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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

Lancaster Post Office
Lancaster, Tennessee

Docket No. A2011-2

COMMENTS OF THE PUBLIC REPRESENTATIVE

February 28, 2011

I. **Summary of Proceedings**

Pursuant to 39 U.S.C. 404(d), the Commission received an appeal of the discontinuance of the Post Office at Lancaster, Tennessee. The appeal, postmarked November 5, 2010, was posted on the Commission's website on November 10, 2010. On November 12, 2010, the Commission issued a Notice of Filing under 39 U.S.C. 404(d). On November 16, 2010, the Commission's Secretary sent PRC Form 61 to the Petitioner.[1] In Order No. 586 the Commission instituted a proceeding under 39 U.S.C. 404(d)(5), designated the case as Docket No. A2011-2 to consider the Petitioner's

[1] Secretary's Letter Transmitting PRC Form 61 Participant Statement to Petitioner Allen O. Mason, November 16, 2010.

appeal and designated the undersigned as Public Representative.[2] The Commission's Secretary transmitted notice of the establishment of the docket to the Petitioner and advised him that he could explain his position further with supplemental information and file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than December 13, 2010.

The Commission initially determined that the categories of issues that appear to be raised from the appeal include the "Failure to consider effect on the community." *See* 39 U.S.C. 404(d)(2)(A)(i).

Order No. 586 also established the deadline for the Postal Service to file the administrative record with the Commission as November 23, 2010. 39 CFR 3001.113.

On November 22, 2010, the Postal Service gave notice of the filing of the official discontinuance record.[3] The electronic notice of the administrative record was also filed.

On December 10, 2010, the Petitioner filed the Participant Statement with the Commission.[4] On January 3, 2011, the Postal Service filed comments regarding the appeal which set forth its analysis of the issues raised by the Petitioner.[5] On January 18, 2011, the Petitioner filed comments on the discontinuance of the post office and responded to the Postal Service's comments. On January 23, 2011, the Petitioner filed a request for oral arguments in this proceeding.[6] Additionally, he included letters from customers of the Lancaster Post Office that express opposition to the closure. In his Request the Petitioner contended that the Postal Service has used inaccurate information to support the reasons for the closing and that citizens of Lancaster failed to

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[2] Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 15, 2010 (Notice).

[3] United States Postal Service Notice of Filing, November 22, 2010, (USPS Notice of Filing)

[4] Participant Statement Received from Allen Mason Regarding the Lancaster, TN Post Office, December 10, 2010 (Participant Statement).

[5] United States Postal Service Comments Regarding Appeal, January 3, 2011 (USPS Appeal Comments).

[6] Request for Oral Argument Concerning A2011-2, January 25, 2011 (Request for Oral Argument).

get notification of the initial suspension. Request for Oral Argument at 1. The Postal Service filed a motion opposing oral arguments in the instant case on January 31, 2011.[7] The Postal Service asserted that the Petitioner's arguments did not cite any special circumstances and were consistent with issues raised in previous pleadings. The Commission found that the Petitioner's arguments were already in the record and he had not raised any unusual circumstances that warrant an oral argument. In Order No. 665, the Commissioner denied the request.[8]

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). In Order No. 586 the Commission determined that its jurisdiction over this matter ends March 4, 2010. Prior to the end of the Commission's jurisdiction over this matter, the Public Representative offers a few succinct observations related to the proceeding. I will discuss only two issues; the comments of the Petitioner and the Postal Service relative to notice requirements and the effect of the closing on the Lancaster, TN community.

II. **Postal Service Comments**

The Postal Service states that the appeal raises five main issues: (1) the content of the Postal Service's notice, (2) the effect on postal services, (3) the impact upon the Lancaster community, (4) the calculation of economic savings expected to result from the discontinuance of the Lancaster TN Post Office, and (5) impact upon postal service employees. USPS Appeals Comments at 1-2.

The Postal Service comments provide the rationale for the final determination to close the Lancaster Post Office. The cumulative reasons given are: (1) the postmaster's transfer,(2) the facility conditions requiring suspension of service from the existing facility and lack of a suitable alternative facility, (3) declining office revenue,(4) the variety of delivery and retail options (including the convenience of rural delivery and

[7] Opposition of United States Postal Service to Motion Requesting Argument, January 31, 2011 (Motion in Opposition).

[8] Order No. 665, Order Denying Request for Oral Argument, February 4, 2011.

retail service), (5) minimal recent growth in the area. (6) lack of adverse impact upon the community and (6) the expected financial savings. *Id*. at 3.

