

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

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POSTAL REGULATORY
COMMISSION
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In the Matter of:

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

Docket No. A2011-1

**Supplemental Brief of the Delaware Area Neighborhood Association in
Response to the Postal Service's January 6, 2011 Filing of the Record
(January 18, 2011)**

On December 22, 2010, the Postal Regulatory Commission (Commission or PRC) issued Order No. 620, granting the motion submitted by the Delaware Area Neighborhood Association (DANA) to compel the United States Postal Service (Postal Service) to file its complete administrative record. The December 22, 2010 Order also modified the procedural schedule to allow filing of supplemental briefs on or before January 20, 2011 and replies to the supplemental briefs on or before January 27, 2011.

DANA's participant statement was filed on November 23, 2010. The present document follows the sequence of subjects that were in DANA's participant statement and adds references and discussion based upon the record.

The record that the Postal Service filed with the Commission on January 6, 2011 contains information that the Postal Service considers to be non-public. The Postal Service also provided a redacted (public) copy of the record, which is posted

on the PRC web site. All references in the present brief are to the public version of the record.

On January 12, 2011 DANA requested access to six items of the record as filed with the Commission, under protective conditions taken from the Appendix in Part 3007 of Title 39 of the Code of Federal Regulations (39 CFR Part 3007). It is my understanding that the Postal Service's response to that request would be due on January 18, 2011, under the expedited process in 39 CFR section 3007.40(b). Even if the Commission grants access to these items, I would not be able to review them until after the date on which I will need to mail the present document. Consequently, this document is being written using the public version of the administrative record. DANA might seek leave for a late submission, if this becomes necessary after review of the requested items.

Participant statement, page 2: This page stated that closure of Delaware Station was vigorously opposed by persons served by it, shortly after the news of the possible closure of five post offices in Albany became public. This initial opposition is discussed in newspaper articles that are administrative record (AR) Item 14 and AR Item 20.

The notice of the November 4, 2009 information session is AR Item 25. Articles about the information session are AR Item 31 and part of AR Item 34. The article that is AR Item 34 is incomplete as it appears in the record. The article is also at <http://www.timesunion.com/local/article/Post-office-gets-big-backing-547914.php> (viewed on 1/17/10).

Participant statement, pages 2 to 3: This paragraph provided a brief description of the neighborhoods served by Delaware Station. Further information about the neighborhoods is contained in the record, and is relevant both to the Postal Service's consideration of the factors specified in section 404(d)(2) of Title 39 of the United States Code (39 USC 404(d)(2)) and to the question whether closing Delaware Station is a closure as envisioned by 39 USC 404(d).

The additional information about the areas around Delaware Station includes the following. AR Item 5 is demographic data for the 12209 zip code area which states, among other things, that the population of the area was 9,772 as of 2000, that there are 4,036 USPS residential deliveries, 160 USPS business deliveries, 183 USPS apartment deliveries and 131 USPS post office box deliveries in the zip code area. AR Item 14, at 2, is an article from Metroland, a weekly newspaper in the Albany area. AR Item 16, at 1-3, contains information about the number and percentage of households that do not have vehicles, in census tracts in the City of Albany including those near Delaware Station, plus a map of the census tracts (Census 2000). Item 21 includes DANA's August 11, 2009 press release which contains some descriptions of the Delaware Avenue neighborhood. AR 39 is the Postal Service's community meeting analysis which contains information about the area served, although the document summarizes some of the concerns in a generic manner (see DANA participant statement, at 17, about similar statements in the Postal Service's Final Determination).¹

¹ A signed copy of the Final Determination is included in the record as unnumbered pages near the end of AR Item 44 (16th through 23d pages), or as an unnumbered item following

AR Item 40 contains numerous letters from the public and from local organizations, plus the Postal Service's responses to those letters. Pages to note in AR Item 40, with respect to information about the area served by Delaware Station, are 1-2, 7, 8-9 (a column from Metroland²), 12-13 (letters from the Albany Field Office of the U.S. Committee for Refugees and Immigrants), 16, 19, 22, 25, 28, 31-32, 35-36 (letter from city council member Catherine Fahey), 39, 55, 58, 61 (letter from city council member Dominick Calsolaro), 76-77, 80, and 90.

These letters mention that many people who are served by Delaware Station rely on walking or buses, and note the importance of this post office to local small businesses. The letters also mention the major street reconstruction project that was occurring along Delaware Avenue, with regard to both the likely negative effect of construction activity on the level of business at Delaware Station and the inconsistency between spending governmental funds to improve the area while another governmental agency is planning to close an important service (the post office) in the same area.

