

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

Nooksack Post Office
Nooksack, Washington 98276

Docket No. A2011-17

NOTICE AND ORDER ACCEPTING APPEAL AND
ESTABLISHING PROCEDURAL SCHEDULE

(Issued May 19, 2011)

Notice is hereby given that, pursuant to 39 U.S.C. 404(d), on May 16, 2011, the Commission received a petition for review of the closing of the Nooksack Post Office in Nooksack, Washington.¹ The petition, which was filed by the City of Nooksack (Petitioner), is postmarked May 13, 2011, and was posted on the Commission's website May 17, 2011. The Commission hereby institutes a proceeding under 39 U.S.C.

¹ Appeal of Closure of Nooksack Post Office, Nooksack, Washington 98276, May 16, 2011 (Petition). The Petition includes 7 exhibits: Exhibit A—a copy of a Dear Postal Customer Letter; Exhibit B—a copy of a letter to the Postal Service regarding an opportunity to discuss the possible changes in service in Nooksack; Exhibit C—a copy of Landlord's Notice of Termination from the Postal Service; Exhibit D—a copy of the Final Determination to Consolidate the Nooksack, WA Post Office and Establish a Classified Station, 1991; Exhibit E—Commission Opinion Affirming Decision under 39 U.S.C. 404(b), Docket No. A92-7; Exhibit F—an email from Anne Blair to Virginia Radder; and Exhibit G—Affidavit of Virginia Radder. In addition to the Petition, the Petitioner filed an Application for Suspension of the Postal Service's Determination.

404(d)(5) and designates the case as Docket No. A2011-17 to consider Petitioner's appeal. If Petitioner would like to further explain its position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than June 20, 2011.

Categories of issues apparently raised. Petitioner raises two issues: (1) the failure of the Postal Service to follow the procedural requirements of 39 U.S.C. 404(d) and 39 CFR 241.3 for closing a post office; and (2) whether the closing is consistent with the policy of the Government that the 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 (see 39 U.S.C. 404(d)(2)(A)(ii)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the administrative record with the Commission is May 31, 2011. See 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this Notice is May 31, 2011.

Application for Suspension of Determination. In addition to its Petition, the Petitioner filed an application for suspension of the Postal Service's determination (see 39 CFR 3001.114). Petitioner contends that suspending the effectiveness of the determination is necessary to prevent the Nooksack post office from being put on an irreversible course of closure before the appeals process is concluded. Petitioner argues that the city will suffer irreparable injury if the Nooksack post office is allowed to close while its appeal is before the Commission. As indicated by the Petitioner, the Nooksack post office is scheduled to close May 27, 2011. Commission rules allow for the Postal Service to file an answer to such application within 10 days after the application is filed. In light of what appears to be the proposed close date, the Postal Service's answer to the application is due no later than May 24, 2011. The Postal Service is encouraged to maintain the standard of service currently offered at the

Nooksack post office pending the Commission's response to the Postal Service's answer.

Availability; website posting. The Commission has posted the appeal and supporting material on its website at <http://www.prc.gov>. Additional filings in this case and participant's submissions will also be posted on the Commission's website, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's website is available online or by contacting the Commission's webmaster via telephone at 202-789-6873 or via electronic mail at prc-webmaster@prc.gov.

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at prc-dockets@prc.gov or via telephone at 202-789-6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's website, <http://www.prc.gov>, unless a waiver is obtained. See 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's website or by contacting the Commission's docket section at prc-dockets@prc.gov or via telephone at 202-789-6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Those, other than the Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. See 39 CFR 3001.111(b). Notices of intervention in this case must be filed on or before June 13, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's website unless a waiver is obtained for hardcopy filing. See 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. 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). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. See 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file an answer to the application for suspension of the Postal Service's determination no later than May 24, 2011.
2. The Postal Service shall file the administrative record regarding this appeal no later than May 31, 2011.
3. Any responsive pleading by the Postal Service to this Notice is due no later than May 31, 2011.
4. The procedural schedule listed below is hereby adopted.

5. Pursuant to 39 U.S.C. 505, Richard A. Oliver is designated officer of the Commission (Public Representative) to represent the interests of the general public.
6. The Secretary shall arrange for publication of this Notice and Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary

PROCEDURAL SCHEDULE

May 16, 2011	Filing of Appeal
May 24, 2011	Deadline for the Postal Service to file answer responding to application for suspension
May 31, 2011	Deadline for the Postal Service to file the administrative record in this appeal
May 31, 2011	Deadline for the Postal Service to file any responsive pleading
June 13, 2011	Deadline for notices to intervene (see 39 CFR 3001.111(b))
June 20, 2011	Deadline for Petitioner's Form 61 or initial brief in support of the petition (see 39 CFR 3001.115(a) and (b))
July 11, 2011	Deadline for answering brief in support of the Postal Service (see 39 CFR 3001.115(c))
July 26, 2011	Deadline for reply briefs in response to answering briefs (see 39 CFR 3001.115(d))
August 2, 2011	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)
September 12, 2011	Expiration of the Commission's 120-day decisional schedule (see 39 U.S.C. 404(d)(5))