

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

In the Matter of:

East Akron Station
Akron, OH 44305-0098
(Paul J. Connor and Shirley
Strader, Petitioners)

Docket No. A2011-16

**RESPONSE OF UNITED STATES POSTAL SERVICE TO CITY OF AKRON,
OHIO'S MOTION TO COMPEL ADMINISTRATIVE RECORD**
(June 16, 2011)

On June 10, 2011, the City of Akron, Ohio (Intervenor) filed a notice of intervention, as well as a motion to compel (Motion) the Postal Service to file the administrative record, and to revise the procedural schedule.¹ This pleading responds to the City of Akron, Ohio's motion to compel.²

The Intervenor's Motion rests upon an unfounded assumption: that evaluation of the merits of the Postal Service discontinuance activity affecting East Akron Station can assist this proceeding to its conclusion. As stated in its Notice filed on May 31, 2011, the Postal Service maintains that the procedures applicable to a Post Office discontinuance do not apply here because the discontinuance action pertains to a station, and not a Post Office. Thus, the content of an administrative record, or whether an administrative record exists at

¹ Notice of Intervention, City of Akron, Ohio, PRC Docket No. A2011-16 (June 10, 2011); City of Akron, Ohio's Motion to Compel Administrative Record and Extend the Deadline for Petitioner and City of Akron, Ohio to File Form 61 and/or an Initial Brief, PRC Docket No. A2011-16 (June 10, 2011) (Intervenor's Motion).

² Intervenor's motion to revise the procedural schedule includes a request that the Commission extend the deadline for the City of Akron, Ohio to file its Form 61 or Initial Brief to twenty (20) days after the Administrative Record is produced. According to the Commission rules at 39 C.F.R. § 3001.115(e), "An intervenor shall file its brief within the time allowed for initial and reply, or answering briefs, as appropriate." Order No. 733 established June 20, 2011 as the deadline for Petitioners' Form 61 or initial brief in support of the petition.

all, has no bearing on whether the Commission has subject matter jurisdiction to hear an appeal of a station discontinuance. The existence of subject matter jurisdiction depends upon the scope of Commission authority bestowed by Congress, and not on any activity conducted by the Postal Service.

Further, contrary to the Intervenor's assertion on page 2 of its Motion, the Postal Service did comply with the Commission's order to file a responsive pleading by May 31, 2011. Specifically, in Order No. 733, the Commission set a May 31, 2011 deadline for the Postal Service to "file the administrative record in this appeal" and "any responsive pleading by the Postal Service to this Notice." In conformance with Order No. 733, on May 31, 2011, the Postal Service filed a responsive pleading to Order No. 733, asserting that the discontinuance of the East Akron Station did not require an official administrative record conforming to Post Office discontinuance regulations in 39 CFR Part 241.3 and Handbook PO-101 because East Akron Station is not a Post Office.

In sum, the Postal Service opposes Intervenor's motion to compel the Postal Service to file an administrative record on jurisdictional grounds. However, in the interest of stemming further motions practice on this matter, the Postal Service gives notice that it intends to file the administrative record for the East Akron Station discontinuance action. This measure will, in essence, moot the instant controversy and thereby avert the need for further deliberation on this matter.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel, Global Business

Christopher C. Meyerson
Attorney

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-7820; Fax -5628
June 16, 2011