Participant statement, pages 3-4: This paragraph briefly described the Delaware Station post office. The hours and services are listed in AR Item 4, at 1. The number of post office boxes is identified in AR Item 15, at 1, as is the staffing

Item 44. The copy of the Final Determination that was attached with the Postal Service's November 5, 2010 notice appears as the 4th through 11th pages of AR Item 44, which are also not numbered.

² The record's copy of this column is a poor copy. The column is also at http://metroland.net/back_issues/vol32_no38/looking_up.html (viewed on 11/17/10).

although that document refers to the staffing on Monday through Friday, not Saturday morning when the station is also open.

Participant statement, page 5: This page noted that the street layout is particularly important when considering the loss of access by postal patrons who rely on buses or walking for transportation. The street layout is shown in AR Item 12, at 1 and Item 16, at 4, to the extent that these copies are legible in the record. The street layout can also be seen to some extent by accessing the maps in the electronic version of the information that is AR Item 4 (Local Post Office Locations).

Participant statement, pages 5-6: This section discussed the Delaware Station post office boxes being moved to the Hudson Avenue post office, and stated that the Hudson Avenue post office does not provide the same services as Delaware Station due to Hudson Avenue not having Saturday morning window hours. The participant statement said the Postal Service, in the Final Determination attached as Exhibit 1 of its November 5, 2010 Notice, had claimed (inaccurately) that window service is available at the Hudson Avenue post office on Saturday mornings.

The hours at both post offices are in AR Item 4. The record, as posted on the PRC web site, also includes as its last page a memorandum dated November 30, 2010 (after the date of the Postal Service's Final Determination about Delaware Station, and after the date of DANA's participant statement) concerning hours at the Hudson Avenue post office.³ The memorandum was signed by David Desrosiers,

³ The memorandum identifies the Hudson Avenue post office as "Hudson Avenue Station," but elsewhere in the record (for example, AR Item 15, at 1) the post office at 45 Hudson Avenue in Albany, New York is identified as the Albany Main Post Office. The September 22, 2010 letters to box holders and to postal customers, attached with DANA's October 19, 2010 petition, also identified the 45 Hudson Avenue post office as the Albany Main Post

Manager of Consumer Affairs, Albany District.

The memorandum states that the incorrect information about the hours at the Hudson Avenue post office "did not appear in our communication to the public when proposals and informational meetings were initially announced. These hours were not relied upon for determining this location as the alternate site for Delaware Station."

No "proposal," as that term is used in the procedures under 39 CFR 241.3(c), was announced or made public concerning closure of Delaware Station. The announcement of the information session (AR Item 25) had the hours of service at the Hudson Avenue main post office as Monday through Friday hours, but it contemplated moving the Delaware Station post office boxes to either the Delmar, New York post office⁴ or the Albany Main Post Office (i.e., Hudson Avenue).⁵ The memorandum's statement that the incorrect hours were not relied upon in choosing the alternate site for Delaware Station does not appear to be entirely consistent with statements in the Final Determination (at 1 and 7), nor consistent with the September 22, 2010 letter to Postal Box Customer (see copy attached with DANA's petition).

Apart from these considerations, however, DANA and now the Postal Service both state that window service is closed on Saturdays at the Hudson Avenue post office. This underscores DANA's statement that the Hudson Avenue post office does not provide the same services as Delaware Station, due to not having Saturday

Office.

⁴ Delmar is in the Town of Bethlehem, southwest of the City of Albany.

⁵ AR Item 15, at 2, also states that the Albany Main Post office has no Saturday hours.

window hours. This is relevant to whether the closure of Delaware Station is a closure, rather than a rearrangement of services, as discussed in DANA's participant statement at 4-10 (particularly 5-8).

The Postal Service's effort to change the record with regard to Saturday hours at the Hudson Avenue post office suggests that this is an important point. The issue here, however, is not whether the Postal Service made a mistake in describing the Hudson Avenue post office's hours, nor the extent to which the Postal Service might have relied on the inaccurate hours. Instead, the issue is whether the closure of Delaware Station would cause its customers to lose access to postal services they now have. As discussed in DANA's participant statement, a loss of access and service would occur if Delaware Station closes, and part (although not all) of the reason for this relates to the lack of Saturday morning window service at the new location of the post office boxes.

