

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

In the Matter of:

Evansdale Branch
Evansdale, Iowa 50707
(Mayor Chad Deutsch, Petitioner)

Docket No. A2011-103

**UNITED STATES POSTAL SERVICE NOTICE
AND APPLICATION FOR NON-PUBLIC TREATMENT**
(October 17, 2011)

By means of Order No. 896 (October 5, 2011), the Postal Regulatory Commission docketed correspondence from the Mayor of Evansdale, Iowa, assigning PRC Docket No. A2011-103 as an appeal pursuant to 39 U.S.C. § 404(d). That Order, at page 3, set October 17, 2011 as the date by which “[t]he Postal Service shall file the applicable administrative record regarding this appeal” or “[a]ny responsive pleading” to this Notice. This pleading responds to that directive.

As an initial matter, this appeal concerns the discontinuance of a branch, which is a retail facility that is Postal Service-operated and is under the administration of an independent Post Office. See Handbook PO-101, Postal Service-Operated Retail Facilities Discontinuance Guide (July 2011), at 53 (defining Classified Branch); *Wilson v. United States Postal Service*, 441 F. Supp. 803, 806-807 (C.D. Cal. 1977) (recognizing the situation where a “station or branch is ... subordinate to another Post Office”). In the Postal Service’s view,

the discontinuance of the Evansdale Branch does not require an official administrative record because the Evansdale Branch is not a Post Office.¹ Nonetheless, the Postal Service submits the attached administrative record,² which documents how Postal Service management considered the various effects of the instant discontinuance action on customers, employees, and the community.

The Postal Service also notes that the procedural requirements of 39 U.S.C. § 404(d) do not apply because the discontinuance of Evansdale Branch does not qualify as a closure envisioned by 39 U.S.C. § 404(d). As recognized in PRC Docket No. A2010-3, the section 404(d) procedural requirements apply only where postal customers lose access to postal services, and postal customers do not lose access to postal services where alternate retail facilities are located in “close proximity” to the discontinued station. See Order No. 477, PRC Docket No. A2010-3 (June 22, 2010) at 7-8. In this case, customers will continue to have access to the Waterloo Post Office, located approximately 3 miles from the Evansdale Branch, and Hy-Vee #1866, located about 2.5 miles from the

¹ The Postal Service understands that 39 U.S.C. § 404(d) does not extend to the review of Postal Service decisions regarding the discontinuance of stations and branches. See *generally* Reply Brief of the United States Postal Service (December 16, 2009), section III (pp. 6-12), PRC Docket No. N2009-1; Comments of United States Postal Service Regarding Jurisdiction Under (Current) Section 404(d), PRC Docket No. A2010-3 (April 19, 2010); Initial Comments of the United States Postal Service, section I (pp. 2-7), PRC Docket No. RM2011-13 (October 3, 2011). In this matter, Petitioner does not allege facts that constitute a condition precedent to any jurisdiction of the Commission under section 404. 39 U.S.C. § 404(d)(5). Although the Postal Service has modified its regulations to apply many of the section 404(d) requirements to stations and branches, these rules apply prospectively, and not to this discontinuance action because it commenced well before July 14, 2011, when the new rules in 39 CFR 241.3 took effect.

² As set forth in its Application for Non-Public treatment, filed concurrently with this Notice as Exhibit 1, the Postal Service files a non-public version of the administrative record under seal to protect certain commercial information of the Postal Service, as well as personal identifiable information of individual customers.

Evansdale Branch. Also, services provided at the post office will be available from the carrier, and customers will not have to travel to another post office for service. Administrative Record at Item No. 33, Proposal Exhibit, at 1, and Item No. 47, Final Determination, at 1. Accordingly, due to the close proximity of other postal facilities and the presence of alternate access options, the discontinuance of Evansdale Branch will not cause postal customers to lose access to postal services, and the section 404(d) procedures do not apply.

Even assuming the section 404(d) requirements were applied to the discontinuance of Evansdale Branch, the Postal Service satisfied the salient provisions of section 404(d). On April 8, 2011, the Postal Service distributed questionnaires to customers notifying them of the possible discontinuance of Evansdale Branch, and inviting comments on the potential change to the postal retail network. Administrative Record at Item No. 20, Questionnaire Instruction Letter to Postmaster, and Item No. 21, Cover Letter and Questionnaire, at 1. The Postal Service also made these questionnaires available over the counter for retail customers at the Evansdale Branch. *Id.* Through this notification, the Postal Service furnished customers with well over 60 days' notice of the Postal Service's intention to consider discontinuance of the facility. The Postal Service received 66 customer responses to the questionnaires. Administrative Record at Item No. 23, Postal Customer Questionnaire Analysis, at 1. Upon making the final decision to discontinue Evansdale Branch, the Postal Service announced its decision through a public notice dated September 2, 2011. Administrative Record at Item No. 55, Customer Notification of Closure.