Even though in the instant case, the Postal Service's record indicates that before an emergency suspension of services at the Lancaster Post Office daily window transactions averaged eighteen, revenue was low and on the decline, and the former postmaster transferred, the statutory requirements provide that a post office cannot be closed for the sole reason that it is operating at a deficit. 39 U.S.C. 101(b).

The Postal Service's comments respond to its assessment of the issues raised by the Petitioner. It initially addresses the notice requirements relative to the Final Determination to Close the Suspended Lancaster, TN Post Office. Accordingly, it evaluates its notice requirements in relation to 39 U.S.C. 404(d)(1). The Postal Service does not address the Petitioner concerns about the notice given regarding the initial suspension of services. *See* Participant Statement, Exhibit 1, ¶1 and ¶ 7. The Postal Service's failure to address the initial suspension notice appears to be a major concern of the Petitioner. The failure to give notice issue raised in the Petitioner's pleadings refer to the initial notice of suspension in 2003. In the Petitioner's Participant Statement and subsequently in his comments and request for oral argument he relates that he is concerned about the lack of communication from the Postal Service in the process of the discontinuance beginning with the suspension of services on April 5, 2003.[9]

The Postal Service states that the suspension of services in 2003 resulted from safety and health deficiencies at the location and the unavailability of an alternate location. In its analysis of the suspension the Postal Service states that daily transactions averaged eighteen, revenue was low and trending downward, economic growth was slow in the area, closing would not have an adverse impact upon the community and it expects financial savings. USPS Appeal Comments at 3. It also comments that the postmaster of the Lancaster Post Office requested and was granted a transfer on January 31, 2003. *Id*. This particular timeframe is a focus of the

[9] The Petitioner also disputes the date of the closing and contends that the post office was actually closed by March 29, 2003.

Petitioner's pleadings. However, the instant proceeding was filed pursuant to 39 U.S.C. 404(d), requesting an appeal of the closing. The Commission has initiated a public inquiry docket to review suspensions of post offices as an outgrowth of an earlier proceeding involving the emergency suspension of postal operations at the Hacker Valley, West Virginia Post Office.[10] Order No. 335 at 1.

The Postal Service states that the customers of the Lancaster Post Office will be provided delivery and retail services from rural route delivery from Hickman and Gordonsville Post Offices. USPS Appeals Comments at 9. Additionally, it contends that delivery and retail services are available from the carrier customers will have the option of service to cluster box units, roadside units included in the carrier's line of travel. *Id.* at 7-8. It contends that all Lancaster customers will continue to receive regular and effective service through rural route delivery to roadside mailboxes or CBU's. *Id.*

The Postal Service asserts that it has satisfied the notice requirements of 39 U.S.C. 404(d)(1). *Id.* at 4-6. It states that the postings of the notice and opportunity for comment was given at nearby facilities of the Hickman Post Office and the Gordonsville Post Office from August 21, 2009 through October 23, 2009. Additionally, it contends that the Final Determination posting was also posted at the same locations from the period of October 8 and November 15 at Hickman and October 13, through November 17 at Gordonsville. The Postal Service also states that a letter from the Post Office Operations, Nashville, TN gave notice to customers and requested that customers complete a questionnaire. The questionnaires and responses are included in the Administrative Record. USPS Notice of Filing, Item No. 20. Finally, the Postal Service describes a community meeting on June 4, 2009 at the Hickman Post Office to respond to questions on the proposed closing.

The Petitioner argues that there are discrepancies in the reasons given by the Postal Service for closing the Lancaster Post Office. Petitioner's Statement at 1. He

[10] Hacker Valley Post Office, Hacker Valley, WV 26222 (Retha Casto, Petitioner), Docket No. A2009-1 (*Hacker Valley*).

states that the transfer of the postmaster constitutes an issue that impacted the closure in spite of the Postal Service's contention that the reference to the transfer was historical information relative to the closing.[11] In the Petitioner's comments on January 23, 2011, he indicates that the reasons given by the Postal Service for the suspension of the post office in 2003 have been resolved at the Post Office facility. In the administrative record it is indicated in a letter dated February 11, 2003, from Dave Flippo, Manager Safety and Health, USPS, that the Lancaster, TN facility was evaluated by the Tennessee District Safety Office in January 27, 2003. The findings concluded that the Post Office had no running water, toilet facilities or lavatories. The facility that was reviewed for an alternative location, the local Lancaster Volunteer Fire Department, was determined to be unsuitable because among other things it also appeared to have sanitation issues. Mr. Flippo recommends that the Lancaster Post Office be brought up to required sanitation standards with potable water, a toilet and hot and cold running water. A notice of emergency suspension is also included in the record with an effective date of April 5, 2003. There is also a Postal Service letter signed by Marcia Pursley, Post Office Discontinuance Coordinator, dated March 2, 2009, titled "memo to record" which states that, "[T]here was not a notice in the file to the customers/district personnel of suspension."[12]