Changing the alternative location for the Delaware Station boxes to the Delmar post office or to Academy Station would not change the outcome of the question whether closing Delaware Station is a closure. The Delmar post office is three miles from Delaware Station (AR 4, at 6). Academy Station is located northwest of Delaware Station, and would represent a longer and more inconvenient trip for residents of the southeastern portion of the area served by Delaware Station, which includes the lower-income portion of the service area and is likelier to include residents who do not have cars (see vehicle availability and census tracts, AR Item 16). Academy Station was not even identified as an alternate location, in the announcement of the public meeting (AR Item 25), and should not be used in an

effort to correct a review process that was incomplete and that did not follow the required procedures.

Participant statement, page 6: Concerning the extent to which the area served by Delaware Station includes people who do not have cars, please see AR Item 16, at 1-3, and AR Item 40 at 1-2, 8-9, 12-13, 19, 28, 39, 52, 61, 76-77, and possibly other pages.

Participant statement, page 7: This page discussed the time it takes to walk to other post offices, a bus route, and the time and cost involved in getting to other post offices by bus. Related concerns were raised in comments submitted to the Postal Service (AR Item 40, at 2, 58, 90 and possibly other pages; AR Item 39, at 1-3).

The Postal Service's evaluation appeared to focus more on the time it would take to drive to another post office, rather than to walk or to take the bus. In AR Item 15 (Station and Branch Optimization Concept Briefing Sheet), the time required to get to other stations is identified only in terms of drive time. The public portion of AR Item 19 (a memorandum about review of projects, most of which is redacted) contains a mention of impacting customers with "distance changes greater than 3 miles or 10 minutes of travel time," which suggests that this review assumed travel by car.

The Final Determination, at paragraphs I.1 and I.7, briefly summarized comments about getting to other stations and provided a generic response about combining trips with other errands, buying stamps by mail or at alternate locations, and using carrier delivery "which would eliminate trips to the post office to obtain their

mail" (but which does not address trips to the post office to do things other than obtaining mail). The Final Determination, at paragraph I.13, included an estimated walking speed but said, "Actual travel time would vary based on originating and destinating locations" and did not examine this concern further for alternate post office sites, even assuming Delaware Station as the starting point of a trip.⁶

Participant statement, page 8: With regard to the question whether closing Delaware Station is a closure to which 39 USC 404(d) applies, DANA's participant statement said that closing Delaware Station is not part of any plan to enhance the postal network within Albany, that no new facility is being proposed by the Postal Service in connection with closing Delaware Station, and that customers will be losing service and losing access.

In response to these statements, the Postal Service might cite AR Item 13, at 2, which states, among other things, "Some advantages to this consolidation are: Customer service will be enhanced with greater window hours, additional parking, and passport services." The advantages listed, however, are not real ones.

As noted above, the Hudson Avenue post office does not have Saturday morning hours while Delaware Station does. Even if the Hudson Avenue post office is open longer on weekdays than Delaware Station is, the loss of Saturday window hours cancels out any advantage. Further, the Hudson Avenue post office is

⁶ Many of the Postal Service's letters that were sent in response to public comments included a paragraph that identified the Delmar and Hudson Avenue post offices as alternate post office locations, but the paragraph misstated the distance from the Delaware Station area to these post offices. The Delmar post office is 3.0 miles away, not 1.4 miles, and the Hudson Avenue post office is 1.4 miles away, not 2.7 miles (see AR Item 40, at 14 and other pages, for examples of the letters; AR Item 4, concerning the distances). The Proposal also used the 2.7 mile distance to the Hudson Avenue post office (AR Item 43, at 2).

available during these hours at present, independent of whether or not Delaware Station closes. There is a parking lot at the Delmar post office, the Hudson Avenue post office has metered street parking in front of it, and Delaware Station has unmetered street parking in front of it. AR Item 39, at 3, states that the Hudson Avenue (Main) post office has 11-20 parking spots, but these are not easy to find. They are in a parking garage which has its entrance around a corner from the post office entrance. Although the garage has a sign that says parking is \$11 per day, the garage attendant will cancel the fee if the person's garage ticket is stamped by an employee in the Post Office. The parking arrangements at Delmar or at Hudson Avenue do not offer an advantage in comparison with Delaware Station, particularly not when the additional driving time to get to those locations is taken into account. As for passport services, there is no indication in the record that any additional passport service locations are being proposed. Passport application services are currently available at the Delmar and Hudson Avenue post offices, independent of whether Delaware Station is closed or remains open.

