

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

Graves Mill Post Office  
Graves Mill, Virginia

Docket No. A2011-3

ORDER DISMISSING APPEAL

(Issued February 11, 2011)

I. INTRODUCTION

On November 22, 2010, Douglas M. Graves (Petitioner) filed an appeal seeking review of the Postal Service's actions regarding the closure of the Graves Mill, Virginia post office.<sup>1</sup> The Postal Service closed the Graves Mill post office on October 2, 2010. Service at this location has been suspended since June 1, 2001.

In Order No. 596, the Commission established Docket No. A2011-3 to consider the appeal and directed the Postal Service to file its administrative record or responsive

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<sup>1</sup> Petition for Review Received from Douglas M. Graves Regarding the Closure of the Graves Mill, VA Post Office, November 22, 2010 (Petition). The Petition includes copies of the Final Determination to Close the Suspended Graves Mill, VA Post Office and Continue to Provide Rural Route Service, Notice of Post Office Emergency Suspension, and Proposal to Close the Suspended Graves Mill, VA Post Office.

pleading.<sup>2</sup> On December 7, 2010, the Postal Service moved to dismiss this proceeding, arguing that the appeal was not timely.<sup>3</sup> On December 8, 2010, Petitioner filed in opposition to the Motion to Dismiss, contending that notice of the final determination to close the Graves Mill post office was not posted properly.<sup>4</sup> The Public Representative also filed in opposition.<sup>5</sup> Subsequently, on December 16, 2010, the Public Representative filed a motion to compel the Postal Service to file the complete administrative record.<sup>6</sup>

The Postal Service's Motion to Dismiss is granted.

## II. BACKGROUND

The postmaster of the Graves Mill post office retired June 1, 2001. Final Determination at 1. Unable to locate qualified personnel to staff the office, the Postal Service suspended service at this location concurrent with the postmaster's retirement. Since the suspension of service at the Graves Mill post office, customers have received delivery and retail services from rural route delivery emanating from the Madison post office located 13 miles away. *Id.* Customers were also provided the option of receiving mail delivery service via a cluster box unit located outside of the building which housed the Graves Mill post office. *Id.*

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<sup>2</sup> Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 23, 2010 (Order No. 596).

<sup>3</sup> Motion of the United States Postal Service to Dismiss Proceeding, December 7, 2010 (Motion to Dismiss). Two exhibits were attached to the Motion to Dismiss: (1) Final Determination to Close the Suspended Graves Mill, VA Post Office and Continue to Provide Rural Route Service (Final Determination), and (2) Postal Bulletin 22296 (10-21-10) at 43-44.

<sup>4</sup> Opposition to Motion of the United States Postal Service to Dismiss Proceedings, December 8, 2010 (Opposition).

<sup>5</sup> Public Representative Response Opposing Motion of the United States Postal Service to Dismiss Proceedings, December 14, 2010 (PR Response).

<sup>6</sup> Public Representative Motion to Compel and Revise Procedural Schedule, December 16, 2010 (Motion to Compel).

At the time service was suspended, the Graves Mill post office provided service from 9:00 a.m. to 1:00 p.m. Monday through Saturday to 15 post office boxes and two general delivery customers. The Madison post office provides window service from 8:00 a.m. to 4:30 p.m. Monday through Friday and 9:00 a.m. to noon on Saturday. *Id.* Window service also is available at the Wolftown post office located six miles from the Graves Mill post office. Service there is provided 8 hours per day Monday through Friday and on Saturday from 8:00 a.m. to 11 a.m. Post Office Box Service is available at both locations. *Id.*

The retirement of the Graves Mill postmaster and suspension of service prompted an investigation into the feasibility of providing alternate service to Graves Mill customers. *Id.* at 3. Finding that alternate service was appropriate, the Postal Service made a decision to close the Graves Mill post office. The Postal Service posted its proposal to close the suspended Graves Mill post office at the Madison and Wolftown post offices from September 4, 2007 through November 5, 2007. No comments were received from customers. *Id.* at 5.

