Complaint. These documents can be accessed via the Commission's website (<http://www.prc.gov>) by following this series of steps: click on "Library" at the top of the page; click on "Dockets" in the lefthand column; click on "Rate Commission Archives (1971-2004)" in the lefthand drop-down column; click on "Dockets" in the lefthand drop-down column; click on "Complaint Cases"; and then enter "Cranberry" in the Search function box.

II. The Cranberry PA 16319 Story

On July 31, 2009, a “Dear Postal Customer” letter signed by Junius J. Johnson, manager of post office operations, informed patrons of the Cranberry PA 16319 post office that the Postal Service had found it necessary to suspend services at the close of business on Friday, September 11, 2009. Two related reasons were cited. One was “expiration of the lease at the Cranberry Post Office on September 18, 2009.” The other was “... the lessor refusing to negotiate a new lease at ‘fair market value’ price.” Letter at 1.

The Letter stated that effective Saturday, September 12, 2009, delivery and services, would be handled by the Seneca Post Office, which is about 2 miles from the Cranberry Post Office. It provided related details about matters such as the availability of post office boxes and rural delivery and noted that a community meeting would be held on August 19 at the Seneca Volunteer Fire Company to address customers’ concerns. *Id.* It also included two affirmative representations about the status of the Cranberry Post Office and about the opportunity for, and timing of, community input. One was that the change “will not lead to a formal proposal to permanently close the office, unless we conclude that the community would still be afforded the maximum degree of regular and effective postal services.” *Id.* The other was that:

. . . A decision to permanently discontinue operations at the Cranberry Post Office has not yet been made. *In the near future*, we will be contacting you to explain *our long term plans* and solicit your comments. In the interim, we are confident that employees at the Seneca Office will continue to provide the efficient delivery and service you deserve.

Id. at 2. (Emphasis supplied.)

An August 20 newspaper article about a community meeting to discuss new delivery plans states that Postal Service officials addressed several other matters of potential interest with respect to reasons for suspending and not re-opening the Cranberry Post Office. These include statements by one or more Postal Services to the

effect that the financial situation meant that the Postal Service is not replacing facilities anywhere in the country; that the Postal Service faces a \$7 billion deficit this year alone, and had to make cuts to meet the shortfall, and that post offices can be suspended for years before they are permanently closed.

This past Fall, patrons of the Cranberry Post Office, who had organized a committee, filed a petition seeking the Commission's help. Petition of the Committee for the Citizens and Customers of Cranberry, PA 16319 Post Office, October 6, 2009. Soon thereafter, the Commission issued a notice and an order accepting the appeal as a section 404(b) filing; assigned it a formal designation (Docket No. A2010-1); and established a procedural schedule on November 19, 2009. Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 19, 2009 (Order No. 342). See *also* 74 FR 61718 (November 25, 2009).³

On December 1, 2009, the deadline for filing the administrative record or another responsive pleading, the Postal Service filed a Notice stating it had no administrative record to file, as the post office had not been discontinued. It also raised several other points. These include, among other things, a challenge to the Commission's exercise of jurisdiction in this matter, the identification of several contextual differences between the Hacker Valley and Cranberry situations, and a statement that the Postal Service had not yet made a decision on how to proceed. *Id.* at 2. However, the Postal Service suggested, in connection with the last point, that a motion to dismiss or a motion to consolidate with another case, such as PI2010-1 or N2009-1, were potential options. *Id.* It also stated that the counsel for the Postal Service would discuss this matter with the Public Representative.

³ Earlier, the Commission had docketed a case involving the Hacker Valley, West Virginia Post Office, where cessation of operations based on a lease termination had also occurred. See Notice and Order Accepting Appeal and Establishing Procedural Schedule, July 6, 2009.

III. The Interests of the General Public in this Docket

The interests of the general public in this docket are similar to those in the Hacker Valley, and are tied, in pragmatic and direct ways, to some of the important building blocks of our democracy, such as:

- the need for good faith, on the part of a government agency, in its dealings with citizens affected by agency actions;
- a meaningful and timely opportunity for affected citizens to present issues and concerns; and
- a reasonable degree of regularity, certainty, and clarity in government rules and processes.