The Petitioner disputes the April 5, 2003, date of the suspension based on an article in the Carthage Courier, a local newspaper, that relates that the post office suspension occurred beginning March 29, 2003. The newspaper article quoted Beth Burnett-White, USPS Public Affairs office in Nashville, TN, as stating, "The Postmaster took a job out of state and we have suspended operations. There is no running water in the facility or restrooms. So we have suspended operations until such time as this can be resolved." The Postal Service's records do not reflect how it notified customers of

[11] The Postal Service contends that the postmaster transfer information was included in its comments as historical background information.

[12] Memo to Record of Rebecca Pursley, March 2, 2009, Docket No.38569, Administrative Record Item No. 3, Page 1.

the emergency suspension. However, based on the description of the conditions at the Lancaster, TN Post Office the Public Representative believes there were valid reasons for the emergency suspension.

The Petitioner alleges that notice was not given to customers of the suspension at the time the emergency suspension occurred. The Petitioner‘s concerns that notice was not given during the suspension process appear to be supported by the Postal Service’s records.

IV. **Effect on the Community**

In accordance with 39 U.S.C. 404(d)(2)(A)(i) the Postal Service indicates that it has considered the impact on the Lancaster, TN community. However, as would be expected the Petitioner disputes this and expresses his discontent regarding the Postal Service’s handling of this closing as well as the impact on other communities that have experienced Post Office closings.[13] Because the Petitioner does not believe that the Postal Service has responded to community concerns regarding the suspension of the post office he doubts that the community will receive regular and effective postal services with the alternative postal services resulting from the closure. The Petitioner represents that further commercial development in the Lancaster, TN have the potential to bring additional revenue to the area. He laments the loss of local easily accessible, convenient postal services. Essentially, his arguments are that the process is ineffective, cumbersome, and obscures the factors that fortify community ties with the their local post office such as trust in postal service officials, continuity and accessibility, of services and familiarity with the location.

[13] In comments filed on January 14, 2011, the Petitioner references the experience of a businessman in Lancaster alleging that he was told by the Hickman Postmaster his business address would have to be changed to Hickman in order to use postal services.. Additionally, he relates that he believes that two communities have had to make address and/or ZIP Code changes; New Middleton that now has a Gordonsville address and Defeated that now has a Carthage address.

Conclusion

In the closing of the Lancaster, TN Post Office, the administrative record filed by the Postal Service demonstrates that the citizens were provided with the proper notice and opportunity to present their views on the closing and the Postal Service took into account the other enumerated factors in 39 U.S.C. 404(d)(1) in its decision to close the facility. The records indicate that of Postal Service questionnaires received, 52 were returned with 8 favorable responses, five unfavorable and 39 with no opinion expressed on the proposed alternate service. Additionally, the record indicates that a petition was signed with 203 signatures supporting the retention of the Lancaster, TN post office However, the record raises doubt that the Postal Service gave citizens notice of the initial emergency suspension action.

Even though the Postal Service may have complied with the requirements of the law relative to notice and opportunity to consider comments regarding the closing, in this instance as in many others, the Postal Service continues to suffer from the perception that its inconsistency in communications at all levels is an affront to the trust and reliance that citizens have placed in it as a representative of a public institution of government. Poor coordination of information from postal service representatives involved in the process of suspensions and discontinuance procedures fan the flames of discontent. The Petitioner may now believe that his trust in the Postal Service is misplaced. The Petitioner's expectations are expressed in 39 U.S.C. 101(b) which states:

> [t]he 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 … [and that] … [n]o small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities. *Emphasis added*.

The Petitioner may question whether the Postal Service has excised the word "maximum" from the requirements of effective and regular services. It would be helpful for Postal Service representatives to maintain regular and effective communications

during the transition period and to address issues of concern such as retaining the ZIP Code for the Lancaster community, and hours of operation of the alternative location based on possible increase in customers.

However, in these economic times, the Postal Service is addressing its financial solvency in a manner that may distress many citizens but reflects the reality of the impact of the crushing economic recession on communities nationwide.

Respectfully Submitted,

/s/ Cassandra L. Hicks
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