

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

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*In the Matter of:*

University Station  
Eugene, Oregon 97403  
(Steven Shapiro, Petitioner)

Docket No. A2011-4

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**REPLY OF UNITED STATES POSTAL SERVICE IN RESPONSE TO EUGENE  
AREA LOCAL NO. 679 OF THE AMERICAN POSTAL WORKERS UNION,  
AFL-CIO MOTION TO COMPEL AND REVISE PROCEDURAL SCHEDULE**  
(February 2, 2011)

On January 26, 2011, Petitioner filed a motion to compel (Motion) the Postal Service to file the administrative record, and revise the procedural schedule.<sup>1</sup> The Postal Service opposes the motion.<sup>2</sup>

Petitioner's Motion rests upon an unfounded assumption: that evaluation of the merits of the Postal Service discontinuance activity affecting University Station can assist this proceeding to its conclusion. Petitioner recognizes (Motion at 2-3) the Postal Service statement that it has not followed procedures applicable to a Post Office discontinuance, including the requirement of a discontinuance study compliant with 39 U.S.C. § 404(d). But the content of an administrative record, or whether an administrative record exists at all, has no bearing on whether the Commission has subject matter jurisdiction to hear an appeal of a station discontinuance. The existence of subject matter jurisdiction

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<sup>1</sup> Eugene Area Local No. 679 of the American Postal Workers Union, AFL-CIO Motion to Compel and Revise Procedural Schedule, PRC Docket No. A2011-4 (January 26, 2011) (Petitioner's Motion).

<sup>2</sup> The motion to revise the procedural schedule contains no specifics beyond a request that Petitioner and unidentified "interested parties" be allowed to comment upon the administrative record once it is filed. For reasons explained *infra*, that eventuality appears unlikely.

depends upon the scope of Commission authority bestowed by Congress, and not on any activity conducted by the Postal Service.

The lack of Commission subject matter jurisdiction itself operates to preclude examination of the discontinuance study's merit or procedures.<sup>3</sup> Yet, if the Commission skips past the jurisdictional issue and goes directly to the legal standards guiding its review of Post Office discontinuance matters, as Petitioner urges, the Commission can utilize the Postal Service observation, quoted by Petitioner in its Motion, that the procedures applicable to a Post Office discontinuance were not observed. As such, there exists no dispute regarding whether the standard defined in subsection 404(d)(5)(B) of title 39 has been met, and nothing can be gained by reviewing the discontinuance study to see how well it satisfies inapplicable statutory criteria.

As asserted in its Notice<sup>4</sup> and Comments,<sup>5</sup> the Postal Service takes the position that it has no obligation to file an administrative record<sup>6</sup> in this matter. Because this docket involves a facility classified as a station, and not a Post Office, the Postal Service never undertook a discontinuance study suitable for a Post Office; appropriately, it performed a study pursuant to its procedures for stations and branches. The Commission has no legal authority to expand the limited Congressional grant of subject matter jurisdiction found in section 404(d),

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<sup>3</sup> The Motion, at 3, claims "the administrative record is needed to inform the Commission's determination of jurisdiction." The absence of any logical or factual explanation for this claim is fully consistent with its complete falsity. Without subject matter jurisdiction, the Commission is precluded from examining the administrative record pursuant to section 404(d).

<sup>4</sup> Notice of the United States Postal Service, PRC Docket No. A2011-4 (December 7, 2010).

<sup>5</sup> Comments of United States Postal Service, PRC Docket No. A2011-4 (January 18, 2011).

<sup>6</sup> The Postal Service applied the discontinuance procedures applicable to stations and branches and created a record compliant with those procedures. As the Commission learned in exquisite detail during PRC Docket No. N2009-1, those procedures resemble the procedures applicable to Post Offices, but are less comprehensive.

so it has no legal authority under that section to review the Postal Service decision to discontinue operations at one of many facilities through which the Eugene, Oregon community is provided access to retail postal services. Accordingly, the Postal Service opposes Petitioner's motion to the extent it seeks to compel the Postal Service to file an administrative record.

The Postal Service opposes Petitioner's motion to compel and asserts that it lacks any basis in law, logic or the facts. Accordingly, no modification of the procedural schedule will be necessary.

Respectfully submitted,

UNITED STATES POSTAL SERVICE  
By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Pricing and Product  
Support

Kenneth N. Hollies  
James M. Mecone

475 L'Enfant Plaza, S.W.  
Washington, D.C. 20260-1137  
(202) 268-6525; Fax -6187  
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