The Graves Mill post office was officially closed October 2, 2010. Motion to Dismiss at 2; see *also id.* Exhibit 2 at 2.

The Final Determination to close the Graves Mill post office was posted at the Madison and Wolftown post offices from June 30, 2010 until July 31, 2010. Motion to Dismiss at 1.

### III. PARTICIPANT PLEADINGS

*Petitioner's pleadings.* Graves Mill, Virginia is a rural community which has been served by the Graves Mill post office since 1828.<sup>7</sup> Petitioner argues that the historical value of the post office has been ignored and contends that the Postal Service failed to satisfy the procedural requirements of 39 U.S.C. § 404(d). Participant Statement at 6; Petition at 2. Petitioner provides in depth background information on the Graves Mill community and its commitment to preserving its history. In 2009, the community formally dedicated the Graves Mill Historical Park, which features a replica of a 1900's post office building. Participant Statement at 15.

Petitioner explains that on June 27, 1995 the Postal Service relocated the Graves Mill post office to Graves Chapel after a flood destroyed the original structure housing the post office. Petition at 3. Retail services continued to be provided at that location until 2001, when the postmaster retired prompting the suspension of service. *Id.* at 2. Petitioner states that a cluster box unit was installed outside the Graves Chapel location. He indicates that for years this location has served as a point for customers to "receive mail, send outgoing mail, receive packages, and to purchase postal stamps by mail and obtain money order application requests through our postal carrier." *Id.* at 3.

Petitioner contends that the Postal Service failed to satisfy the requirements of 39 U.S.C. § 404(d). Among other things, he argues that by not posting notice of the Final Determination at the cluster box unit, the Postal Service failed to provide adequate notice to customers. Participant Statement at 33-34; see *also* Petition at 2-3. Petitioner disputes the validity of the suspension, arguing that a qualified replacement for the retiring postmaster was available. Participant Statement at 3-6. Further, he contends

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<sup>7</sup> Petitioner's Participant Statement, January 24, 2011 (Participant Statement). The Participant Statement provides photographs of buildings representing the various institutions which have contributed to the history of the community. The Participant Statement includes several attachments consisting of the Notice of Post Office Suspension, Graves Mill Community meeting roster, and Citizens' Petitions to reopen the Graves Mill post office.

that the Postal Service failed to consider the effect of the closing on the community and postal employees. *Id.* at 6-23, 26-28.

Petitioner opposes the Postal Service's Motion to Dismiss. Petitioner argues that the Commission should consider the petition timely and deny the motion because the Postal Service failed to post the final determination at the proper post office. Opposition at 3. Petitioner cites 39 CFR § 241(g)(1)(i), which directs the district manager, customer service and sales, to post notice of the final determination prominently in the affected post office or offices. Petitioner contends that the Graves Mill post office is the affected post office in this instance. *Id.* at 2.

*Postal Service motion.* The Postal Service moves to dismiss the appeal, arguing that it was not timely. Motion to Dismiss at 2.

Section 404(d)(5) provides that the Postal Service's Final Determination may be appealed by any person served by that office within 30 days of the determination being made available to the public. The Postal Service notes that the appeal postmarked November 15, 2010 is more than 3 months after the expiration of the 30-day period to appeal the Postal Service's decision. *Id.* at 2. The Postal Service asserts that the 30-day appeal period "is a limit upon the jurisdiction of the Commission that must be strictly construed." *Id.* at 4.

The Postal Service adds that all concerns raised by customers served by the Graves Mill post office were properly considered and addressed. The Postal Service indicates that since no appeals were received by the Commission within 30 days of the posting of the Final Determination, it appropriately closed the Graves Mill post office on October 2, 2010. *Id.* at 4-5.

