



POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

Office of the Secretary

December 13, 2010

Mrs. Barbara Sherwood
1325 Chene St.
Apt. # 617
Detroit, MI 48207-3853

Re: Appeal of the Postal Service Determination to Close the Penobscot
Finance Station in Detroit, Michigan

Dear Mrs. Sherwood:

The Postal Regulatory Commission received your appeal of the Postal Service's determination to close the Penobscot Finance Station in Detroit, Michigan. Your appeal has been assigned Docket No. A2011-5. For your convenience, a copy of the order noticing your appeal is enclosed.

A copy of Commission Form 61 is enclosed. You may complete Form 61 or file a brief to provide the Commission with arguments to support your appeal. See 39 CFR 3001.115. The deadline for submission of your arguments is January 10, 2011.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shoshana M. Grove".

Shoshana M. Grove
Secretary

Enclosures

**PLEASE READ THIS ENTIRELY BEFORE
FILLING OUT THE ENCLOSED
“PARTICIPANT STATEMENT”**

**APPEALS OF POSTAL SERVICE DETERMINATIONS
TO CLOSE OR CONSOLIDATE POST OFFICES**

INTRODUCTION

Congress statutorily requires the Postal Service to follow specific procedures 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 Regulatory Commission, (“PRC” or “Commission”), an independent agency which is not affiliated with the Postal Service. When a patron appeals a Postal Service Final Determination, the PRC must decide whether the Postal Service’s closure or consolidation of a post office is consistent with the law.

To assist the Commission in its consideration of an appeal of the Postal Service’s decision to close or consolidate your post office, you may want to send a written statement explaining why you believe the Commission should reverse the Final Determination and return the entire matter for further consideration. Enclosed, please find a *Participant Statement* form that you may use to present your written argument.

POSTAL REGULATORY COMMISSION AUTHORITY

With respect to appeals of Postal Service Final Determinations to close or consolidate a post office, the Commission is limited to “appellate jurisdiction.” As a result, the Commission cannot conduct its own fact-finding investigation and must consider appeals based solely upon the record which consists of the Proposal, Final Determination and other documents the Postal Service collected during closure or consolidation consideration. Postal Service regulations require that a copy of the record be available at the affected post office for thirty (30) days after the Final Determination is posted. After the initial posting period, Postal Service employees will have information on how a copy of the record may be obtained.

Limitations on the Commission’s authority prohibits it from returning a Final Determination to the Postal Service simply because the Commission believes a different result might be better. Rather, the PRC may only examine the Postal Service’s decision and record in order to determine whether the Postal Service abided by the statutory guidelines. Specifically, the law requires that the Commission 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 Commission may not change the Postal Service's Final Determination. It may only (1) affirm the decision or (2) remand the entire matter to the Postal Service for further consideration.

AUTHORITY OF POSTAL SERVICE

In keeping with its responsibility to operate the nation's mail system, the Postal Service has been given considerable authority over the operations of post offices; this authority includes 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 as well as 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 of the closing and consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office *at least sixty (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 sixty (60) days. During the sixty (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 sixty (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 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 for your written argument. The purpose of the Participant Statement is the same as a formal brief which is to point out issues that you believe that Commission should consider in its review of the Postal Service's actions. You may file a Participant Statement as 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 relied on by the Postal Service have not been established;
3. The Postal Service did not follow the procedure required by law; or
4. The facts in the Postal Service's final determination are true, but they do not prove what the Postal Service says they prove.

The Participant Statement should be as specific as possible.

In reviewing Postal Service determinations to close or consolidate post offices, Commission proceedings can be much less formal than is customary in courts. The Commission does not require patrons appealing Postal Service decisions to meet the usual format requirements for filed documents. No technical formalities are required. However, it is important that papers sent to the PRC are legible. It is also important for statements to be clear and as specific as possible.

