

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

RETAIL ACCESS OPTIMIZATION INITIATIVE

Docket No. N2011-1

**REQUEST OF THE UNITED STATES POSTAL SERVICE
FOR AN ADVISORY OPINION
ON CHANGES IN THE NATURE OF POSTAL SERVICES
(July 27, 2011)**

A reasonable time prior to the effective date of any changes in the nature of postal services that are at least substantially nationwide in scope, the United States Postal Service is required by 39 U.S.C. § 3661 to request an advisory opinion from the Postal Regulatory Commission regarding whether such service changes would conform to applicable policies in Title 39, United States Code.¹ The Postal Service has initiated a centrally-directed plan, the Retail Access Optimization (RAO) Initiative, to examine whether to continue providing retail and other services and products at approximately 3650 of the more than 32,000 Post Offices, stations and branches in its retail network.² Should retail operations at any postal facility be discontinued, postal patrons accustomed to obtaining products and services at that location will experience in change in service by virtue of having to obtain them at another nearby postal retail facility or an alternate postal retail access channel.

¹ See 39 U.S.C. § 3661(b), as implemented by 39 C.F.R. § 3001.72.

² A full explanation of the Initiative is described in the Direct Testimony of James J. Boldt, Manager, Delivery & Post Office Operations (USPS-T-1), which accompanies this Request.

1 Presently, the specific facilities to be discontinued and, thus, the actual
2 scope of the potential service changes cannot be estimated. No facility closure
3 or service change resulting from this Initiative will be implemented before late
4 December, 2011.³ Until definitive information to the contrary emerges, the Postal
5 Service concedes the possibility that the scope of the changes in service
6 resulting from this Initiative could be at least "substantially nationwide," within the
7 meaning of 39 U.S.C. § 3661(b). Accordingly, for the reasons explained here
8 and in the accompanying testimony, the Postal Service requests that the
9 Commission consider whether it has jurisdiction to review this matter under
10 section 3661(c). Should that determination be in the affirmative, the Postal
11 Service also requests that the Commission opine whether the nature of the
12 service changes expected to result from the Retail Access Optimization Initiative
13 would conform to applicable policies of Title 39, United States Code.⁴
14

³ A list of the 3652 RAO Initiative candidate facilities has been filed in this docket as USPS Library Reference N2011-1/2. It supersedes any previously disseminated list of RAO candidate facilities. It is anticipated that during the litigation of this docket, particular facilities within the scope of this Initiative will be removed from consideration for discontinuance. Consistent with Docket No. N2009-1, the Postal Service will file and periodically update another library reference to reflect the list of retail facilities that remain under consideration as part of the RAO Initiative.

⁴ *Dicta* in *Buchanan v. United States Postal Service*, 375 F. Supp. 1014 (N.D. Ala. 1974), *affirmed in part, vacated in part*, 508 F.2d 259 (5th Cir. 1975), might lead some to conclude that such a request is required here. The Postal Service does not consider that the *Buchanan* decision provides reliable guidance as to the proper construction of § 3661, or as to the intent of Congress in enacting it. However, the Postal Service has determined in its discretion to request an advisory opinion a reasonable time before implementing any changes in the nature of postal services that may result from the instant centrally-directed application of its retail facility discontinuance review process to the universe RAO Initiative candidate retail facilities. As the review process results in a narrowing of focus on a subset of specific facilities to be discontinued, the Postal Service does not intend, through the filing of this request, to waive (a) any argument that the Initiative will not result in a substantially nationwide change in the nature of service or (b) its right to move to dismiss the instant Request if it later appears not to be warranted under the limited jurisdiction granted the Commission under 39 U.S.C. § 3661(b).

1 **I. Objectives and Goals of the RAO Initiative**

2 The Postal Service has been established to operate as a basic and
3 fundamental service to the American public that binds the Nation together
4 through the personal, educational, literary, and business correspondence of the
5 people. 39 U.S.C. § 101. Management of the national postal system involves
6 the balancing of important service, operational and financial objectives, including
7 the provision of adequate, prompt, reliable, and efficient services to all
8 communities. See 39 U.S.C. §§ 101(a), 403(a), 403(b)(1), 3661(a). A maximum
9 degree of effective and regular service is to be provided to rural areas,
10 communities and small towns where post offices are not self-sustaining. No
11 small Post Office is to be closed solely for operating at a deficit. 39 U.S.C. §
12 101(b). The Postal Service is responsible for operating and maintaining such
13 facilities and equipment as are necessary to pursue these objectives. 39 U.S.C.
14 § 401(6). Congress also has directed the Postal Service to expand and promote
15 a mix of alternative postal retail access channels. See Postal Accountability and
16 Enhancement Act § 302(d), Pub. L. No. 109-435, 102 Stat. 3219, 3221.