The advantages of the closure, as listed in the Final Determination (at 4), mainly focus on using carrier service instead of post office boxes. This subject was already discussed in DANA's participant statement, at 18. The Final Determination does not discuss any new facilities or enhancements of the Albany postal network that are involved with closure of Delaware Station, and the record does not indicate that any are planned.

Participant statement, pages 8-9: The number of people who have expressed opposition to closure of Delaware Station is reflected in the petitions submitted by

DANA (AR Item 33), the comment letters (AR Item 40), and in press coverage (AR Item 34).

The number of individuals, businesses and organizations affected by the closure is understated at places in the record. The Classified Station and Branch Checklist (AR Item 35, at 1) mentions the station having 154 "customers" but this is the number of box holders, not the number of persons who use Delaware Station on a regular basis. The Proposal also uses the 154 number, in a context that suggests this is the number of persons who use the services of Delaware Station (AR Item 43, at 2; see also Final Determination, at 1). Many more than 154 individuals signed DANA's petition, and the population of the 12209 zip code area indicates a much larger number of users of the station (9,772 people as of 2000; see AR Item 5).

The Final Determination, at 5, states there "are 33 stores, banks, religious institutions, and businesses around the Delaware Station," but this is a significant undercounting. It appears that the number 33 may have been taken from information that is actually the number of business and institutional *post office box customers* (see AR 2, at 2). The demographic data in AR Item 5 indicates a larger number of businesses in the 12209 zip code. A quick count of businesses, churches, schools and similar buildings just on Delaware Avenue and its immediate side streets, between Morton Avenue and the Albany/Bethlehem border, results in a number substantially larger than 33, even leaving out home-based businesses and businesses on other streets that are located closer to Delaware Station than to other post offices.

Participant statement, page 9: Concerning the location of the informational

meeting, which took place much closer to Pine Station than to Delaware Station, please see AR Item 25 (Letter to PO Box Customers) and AR Item 4, at 3 (location of Pine Station).

Participant statement, page 10: For the location of the post offices that were or are included in the station and branch study, please see the maps in the electronic version of AR Item 4. Also, AR Item 12, at 1, might show these locations, if a clear copy of that page was filed with the Commission.

Participant statement, page 10-13: This section of the participant statement discussed the Postal Service's failure to file the administrative record. The participant statement is dated November 22, 2010. On January 6, 2011, in response to the Commission's December 22, 2010 Order, the Postal Service filed the record and made available on the Commission's web site a redacted copy of the record.

The redactions in the public version of the record are very similar to the redactions that were in the documents Ms. Fahey received on December 18, 2010 in response to her FOIA request.⁷ Those documents consisted of 332 pages, 101 of which were released in their entirety and 231 of which were released with deletions.

Participant statement, pages 12-13: Concerning whether the Postal Service asked the public to complete questionnaires as part of its evaluation of closing Delaware Station, the record does not contain any completed questionnaires or any indication that they were used. A Postal Service employee anticipated that questionnaires would be part of the process (AR Item 23, at 2), but this did not occur.

⁷ The documents Ms. Fahey received did not include the November 30, 2010 memorandum from Mr. Desrosiers which is the last page of the public version of the administrative record.

The Classified Station and Branch Checklist does not contain any entries in the section concerning questionnaires (AR Item 35, at 4).

Participant statement, page 13: The participant statement said the Postal Service did not notify customers of Delaware Station that the determination to close the station could be appealed. No such notice, or any direction to issue a notice of this kind, is in the record.

Participant statement, pages 13-14 (Notice of the final determination not posted at the affected post office): The signed and dated copy of the Final Determination is part of Item 44 of the administrative record or is among the pages following Item 44, but it was not posted at Delaware Station. The record does not show that such posting was done, and the "Notices" section of the September 14, 2010 Final Determination does not direct that the Final Determination be posted at Delaware Station.

Participant statement, pages 14-15: (Record not available for inspection): The record is not available for inspection at Delaware Station, and the copy that was posted on the PRC web site contains redactions. The Postal Service's January 6, 2011 Notice states that it filed an unredacted version of the record under seal with the Commission on that date.

Participant statement, page 15: The participant statement noted that, under 39 CFR 241.3(d)(1), the proposal is required to be posted at the affected post office, with an invitation for comments. The record does not indicate that this happened. The complete proposal is not even available in the record that the Postal Service posted on the PRC web site on January 6, 2011, because the copy that was posted

contains redactions of materials that the Postal Service considers to be non-public materials (AR Item 43).

