

December 13, 2010
Delaware Area Neighborhood Association
Post Office Box 9085
Albany, New York 12209

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POSTAL REGULATORY
COMMISSION
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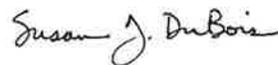
Shoshana Grove, Secretary of the Commission
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001
Attn: Joyce Taylor, Docket Section

Re: Reply to Postal Service's Answer
Docket No. A2011-1, Delaware Station, Albany, New York 12209

Dear Ms. Grove:

Enclosed please find three copies of the Delaware Area Neighborhood Association's reply to the United States Postal Service's answer in the above case. I am submitting this reply as a hard copy document under the waiver of online filing that the Delaware Area Neighborhood Association was granted by the Postal Regulatory Commission in its November 15, 2010 order concerning this appeal (Order No. 585).

Yours truly,



Susan J. DuBois
DANA Treasurer

Encl.

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

In the Matter of:

Delaware Station Post Office
Albany, New York 12209
(Delaware Area Neighborhood
Association, Petitioner)

Docket No. A2011-1

**Reply of the Delaware Area Neighborhood Association to the Postal Service's
Answer**
(December 13, 2010)

On December 6, 2010, the United States Postal Service (Postal Service) filed its Answer concerning the above appeal. The present document is the reply of the Delaware Area Neighborhood Association (DANA) to that Answer.

The Answer (at 1) seeks to incorporate by reference the Postal Service's April 19, 2010 comments in PRC Docket No. A2010-3 (East Elko Station, NV), but the regulations governing appeals of closures of post offices specifically prohibit incorporation by reference in participant statements and the subsequent filings (Title 39 of the Code of Federal Regulations (39 CFR) section 3001.115(b)(5) and (c)).

Footnote 3 of the Answer identifies November 15, 2010 as the date of DANA's response to the Postal Service's November 5, 2010 Notice. DANA's response was received by the Postal Regulatory Commission (Commission) on November 12, 2010 as demonstrated by the postal track and confirm printout for the mailing. A copy of the printout is attached as Exhibit 1 of this reply. DANA requests that the Commission consider DANA's response, mailed by overnight mail on November 10, 2010, as a timely response.

The Answer focuses on the Postal Service's argument that the Commission lacks jurisdiction in this case. The Answer does not dispute the facts asserted in DANA's participant statement, nor does it dispute DANA's arguments except concerning three aspects of whether the Commission has jurisdiction to consider this appeal.

In its Answer, the Postal Service stated that Title 39 of the United States Code (39 USC) section 404(d) does not apply to stations which are subordinate to a post office. DANA's position on this question was stated in DANA's participant statement (at 3 - 4) and in earlier correspondence from DANA. The Commission's June 22, 2010 Order in Docket No. A2010-3 maintained the Commission's position that section 404(d) is applicable to the discontinuance of post office, branches and stations (East Elko Station Order, at 6).

The Answer also noted the Postal Service's argument that discontinuance of Delaware Station does not qualify as a closure as envisioned by 39 USC 404(d), and that the procedural requirements of that section do not apply "where postal customers do not lose access to postal services due to the location of alternate retail facilities in 'close proximity' to the discontinued station". The Answer cited two things in support of this position: (1) that "the Petitioner [DANA] concedes the existence of at least one postal retail facility located within 1.5 miles of Delaware Station that provides the same retail services as Delaware Station" and (2) that the "potential future discontinuance of nearby postal retail facilities is speculative, and should not be considered during this appeal" (Answer, at 2).

With respect to the first item, DANA acknowledged that Academy Station is

within 1.5 miles of Delaware Station and has Saturday morning window service hours as does Delaware Station. Academy Station, however, is not the location to which the Delaware Station post office box addresses would be moved. The box addresses would be moved to the Hudson Avenue post office which does not have window service on Saturdays (DANA participant statement, at 5 - 6).

Individuals or businesses that currently have post office box addresses at Delaware Station would not be able to continue receiving Saturday window service at the location of their post office boxes unless they change their addresses to Academy Station, even assuming that boxes are available at that station. For businesses, changing their mailing addresses could involve changing their stationary, advertising, forms and other materials.

The Answer appears to be suggesting that DANA conceded that customers of Delaware Station could have the same access to postal retail services at Academy Station that they do at Delaware Station. If one reads pages 5 through 9 of DANA's participant statement, it is clear that DANA did not concede this, and instead outlined specific reasons why customers of Delaware Station would be losing service and losing access even taking Academy Station and the Hudson Avenue post office into account. The increased cost (\$1.50, \$3 or \$4 per trip) or walking time (one and a half or two additional hours) that would be experienced by customers who do not have access to cars was not contested by the Postal Service in terms of the accuracy of the distances, times or costs. The Postal Service did not contest that a significant number of persons who do not have access to cars and/or have low incomes and/or have disabilities that complicate travel are currently served by

Delaware Station. The Postal Service did not argue that the time and money involved in getting to other postal retail facilities would be insignificant to these customers of Delaware Station.

It is worth noting again that Academy Station is on the list of branches and stations under consideration for closure, even though its closure is listed as "Not Feasible At This Time."

In the urban environment served by Delaware Station, "close proximity" needs to be evaluated differently than in the suburbs and needs to be evaluated taking into account how residents travel rather than just considering distances on a map. The Postal Service will be reducing access to postal services for Delaware Station's customers if this station is closed, will be seriously reducing access for non-driving customers, and certainly will not be maintaining ready access.