17 As explained in USPS-T-1, postal customers have responded to the
18 expansion of alternative channels for access to retail postal products and
19 services by using them to conduct an ever-growing proportion of their postal
20 transactions. The objective of the RAO Initiative is to evaluate certain categories
21 of facilities within the postal retail network to determine whether their numbers
22 can be reduced while the Postal Service still:

23 maintain[s] postal facilities of such character and in such locations, that
24 postal patrons throughout the Nation will, consistent with reasonable

1 economies of postal operations, have ready access to essential postal
2 services.

3
4 39 U.S.C. § 403(b)(3). Consistent with the above-referenced statutory criteria,
5 postal management's goals in pursuing the RAO Initiative are to:

- 6 • evaluate the level of earned workload, customer demand, and/or
7 availability of alternatives of a retail facility in determining whether it
8 should be studied for discontinuance;
9
- 10 • apply revised discontinuance rules to locally-initiated
11 discontinuance actions already in progress that have not advanced
12 to the community meeting stage;
13
- 14 • improve efficiency and enhance customer convenience in the
15 provision of retail services through the use of alternate access; and
16
- 17 • capture the resulting cost savings if a determination is made to
18 close a postal retail facility.
19

20 As explained in USPS-T-1, postal retail units are no longer the sole means
21 by which postal customer retail transactions may occur. The Postal Service has
22 created a wide range of tools by which it can extend service beyond traditional
23 "brick and mortar" postal retail facilities. Simultaneously with the RAO Initiative,
24 the Postal Service intends to introduce the concept of a "Village Post Office," a
25 contractor-operated retail unit at which customers will be able to purchase
26 stamps and pre-paid Flat Rate packaging. Collectively, these alternatives
27 extend, facilitate, and often expedite customer access to retail postal transactions
28 that once required a visit to a retail window during specified hours at a Post
29 Office, station or branch.

1 **II. Scope of the RAO Initiative**

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3 Post Offices consist of administrative units of the Postal Service. As of the
4 date of this Request, there are approximately 26,880 Post Offices in the postal
5 retail network. Each Post Office serves a geographic area that comprises one or
6 more specified 5-digit ZIP Codes and has responsibility for mail processing,
7 collection, delivery, and retail operations for that service area. Subordinate
8 postal retail units such as stations and branches operate under the management
9 of a specific Post Office, and provide many of the same services within its service
10 area.⁵ There are approximately 5610 stations and branches in the postal retail
11 network.

12 For purposes of the RAO Initiative, the following categories of postal retail
13 facilities have been identified for discontinuance review:

- 14 ▪ 2825 Post Offices with low earned workload and no greater than
15 \$27,500 in total annual revenue,⁶
- 16
17 ▪ 384 stations and branches that earned fiscal year 2010 (FY)
18 revenue of less than \$600,000, that had FY 2010 revenue less than
19 the average for FYs 2008 and 2009, and that are located within two
20 miles of at least five postal retail and/or alternate access sites; and
21
- 22 ▪ 178 retail annexes that had FY 2010 revenue of less than \$1 million
23 and are located within a half-mile of at least five postal retail and/or
24 alternate access sites.
- 25

26 The final category of facilities under the umbrella of the RAO Initiative consists of
27 265 Post Offices, stations, and branches that were undergoing locally-initiated

⁵ In contrast to a branch, a station is located within the same city or municipality as the Post Office to which it is subordinate. Some stations may be referenced locally as "annexes" and this latter designation will be used in relation to some facilities covered by this Initiative. To minimize confusion, it should be understood that retail annexes are stations, for all intents and purposes.

⁶ A \$10,000 threshold was used for the state of Alaska.

1 discontinuance review independently of RAO at the time of the Postal Service's
2 recent amendment to its retail facility closing regulations,⁷ but had not advanced
3 to the community meeting stage of the review process. To ensure consistency in
4 administration of the discontinuance review process moving forward, the Postal
5 Service is applying the revised public notice and comment procedures in its
6 internal handbook USPS Handbook PO-101⁸ (effective July 14, 2011) to these
7 locally-initiated, non-RAO discontinuance proposals as if they had been identified
8 as candidates for review as part of the RAO Initiative. Comprising a total of 3652
9 facilities, all four categories of RAO Initiative discontinuance review candidates
10 are described in greater detail in USPS-T-1.