*Public Representative filings.* The Public Representative opposes the Postal Service's Motion to Dismiss contending that the Postal Service deprived the Petitioner of the right to appeal by posting the Final Determination at the incorrect post office. PR Response at 3. The Public Representative draws a distinction between the "affected post offices" and "post office providing alternative service," and concludes that the affected post office is the one slated for closure. *Id.* at 4. The Public

Representative argues that the Final Determination should have been posted at the Graves Mill post office, the affected post office in this case. *Id.*

The Public Representative also filed a Motion to Compel the Postal Service to file the complete administrative record in this proceeding. The Public Representative argues that access to the complete administrative record is essential to the appeals process and that, in the past, petitioners have been prejudiced by the Postal Service's failure to provide a complete administrative record in a number of recent appeal proceedings. Motion to Compel at 1-2. The Public Representative also contends that the Postal Service must provide its administrative record even in cases where jurisdiction is contested. The Public Representative asserts that the Commission cannot decide jurisdictional issues without the administrative record. *Id.* at 3.

#### IV. COMMISSION ANALYSIS

Under 39 U.S.C. § 404(d)(4), the Postal Service may take no action to close or consolidate a post office until 60 days after its written determination is made available to patrons of that office. If the Postal Service decides to close the post office, it also must post its final determination for 30 days at the affected office(s). 39 CFR § 241.3(g).<sup>8</sup> Patrons of the post office may appeal the Postal Service's decision to the Commission within 30 days of the determination being made available to the public. See 39 U.S.C. § 404(d)(5).

The Final Determination was posted at the Madison and Wolftown post offices from June 30, 2010 until removed July 31, 2010. Petitioner filed his appeal November 15, 2010. The issue presented by the appeal is whether the notice provided by the Postal Service was adequate.

Petitioner maintains that he did not file his appeal within 30 days after the Final Determination was posted because the Postal Service failed to post the determination

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<sup>8</sup> The Postal Service must also ensure that a copy of the record is available for public inspection where the final determination is posted for 30 days. See 39 CFR § 241.3(g)(1)(ii).

at the Graves Mill post office. The Petitioner, along with the Public Representative, argues that the Postal Service failed to follow its own regulations requiring that the Final Determination be posted at Graves Mill, the “affected” post office.

The Graves Mill post office has not been operational for nearly 10 years. During that period, customers have been receiving delivery and retail services from a rural route administered by the Madison post office. In determining to formally close the Graves Mill post office, the Postal Service followed its regulations. Since the Graves Mill post office was no longer operational, it posted notice of its Final Determination at Madison and Wolftown, the affected offices.

Petitioner and the Public Representative argue that Graves Mill was the affected post office and notice should have been posted there. While the Commission is sympathetic to this argument, the difficulty with it is that there was no longer a Graves Mill post office. This is not to suggest that the Postal Service could not have done more to notify affected customers. As Petitioner notes, notice could have been posted at the cluster box unit. Postal Service regulations, however, do not require such additional notice requirements.

The Graves Mill post office has not been operating since 2001, and since that time, Graves Mill post office patrons have received alternate service via a rural carrier route, and from two nearby post office locations. The Postal Service’s Final Determination represents a formalization of that result. In a recent decision, Docket No. A2010-5 (Rentiesville, OK), the Commission expressed concern that the Postal Service had used suspensions in lieu of closing procedures. Promptly moving to resolve the status of suspended offices will reduce disruption and facilitate predictable access to postal services for customers of such offices.

Given the circumstances presented in this proceeding and that notice was posted at the Postal Service facilities closest to Graves Mill, the Commission concludes that

notice provided by the Postal Service was adequate. Therefore, the appeal is dismissed as untimely.<sup>9</sup>

*It is ordered:*

1. The Motion of United States Postal Service to Dismiss Proceedings, filed December 7, 2010, is granted.
2. The Public Representative Motion to Compel and Revise Procedural Schedule, filed December 16, 2010, is dismissed as moot.

By the Commission.

Ruth Ann Abrams  
Acting Secretary

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<sup>9</sup> Given this finding, the Commission need not address the merits of the Public Representative's Motion to Compel. Accordingly, that motion is dismissed as moot.