The Answer appears to equate "close proximity" with "1.5 miles" regardless of the nature of the community or the means of transportation used by postal customers. If the Commission were to accept this distance as essentially a definition of "close proximity," it would be surrendering its jurisdiction over many, if not most, closures of stations in dense urban areas such as New York City where postal retail facilities are located close together. In those areas, however, a large proportion of residents rely on mass transit or walking, and do not own cars. This example is not meant to equate the travel situation in the area near Delaware Station with travel in New York City, but it does illustrate that looking solely at the distance is not adequate.

With regard to the Postal Service's second point about "closure," the potential

future discontinuance of other postal facilities in the City of Albany is not at all speculative. These other facilities (Academy, Pine, Patroon, and Fort Orange) are on the Postal Service's own list of branches and stations being considered for closure (Docket No. N2009-1, January 29, 2010 list). The closures of two of them (Academy and Fort Orange) are considered by the Postal Service as being not feasible at this time, and the other two stations (Pine and Patroon) are still being considered for closure as of the present time. DANA stated its understanding about the status of the Pine and Patroon stations in its participant statement, and the Postal Service's Answer did not state or show that this understanding is incorrect.

The Postal Service's position that potential closure of these other stations should not be considered in this appeal, and that parties will have the opportunity to raise arguments about those closures in other dockets, is contrary to the approach that the Commission has taken in other cases involving questions about whether closure of a station was really a closure or was merely a rearrangement of services. The East Elko Order (at 6), in discussing the Oceana Station case, stated, "The Commission held that the Postal Service's decision to close the Oceana Station be considered within the context of the Postal Service's other actions in the area..."

Given that the Commission draws a distinction between closures and rearrangements of services, and does this by taking into account the Postal Service's other actions in the area of the station in question, the possible closure of other stations in the City of Albany needs to be taken into account in the present case.

Further, it is not at all clear that customers of Delaware Station would even be notified if Academy, Pine or other stations are to be closed at some time in the future

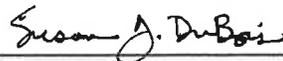
after Delaware Station is closed. The geographic area within which notification about the closure of Delaware Station was provided is not known (possibly because the Postal Service has not provided the record in this case). At some future time when Academy, Pine or other stations are closed, the former customers of Delaware Station might be considered to be customers of the Hudson Avenue post office, who would not be notified about the closure of the other stations.

The Answer focused on the issue of jurisdiction. The Postal Service did not contest, and apparently concedes, DANA's statements about the Postal Service's failure to follow numerous notice and procedural requirements of 39 CFR sections 241.3 and 3001.110, as well as 39 USC 404(d). The Postal Service also did not contest DANA's statements about the impacts of the closure of Delaware Station on the community, or the closure's inconsistency with 39 USC 101(a). The Postal Service did not respond to DANA's two arguments about the significance of the street reconstruction project that took place along Delaware Avenue in recent years. The Postal Service did not contest DANA's argument that the Final Determination made no attempt at evaluating income that will be lost to the Postal Service when and if customers of Delaware Station shift to greater use of non-postal communication and shipping services after the station closes. The Postal Service did not assert or show that DANA's statements were factually incorrect and did not present other facts that would undercut DANA's arguments.

Delaware Station is currently scheduled to close in the very near future, with December 31, 2010 as its last date of operation. The Commission, in its November 15, 2010 Order, held in abeyance its ruling on DANA's application for suspension of

the closure. The reasons supporting the application still exist, and if anything have become more urgent as the closure date is less than three weeks away. DANA requests that the Commission make a ruling on DANA's application for suspension of the closure prior to December 31, 2010, either as a separate ruling or in the Commission's final order in this case.

Respectfully submitted,



Susan J. DuBois
DANA Treasurer

December 13, 2010

Delaware Area Neighborhood Association
Post Office Box 9085
Albany, New York 12209
518-465-9646



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Search Results

Label/Receipt Number: **EG35 7531 485U S**
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Class: **Express Mail®**
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- **Arrival at Post Office, November 12, 2010, 5:46 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, November 11, 2010, 8:46 am, WASHINGTON, DC 20074**
- **Processed through Sort Facility, November 10, 2010, 8:10 pm, ALBANY, NY 12288**
- **Acceptance, November 10, 2010, 11:59 am, ALBANY, NY 12209**

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EXHIBIT 1



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Date Accepted Mo. 11 Day 10 Year 10	Scheduled Date of Delivery Month 11 Day 12	Return Receipt Fee \$
Time Accepted 11:59 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Scheduled Time of Delivery <input checked="" type="checkbox"/> Noon <input type="checkbox"/> 3 PM	COD Fee \$
Flat Rate <input checked="" type="checkbox"/> or Weight lbs. ozs.	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Insurance Fee \$
	Int'l Alpha Country Code	Total Postage & Fees \$ 18.30
		Acceptance Emp. Initials AD

DELIVERY (POSTAL USE ONLY)		
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		
Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day		

CUSTOMER USE ONLY	
PAYMENT BY ACCOUNT Express Mail Corporate Acct. No.	<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Mail Only) Additional merchandise insurance is void if customer requests waiver of signature. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.
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<input type="checkbox"/> NO DELIVERY Weekend <input type="checkbox"/> Holiday <input type="checkbox"/>	Mailer Signature

FROM: (PLEASE PRINT) PHONE (518) 465-9646

SUSAN DUBOIS
DELAWARE AREA NEIGHBORHOOD ASS'N.
P.O. BOX 9085
ALBANY, NY 12209

TO: (PLEASE PRINT) PHONE (202) 789-10846

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