11

12 **III. The Recently Amended Discontinuance Procedures Will Be**
13 **Employed**

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15 The process for discontinuing an independent Post Office, either closing it
16 permanently or consolidating it with another Post Office, is established in 39
17 U.S.C. § 404(d), in implementing postal regulations published at 39 C.F.R. Part
18 241.3, and in USPS Handbook PO-101. Section 404(d) requires that the Postal
19 Service provide adequate notice to customers of its intention to close or
20 consolidate a Post Office. Notice must be given at least 60 days in advance to
21 enable customers to present their views. Section 404(d) further requires that the
22 Postal Service consider several factors in making determinations to close or
23 consolidate a Post Office, including the effects on the community and employees,

⁷ 39 C.F.R. Part 241. See 76 *Federal Register* 41413 (July 14, 2011).

⁸ *Postal Service-Operated Retail Facilities Discontinuance Guide*, an internal manual.⁸

1 economic savings, the policy in section 101(b) that it provide a maximum degree
2 of effective and regular postal services where post offices are not self-sustaining,
3 and such other factors as the Postal Service determines are necessary. Section
4 404(d) also requires that a written determination to discontinue a Post Office
5 must be made available to persons served by the Post Office at least 60 days
6 before the discontinuance takes effect. Within the first 30 days after the written
7 determination is made available, any customer of an affected Post Office may
8 appeal the decision to the Commission.

9 Recently, the Postal Service concluded the first phase of a rulemaking to
10 change Post Office discontinuance procedures. 76 *Fed. Reg.* 17794 (March 31,
11 2011); 76 *Fed. Reg.* 41413 (July 14, 2011); 76 *Fed. Reg.* 43898 (July 22, 2011).
12 The rulemaking culminated in a final rule that is now implemented and functional.
13 The final rule results in the following changes:⁹

14 1. Top-Down Process: Under previous regulations, the Postal Service
15 exclusively used a “bottom-up” process to identify Post Offices for possible
16 discontinuance. Under the final rule, Postal Service Headquarters management
17 can also identify candidate offices for initial feasibility studies, thereby making
18 clear the possibility of a “top-down” approach to initial stages of the process for

⁹ Certain issues presented in the proposed rule are currently in the process of consultation under subsections (b) and (d) of 39 U.S.C. §1004(d) and further consideration by the Postal Service. These issues include (1) the types of employees who may be responsible for operations at a Post Office, and (2) the definition of “consolidation” as not pertaining to personnel changes or to reclassification of Post Offices as other types of postal-operated retail facilities. No final decision has been made about these aspects of the proposed rule as they are currently the subject of consultations. Until such time as a decision is made, the Postal Service will continue to apply discontinuance practices to the reclassification of Post Offices as other types of Postal Service-operated retail facilities, as under the previous version of 39 C.F.R. § 241.3.

1 Post Offices¹⁰ in addition to the former “bottom-up” approach. This measure is
2 intended to improve consistency of decision-making.

3 2. Factors to Trigger an Initial Feasibility Study: The final rule clarifies factors
4 that could be used to identify candidate retail units for an initial feasibility study.
5 The factors include earned workload below the minimum established level for the
6 lowest non-bargaining (EAS) employee grade. Insufficient customer demand
7 also serves as a factor that could lead to a feasibility study, as would the
8 availability of alternate access channels. These factors only inform whether the
9 initiation of a study is warranted; they do not modify legal requirements for
10 justifying an ultimate decision on whether to close or consolidate a facility.

11 3. Process Management: The new rule gives effect to improvements in the
12 administration and management of the discontinuance process by removing
13 steps such as waiting periods at the end of the discontinuance process, removing
14 requirements for internal circulation of hard-copy documents, and facilitating
15 efficiency of the decision-making process through utilization of internal web-
16 based operating data access and review.

17 4. Station and Branch Discontinuance: Until issuance of the final rule on July
18 14, 2011, the Postal Service had not subjected stations and branches to the
19 same public notice and comment periods that have long applied to Post Office
20 discontinuance. Rather, the procedures for stations and branches were more
21 abbreviated. The final rule erases virtually all of these differences and now

¹⁰ Similar to the top-down approach employed for purposes of the Station and Branch Optimization and Consolidation Initiative reviewed in Docket No. N2009-1.

1 applies the same time posting periods and community input procedures to
2 stations and branches.

