

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

In the Matter of:

East Elko Station
Elko, Nevada
(Simon Sanchez, Jr., Petitioner)

Docket No. A2010-3

NOTICE OF UNITED STATES POSTAL SERVICE
(March 9, 2010)

By means of Order No. 417 (March 3, 2010), the Postal Regulatory Commission docketed correspondence from a customer of the East Elko station in Elko, Nevada, assigning PRC Docket No. A2010-3 as an appeal pursuant to 39 U.S.C. § 404(d). That Order, at page 4, set March 9, 2010 as the date by which “[t]he Postal Service shall file the administrative record in this appeal, or otherwise file a responsive pleading to the appeal.” This pleading responds to that directive.

The Postal Service has no final administrative record supporting the discontinuance of the East Elko station, which was and is supervised by the postal officials in the Elko Main Post Office.

As the Commission is well aware, the Postal Service understands that the Commission lacks subject matter jurisdiction under 39 U.S.C. § 404(d) to review Postal Service decisions regarding the discontinuance of stations and branches. See *generally* Reply Brief of the United States Postal Service (December 16, 2009), section III (pp. 6-12), PRC Docket No. N2009-1.¹

¹ The Commission appears to have recognized that the attempted appeal in this docket relates to a station rather than a Post Office. See Order No. 417 (March 3, 2010) (caption identifies “East Elko Station” as the target facility).

The Postal Service could file a motion to dismiss the proceedings, and it would resemble that filed in the Hacker Valley case, PRC Docket No. A2009-1, supplemented by material resembling the section of its Reply Brief in PRC Docket No. N2009-1, *supra*. History suggests such an act would not be constructive.² In this matter, Petitioner fails to allege facts that constitute a condition precedent to any jurisdiction of the Commission under section 404. 39 U.S.C. § 404(d)(5). Accordingly, the Commission should dismiss this matter *sua sponte*.

The Commission may wish to consider whether these events should become part of docket PI2010-1. But the Postal Service understands that Commission assertion of jurisdiction at this time does not appear likely to benefit the situation, postal customers, or the Postal Service.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
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² See, e.g., PRC Order No. 319 (October 19, 2009).