Petitioners in this case have sought the Commission's help in connection with Cranberry Post Office 63119 and in their dealings with the Postal Service over their Post Office's fate. Review of the Petitioners' pleadings leaves the strong impression that they are sincere in wanting to engage the Postal Service in a productive fashion, but have been frustrated in doing so. Their point of view seems to be that:

- the Cranberry Post Office is closed in the sense used by ordinary postal customers, notwithstanding the Postal Service's contention that its "official" status is still that of a suspended office;
- at least some of the reasons for the office's current status, especially those having to do with lease termination and the availability of other space, either do not constitute an "emergency" in the ordinary sense or may not be fully supported;
- the amount of time that has passed calls into question a representation in a July 31, 2009 "Dear Postal Customer" letter that patrons would be contacted "in the near future" to explain the Postal Service's long-term plans for the Cranberry Post Office and to solicit comments;

- they still do not know, with any degree of certainty, when they will be given an opportunity to present their case for resumption of service out of the Cranberry Post Office; and
- they fear any opportunity that eventually presents itself may come much too late to be effective in terms of achieving their preferred outcome, as people will have changed their practices and made other adjustments in the interim.

Moreover, an August 20, 2009 newspaper article concerning a community meeting about the Cranberry Post Office (included with the Petition) states: “[Postal Service] Officials explained that post offices can be suspended for years before they are permanently closed.” It is easy to understand why this statement would foster additional concern.

In short, there are many reasons why Petitioners might consider themselves adrift in set of confusing regulations and circular reasoning, even if the Postal Service genuinely believes its regulations and practices are quite clear. And one need look no further than the Postal Service’s filing in this case, the intervention of the National Association of Postmasters, and the Commission’s institution of Docket No. PI2010-1 to know that frustration about the suspension process is widespread and growing.⁴

Accordingly, it would be consistent with the interests of the general public if senior postal management would fully commit to a review of the consistency of its suspension regulations and actions thereunder with the spirit of accountability and customer service that underlies its mission. No one is well served if an agency’s regulations and practices, no matter how well intentioned, lead to public relations problem with postal patrons and a regulatory standoff.

⁴ Notice of United States Postal Service, December 1, 2009 (Postal Service Notice).

In terms of a general review, it would be especially worthwhile for the Postal Service to revisit its regulations on suspensions to determine whether the inclusion of lease terminations (or application of that provision) is overbroad. It also appears to be in the public interest to attach one or more time periods to suspensions, in addition to the existing "90-day rule," so suspensions do not continue indefinitely, absent extremely good cause.

In terms of the instant Appeal, to facilitate the resolution of this case and to conserve the resources of the Petitioners, intervenor National Association of Postmasters, the Commission and the Postal Service, it would be consistent with the public interest if the Commission employs some mechanism for incorporating the issues and pleadings in this case into the record and proceedings of Docket No. PI2010-1, perhaps by initiating this action on its own motion or by directing the Public Representative in the pending Public Inquiry to take action to ensure inclusion. Alternatively, the Postal Service might volunteer to update that docket with the information on the Cranberry Post Office (based on cessation of operations on September 11, 2009, it appears that the 90-day report on the Postal Service's plan would have been due in mid-December 2009). Cranberry Petitioners could also be encouraged to re-file in the Public Inquiry docket.

In terms of future filings with the Commission, a commitment by postal management to a review of suspension regulations and practices may provide the Commission with sufficient assurance that it would consider adopting an administrative mechanism for referring petitioners to the Public Inquiry docket prior to docketing it as a formal appeal. This would appear to foster administrative efficiencies for both agencies, provide more certainty for aggrieved patrons, and promote consistency of outcomes.

Respectfully submitted,

Patricia A. Gallagher
Public Representative

901 New York Avenue NW Suite 200
Washington DC 20268-0001
202-789-6824
pat.gallagher@prc.gov