

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

Eugene Post Office's Eugene Station  
Eugene, Oregon

Docket No. A2011-4

COMMENTS OF THE PUBLIC REPRESENTATIVE

(March 15, 2011)

**I. Summary of Proceedings**

The Commission received a petition for review of the closing of the Eugene Post Office's University Station located in Eugene, Oregon. The petition, which was filed by Steven Shapiro (Petitioner), is postmarked November 16, 2010, and was posted on the Commission's website on November 22, 2010. In Order No. 597 the Commission instituted a proceeding under 39 U.S.C. 404(d), designated the case as Docket No. A2011-2 to consider the Petitioner's appeal and designated the undersigned as Public Representative.<sup>1</sup> The Commission instituted the proceeding under 39 U.S.C. 404(d) and designates the case as Docket No. A2011-4 to consider the Petitioner's appeal.

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<sup>1</sup> Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 23, 2010 (Notice).

The categories of issues apparently raised include: Failure to consider the effect on the community. See 39 U.S.C. 404(d)(1) and 404(d)(2)(A)(i). Petitioner also requests a suspension of the closing/consolidation process pending the outcome of the appeal. The post office was scheduled to close December 31, 2010. The answer to the application is due December 2, 2010. See 39 CFR 3001.114(b).

On December 7, 2010, the Postal Service filed its response reiterating its position that this proceeding is not subject to 39 U.S.C. 404(d).<sup>2</sup> The Postal Service contends that because the University Station is not a post office it does not have a final administrative record supporting the discontinuance which conforms to the standards applicable to a Post Office discontinuance. *Id.* at 1. Additionally, on January 18, 2011 the Postal Service filed comments on the proceedings.<sup>3</sup>

On January 26, 2011, the Eugene Area Local No. 679 of the American Postal Workers Union, AFL-CIO (Local No. 679) filed a motion to compel requesting that the Postal Service file its complete administrative record.<sup>4</sup> Local No. 679 also requested that the Commission modify the procedural schedule to allow time for parties to submit additional comments after reviewing the entire administrative record.

In support of its Motion, Local No. 679 argued that that without the administrative record the Commission would have to base the decision on an incomplete record. It stated that this would deprive customers of a meaningful appeal. *Id.* at 3. Local No. 679 asserts that without knowing the basis of the Postal Service's decision, customers cannot effectively challenge the merits of the decision. *Id.* Finally, Local No. 679 contends that the Postal Service's response constitutes "evasive behavior" that is adverse to the Congress's intent in establishing increased

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<sup>2</sup> Notice of the United States Postal Service, December 7, 2010 (Notice). Attached to the Notice is the Final Determination to close the Eugene, Oregon University Station and information regarding additional post offices located in Eugene, Oregon.

<sup>3</sup> Comments of the United States Postal Service, January 18, 2011, (USPS Comments)..

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

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transparency through enactment of the Postal Accountability and Enhancement Act of 2006. *Id.* at 3-4.

On February 2, 2011, the Postal Service filed its reply opposing the Motion.<sup>5</sup> The Postal Service contended that the Commission lacks subject matter jurisdiction because this docket involves a facility classified as a station and not a post office. *Id.* at 1. The Postal Service asserts that the Commission is not authorized to expand the limited Congressional authority granting subject matter jurisdiction over post office closings found in section 404(d). *Id.* at 1-2. The Postal Service reasons that the administrative record's content has no bearing on whether the Commission has jurisdiction to hear the appeal. *Id.* at 1.

The Commission granted Local No.679's motion as to the limited requirement for production of the administrative record but stated that the ruling had no bearing on the merits of the case.<sup>6</sup> The Postal Service filed the administrative record on March 7, 2011.<sup>7</sup>

## II. **Discussion of the precedent and other issues**

The Commission has a long standing position regarding the scope of the scope of section 404(d), regarding the review of station closures which is in opposition to the Postal Service's adamant position taken in this proceeding. The Postal Service is stalwart in its position that the Commission does not have jurisdiction in the current proceeding because of the University Station classification or designation as a station. The Public Representative's view is that the Commission does have authority to review the action of the discontinuance of the University Station. Regardless of that view, I contend that in the current proceeding it is not necessary to analyze this issue since the central matter before the Commission is whether the Petitioner has provided convincing

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<sup>5</sup> Reply of the 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 (Reply).

<sup>6</sup> Order Granting Motion to Compel, Order No. 68, March 2, 2011 (Order No. 688).

<sup>7</sup> United States Postal Service Notice of Filing and Application for Non-Public Status, March 7, 2011.

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arguments supporting his position. The Commission has recently reviewed similar issues as those in the current proceeding and chose to address the merits of the participants argument regarding the basis for setting aside the Final Determination of the Postal Service.

In Docket No. A2011-1, the Commission based its finding on the evaluation of the Petitioner's arguments on whether the Postal Service had followed statutory procedures in the closing of the station pursuant to standards of section 404(d)(2).<sup>8</sup> Similarly in this case, the finding rests on whether the Petitioner has raised sufficient facts to reach the conclusion that the Postal Service has failed to consider the effects of the closing on the community as presented in the arguments posed by the Petitioner.

The administrative record demonstrates several points that support the closing of the facility; (1) there was declining revenue and fixed costs at the University Station, (2) notice was given to customers in the form of a letter and questionnaire regarding the closing and responses were received, (3) the Postal Service evaluated alternate service available to customers and will provide both delivery, retail and post box service including Saturday retail window hours within fairly close proximity to the current location and, (4) the Postal Service has provided responses to several Congressional inquiries regarding the discontinuance. Administrative Record Exhibit 1. The administrative record also shows that the notice to the customers was provided in August of 2009, at a time when according to the same records, business is generally almost nonexistent during the months when students and faculty are on break or summer vacation. This type of notice is impotent when the majority of customers are absent.<sup>9</sup>

In spite of the poor timing notification the notice was provided. Additionally, it may be argued that the Postal Service's proposed financial savings are meager in light of the inconvenience to the University Station customers. In spite of adverse

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<sup>8</sup> See Docket No, A2011-1, Order Affirming Final Determination February 15, 2011.

<sup>9</sup> See Letter from Associated Students of the University of Oregon President Amelie Rousseau, March 9, 2011.

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consequences including possible lost of trust and a decline in use of the Postal Service by the University Station customer base, it appears there may be some savings. In this particular instance, as I have stated previously in other appeals of post office closings, the effectiveness of the communications in the discontinuance process needs to be improved. In this proceeding I think that the Postal Service may have succeeded in disengaging an entire generation of customers who may now believe there is good reason to eschew the value of Postal Service retail outlets and brick and mortar locations.

III. **Conclusion**

The record demonstrates that the Petitioner was afforded notice of the Postal Service's proposal to close University Station and had an opportunity to comment on that proposal at an early stage. In this proceeding the Postal Service will continue to provide regular and effective postal services to the community in compliance with 39 U.S.C. 101.

Respectfully Submitted,

/s/ Cassandra L. Hicks

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