

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

<i>In the Matter of:</i> Pleasant Ridge Station Little Rock, AR 72212 (Lou Schickel, Petitioner)	Docket No. A2011-8
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INITIAL BRIEF IN SUPPORT OF PETITION
(March 22, 2011)

In support of his Petition appealing the Postal Service's Final Determination concerning the closing of the Pleasant Ridge post office, the Petitioner states as follows:

Statement of Jurisdiction

This Commission has jurisdiction of this matter pursuant to 39 U.S.C. § 404(d)(5). Petitioner timely filed his Statement on February 7, 2011 and this Commission initiated this appeal process pursuant to a Notice of Filing Under 39 U.S.C. § 404(d) dated February 18, 2011.

Response to Postal Service Filing Dated March 2, 2011

The Postal Service states in its response filed on March 2, 2011 (1) that this Commission has no jurisdiction over this matter because Pleasant Ridge Station is not a Post Office and (2) the procedural requirements of 39 U.S.C. § 404(d) do not apply because the discontinuance (*i.e.* the closing) of Pleasant Ridge Station does not qualify as a closure envisioned by 39 U.S.C. § 404(d) because "postal customers do not lose access to postal services where alternative retail facilities are located in 'close proximity' to the discontinued station."

The Postal Service is incorrect in both of its assertions. The Postal Service admits in its response that a motion to dismiss the proceedings would not be constructive.

Therefore, such a statement is an admission that this Commission can and should exercise its jurisdiction and authority over this matter.

Regarding the access to retail facilities in “close proximity” to the Pleasant Ridge Station, the Postal Service response has a factual error in it. The proposed post office that would serve the customers of Pleasant Ridge Station is not 1.5 miles from the Pleasant Ridge Station but it is actually 2.3 miles away.

Failure to Have Administrative Record Supporting the Final Determination

The Postal Service admits in its response that “it does not have a final administrative record supporting the discontinuance of Pleasant Ridge Station that complies with the standards applicable to a Post Office discontinuance, as the Commission likely expects.” In light of that frank admission, the Petitioner notes that 39 U.S.C. § 404(d)(2)(A) specifies the criteria that should be considered in the process of making a determination of whether or not to close a post office. The Petitioner argues that the criteria of such section has not been satisfied.

In addition, 39 U.S.C. § (d)(5) states that the Commission’s review of the determination to close the post office shall be on the basis of the record of the Postal Service in the making of the determination. Finally, 39 U.S.C. § (d)(5)(C) *requires* the Commission to set aside any determination “unsupported by substantial evidence on the record.”

Restatement of Participant Statement

The Petitioner hereby restates his Participant Statement filed on March 18, 2011 and attached hereto as Exhibit A.

Conclusion

In light of the above, the Petitioner respectfully submits that the determination for the Postal Service to close the Pleasant Ridge Station must be set aside and order that the entire matter be returned for further consideration.

Dated this 22nd day of March 2011.

Respectfully submitted,

LOU SCHICKEL, PETITIONER

By _____

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