Participant statement, pages 16-18: The participant statement argued that the Postal Service did not give meaningful consideration to numerous effects on the community that would be caused by closing Delaware Station, and cited examples of effects that were not considered in a meaningful way or at all. The participant statement stated that such effects were called to the attention of the Postal Service by local residents in 2009. The participant statement did not contain references to the record concerning these effects because the record was not available at that time.

The following are some of the references to particular subjects raised in comments that are in the record.⁸ Hours at Hudson Avenue post office: AR Item 40, at 2. Presence of blind residents and those with vision problems: AR Item 40, at 1-2, 8-9, 90. Recent immigrants and residents with limited English skills: AR Item 21, at 4, and AR Item 40, at 8-9, 12-13, 35, 61, 76-77. Effects on businesses in the area served by Delaware Station: AR Item 39, at 4, and AR Item 40, at 8-9, 31-32, 35, 61, 76-77, 80, 90. Elderly and/or disabled customers: AR Item 21, at 4, AR Item 39, at 2, and AR Item 40 at 1-2, 39, 52, 76-77, 80. Using a post office rather than only using carrier service: AR Item 40, at 8-9, 35.

Participant statement, at 19-20: This section discusses the street

⁸ Oral comments provided at the informational meeting, but not also submitted in writing, were not recorded other than in the summaries prepared by the Postal Service (AR Item 39 (Community Meeting Analysis), AR Item 43 (Proposal), AR 44 (Transmittal to Vice President, Delivery and Post Office Operations, From District Manager, Customer Service and Sales)), and to a limited extent in the press.

reconstruction project and how it should have been taken into account in determining whether to close Delaware Station. References to the street reconstruction project are at AR Item 21, at 4, and AR Item 40 at 22, 32, 58, 76-77, 90.

The reconstruction project coincided with a portion of the period for which annual revenue for Delaware Station was evaluated by the Postal Service. The number for FY 2006 is redacted (see, for example, AR Item 2, at 1) but numbers for FY 2007 (\$276,444), FY 2008 (\$285,300) and FY 2009 (\$263,369) are provided in the public version of the Final Determination (at 1). These three years do not show a clear trend towards decreased business; revenue increased between FY-07 and FY-08 and then decreased between FY-08 and FY-09. During FY-09, the street reconstruction project was going on actively, often at more than one location along Delaware Avenue. Even in that year, Delaware Station's \$263,369 revenue was considerably greater than the \$97,112 total annual cost of operating the station (Final Determination, at 1 and 6).

Participant statement, at 20: The participant statement argued that the Final Determination made no attempt at evaluating income that would be lost to the Postal Service when and if customers of Delaware Station increase their use of non-postal means of sending mail and shipping packages after Delaware Station is no longer open. The participant statement noted that two competitors are located closer or slightly closer to the area served by Delaware Station than are the Delmar or Hudson Avenue post offices. Although some economic-related information is redacted from the public version of the record, it does provides information on this subject.

Several public comments mentioned competitors of the Postal Service (AR

Item 40, at 42-43, 76, 90).

The public version of the record does not show that the Postal Service took loss of business into account, and instead suggests that this was not taken into account even though the Postal Service might plan to do so for future reviews of other stations. The record includes Item 19 (Memo to VP, NE Area, Mgr., NE Area, Mgr., Windsor Facilities). The first page of the memo is mostly public except for two short redactions, but nearly all of the second page, all of the third page, and most of the fourth page is redacted. The public section of the memo indicates that it is a summary of an August 28, 2009 meeting. The unredacted text on page 1 notes, "Of particular concern were recommendations where proposed location changes positioned a competitor as more convenient option to the customer." The unredacted text also stated, "In the future, the Northeast Area review packages will require data and narrative on these issues to uncover the intangibles that a revenue number, on its own cannot reveal," including the competitor's location.

The public version of the record does not indicate that such additional information was taken into account concerning closure of Delaware Station, or that the review documents concerning this station included such information. The August 3, 2009 Post Office Closing or Consolidation Proposal (AR Item 13, at 2) assumes that 100% of window activity will migrate to Delmar and/or Albany Main. No information on loss of business to competitors was included in the Economic Savings section of the Final Determination, and no line corresponding to it appears on the Executive Summary form that would be the third page of AR Item 44.

In conclusion, DANA still requests that the Commission issue a decision as discussed at pages 21 and 22 of DANA's participant statement.

Respectfully submitted,



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