The due date for a Participant Statement or brief can be 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 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 PARTICIPANT STATEMENT OR BRIEF

Address the Participant Statement or brief to:

Office of the Secretary
Postal Regulatory Commission
901 New York Avenue, NW, Suite 200
Washington, DC 20268

Please include the PRC Docket Number on your Statement and any other papers you send to the Commission concerning the case.

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Dan G. Blair;
Tony L. Hammond; and
Nanci E. Langley

Penobscot Finance Station
Detroit, Michigan

Docket No. A2011-5

NOTICE AND ORDER ACCEPTING APPEAL AND
ESTABLISHING PROCEDURAL SCHEDULE

(Issued December 10, 2010)

Notice is hereby given that, pursuant to 39 U.S.C. 404(d), on December 6, 2010, the Commission received a petition for review of the closing of the Penobscot Finance Station in Detroit, Michigan. The petition, which was filed by Barbara Sherwood (Petitioner), is postmarked December 1, 2010, and was posted on the Commission's website December 8, 2010. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and designates the case as Docket No. A2011-5 to consider the Petitioner's appeal. If the Petitioner would like to further explain her position with supplemental information or facts, she may either file a Participant Statement on PRC Form 61 or file a brief with the Commission by no later than January 10, 2011.

Categories of issues apparently raised. The categories of issues raised include: Failure to consider the effect on the community. See 39 U.S.C. 404(d)(2)(A)(i).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than the one set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the administrative record with the Commission is December 21, 2010. 39 CFR 3001.113.

Application for suspension. Petitioner also requests a suspension of the determination to close the facility pending the outcome of the appeal. The facility is scheduled to close January 3, 2011. The answer to the request for suspension is due December 16, 2010. See 39 CFR 3001.114(b).

Availability; website posting. The Commission has posted the appeal and supporting material on its website at <http://www.prc.gov>. Additional filings in this case and participants' submissions also will be posted on the website, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's website is available online or by contacting the Commission's webmaster via telephone at 202-789-6873 or via electronic mail at prc-webmaster@prc.gov.

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at prc-dockets@prc.gov or via telephone at 202-789-6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's website, <http://www.prc.gov>, unless a waiver is obtained. 39 CFR 3001.9(a) and 10(a). Instructions for obtaining an account to file documents online may be found on the Commission's website, <http://www.prc.gov>, or by contacting the Commission's docket section at prc-dockets@prc.gov or via telephone at 202-789-6846.

Intervention. Those, other than the Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. See 39 CFR 3001.111. Notices of intervention in this case are to be filed on or before January 4, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's website, <http://www.prc.gov>, unless a waiver is obtained for hardcopy filing. See 39 CFR 3001.9(a) and 10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. See 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. See 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the administrative record in this appeal, or otherwise file a responsive pleading to the appeal, by December 21, 2010.
2. The answer to the request for suspension is due December 16, 2010.
3. The procedural schedule listed below is hereby adopted.
4. Pursuant to 39 U.S.C. 505, Cassandra L. Hicks is designated officer of the Commission (Public Representative) to represent the interests of the general public.

5. The Secretary shall arrange for publication of this Notice and Order and Procedural Schedule in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary

PROCEDURAL SCHEDULE

December 6, 2010	Filing of Appeal
December 16, 2010	Deadline for the Postal Service to answer the application for suspension of the determination (see 39 CFR 3001.114(a) and (b))
December 21, 2010	Deadline for the Postal Service to file the administrative record in this appeal or responsive pleading
January 4, 2011	Deadline for notices to intervene (see 39 CFR 3001.111(b))
January 10, 2011	Deadline for Petitioner's Form 61 or initial brief in support of the petition (see 39 CFR 3001.115(a) and (b))
January 31, 2011	Deadline for answering brief in support of the Postal Service (see 39 CFR 3001.115(c))
February 15, 2011	Deadline for reply briefs in response to answering briefs (see 39 CFR 3001.115(d))
February 22, 2011	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)
March 31, 2011	Expiration of the Commission's 120-day decisional schedule (see 39 U.S.C. 404(d)(5))