3 The RAO Initiative presented to the Commission for review in this docket
4 consists of a Headquarters-initiated review of Post Offices and subordinate retail
5 units. As of the filing of this Request, local postal managers have been
6 instructed to commence¹¹ initial feasibility studies of RAO candidate retail
7 facilities within their geographic areas of responsibility in conformance with
8 revised USPS Handbook PO-101. Initial discontinuance feasibility review will
9 lead to a subset of the 3652 candidate facilities being identified for further
10 consideration. It is premature at this time to estimate the size of this subset. For
11 each such facility, local public notices soliciting customer input will be issued and
12 further analysis incorporating that input will be conducted before any facility-
13 specific decisions are made. Public notice of discontinuance decisions will be
14 posted before any resulting service changes are implemented. The Postal
15 Service anticipates that field personnel will initiate discontinuance actions that
16 are part of the RAO Initiative serially, on a minimum ten-week rolling period
17 beginning from July 26, 2011.

18 It bears emphasizing that the administrative stages of the Initiative
19 completed or currently underway to date – whether preliminary feasibility analysis
20 or the posting of a local facility-specific public notice that discontinuance of retail
21 operations is being considered – do not themselves change service. Public
22 notice of a discontinuance proposal does not constitute implementation of a
23 service change; rather, it is only part of the information-gathering process used to

¹¹ Or resume studies in the case of the final category of retail facilities discussed above at page 6.

1 provide a basis for management decision-making in the discontinuance process.
2 Only after consideration of public input responding to the posting of the proposal
3 regarding a particular Post Office, station or branch will a determination be made
4 regarding whether to close such a facility. When the decision is made to
5 discontinue the operation of a Post Office, station or branch, the Postal Service
6 still must ordinarily maintain the operation of the facility for a 60-day period from
7 the date of posting the final determination, if no appeal is filed with the
8 Commission. Thus, service offered to customers actually does not change,
9 within the meaning of section 3661(b), until the conclusion of that 60-day waiting
10 period.

11 For retail facilities under review as part of the RAO Initiative, the Postal
12 Service anticipates that field personnel will perform further analysis after the
13 receipt of public input through questionnaires and the posting of proposals in
14 affected installations. Depending on the completion of the decision-making
15 process for each facility within the scope of this Initiative, the local 60-day public
16 notices announcing the discontinuance of particular facilities are expected to be
17 issued beginning in late October and into late December 2011. At the end of the
18 60-day notice period for each facility identified for discontinuance, for those Post
19 Offices for which no appeal is filed at the Commission, service at the local level
20 may be changed through implementation of the final determination and the
21 commencement of alternative service offered to affected communities. For
22 stations and branches, service at the local level may be changed through
23 implementation of the final determination and the commencement of alternative

1 service offered to affected communities beginning after the 60 day posting period
2 of the final determination.

3 To be clear, except as referenced on page 6 above, the RAO Initiative
4 does not pertain to any pending or concurrent locally-generated proposals for
5 discontinuance of individual retail facilities. Such *ad hoc*, isolated proposals
6 reflect local management review of retail facilities and customer needs within the
7 service area of a Post Office or mail processing plant as part of each
8 administrative district's day-to-day management of its service area. Such locally-
9 initiated retail facility reviews are conducted in accordance with applicable
10 provisions of USPS Handbook PO-101. If such locally-initiated discontinuance
11 proposals are approved and implemented, they do not result in substantially
12 nationwide changes in the nature of service offered to postal customers within
13 the meaning of 39 U.S.C. § 3661. Concurrently but independently of this
14 Initiative, local postal management is in the process of conducting and
15 Headquarters is in the process of acting upon locally-generated discontinuance
16 proposals regarding retail facilities in multiple locations. The Postal Service
17 anticipates that the Initiative that is the subject of this docket will not affect
18 decisions regarding these retail facilities. For the sake of clarity and to minimize
19 confusion, this Request is accompanied by USPS Library Reference N2011-1/3,
20 which lists locally-initiated retail facility discontinuance proposals that have
21 advanced to or beyond the proposal posting stage and are pending at the time of
22 this Request, but are outside of its scope.

23

1 **IV. Conclusion**

2 Therefore, in accordance with 39 C.F.R. § 3001.71 *et seq.*, based upon
3 the testimony and materials otherwise reflected in the record of this proceeding,
4 the Postal Service requests that the Commission expeditiously determine
5 whether it has jurisdiction to issue an advisory opinion in this matter. If the
6 Commission should make an affirmative jurisdictional determination, the Postal
7 Service requests that the Commission's advisory opinion affirm that the
8 objectives and implementation plan for the Retail Access Optimization Initiative,
9 and the changes in the nature of postal services that would result from it all
10 conform to the policies in Title 39, United States Code.

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Respectfully submitted,

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