The Postal Service further considered all of the pertinent criteria of section 404(d), including the effect on postal services, the community, and employees, and the economic savings arising from the discontinuance. Administrative Record at Item No. 47, Final Determination to Close the Evansdale Branch, Iowa Post Office and Continue to Provide Service by Independent Post Office (FD). Customers notified the Postal Service of their concerns related to postal services, including the conditions of other nearby postal facilities; the community, including the effect on senior citizens and local businesses; and employees. *Id.* As reflected in the administrative record, the Postal Service considered these concerns during the decision-making process. *See id.* With respect to economic savings, the Postal Service developed an assessment of the costs that serve as a basis for its estimate of economic savings. FD, at 6.

In its responses to customer questionnaires, the Postal Service addressed customer concerns about obtaining services from a different postal retail location. Specifically, the Postal Service informed customers that if they were currently receiving letter carrier delivery, after the discontinuance of Evansdale Branch, there would be no change to their delivery service. If they were a Post Office box customer, after the discontinuance of Evansdale Branch, they would have a choice of post office box delivery at the Waterloo Post Office or carrier delivery at their residence. Administrative Record at Item No. 55, Customer Notification of Closure; see also Item No. 21, Cover Letter and Questionnaire, at 1, and Item No. 33, Proposal Exhibit. The Postal Service also explained that customers currently renting a Post Office Box would be required to change their mailing

address. Administrative Record at Item No. 55, Customer Notification of Closure. In addition, the Postal Service identified the numerous retail service options available to customers, including the Waterloo Post Office within 3 miles of Evansdale Branch, the Hy-Vee contract Postal Unit of Evansdale, Iowa located 2.5 miles away, the automated Postal center in the Cedar Falls Post Office main lobby, and through the carrier. Administrative Record at Item No. 21, Cover Letter and Questionnaire, Item No. 33, Proposal Exhibit, at 1, and Item No. 55, Customer Notification of Closure.

In summary, the Postal Service submits the attached documentation in support of the foregoing discussion.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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October 17, 2011

ATTACHMENT 1

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,¹ the United States Postal Service (Postal Service) applies for non-public treatment of certain materials filed under seal with the Commission. The Evansdale Branch Administrative Record includes financial and customer information related to operations at the Evansdale Branch 50707, and other postal retail facilities in close proximity to the Evansdale Branch.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

The materials designated as non-public consist of information of a commercial nature that under good business practice would not be publicly disclosed. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3). Materials designated as non-public also include personally identifiable information (PII) that was redacted in conformity with 39 U.S.C. § 410(c)(1) and 5 U.S.C. § 552(b)(6). Because the portions of the materials that the Postal Service applies to file under seal fall within the scope of information not required to be publicly disclosed, the Postal Service asks the Commission to support its determination that these materials qualify as exempt from public disclosure and grant its application for their non-public treatment.

¹ PRC Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, PRC Docket No. RM2008-1 (June 19, 2009).

(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

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(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

The non-public material contains commercial information of the Postal Service, such as income, costs, and staffing at affected facilities. In addition, the PII of individual customers, including names, addresses, and contact information, is treated as non-public in this filing. The Postal Service maintains that the non-public portions of these materials should remain confidential.

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the information that the Postal Service seeks to protect from disclosure due to its confidential nature was disclosed publicly, the Postal Service considers it quite likely that it would suffer harm. Revealing Postal Service financial information would enable competitors to focus marketing efforts on particular Postal Service locations with many potential customers for the competitor. In particular, stations and branches are located in urban areas where competition with private commercial receiving agencies is quite common. The Postal Service considers it highly probable that, if this information were made public, local competitors would take advantage of it. In addition, although the harm

concerning disclosure of PII about customers is not “commercial” in nature, the Postal Service notes that the disclosure of the PII of its customers would expose these customers to an increased risk of invasions of privacy and the greater possibility of identity theft and related crimes.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Revealing facility-specific financial information would enable competitors to target the location for sales and marketing purposes.

Hypothetical: Facility-specific financial information at a particular location is revealed to the public. A nearby private commercial mail receiving agency reviews the information, and determines that a discontinuance will affect enough potential customers at the postal location to justify an advertising campaign targeted at existing Postal Service customers. The private company directs advertising for its mailbox and shipping services to existing Postal Service customers, thereby causing the Postal Service to lose business to the competitor.

Harm: Disclosing personal identifying information of Postal Service customers would expose these customers to an increased risk of identity theft and related crimes.

Hypothetical: A party uses the PII of Postal Service customers, in combination with other data sources, to steal a customer’s identity through fraudulent credit applications. This could have a temporary negative impact on the customer’s credit status, and prevent the customer from engaging in financial transactions until the false applications are purged from credit files.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redactions of PII should be withheld from any persons who have not agreed to the Commission's standard confidentiality requirements.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30. The Postal Service submits that the ten year period is not sufficient to protect the interests of individuals whose PII is included in the filed information. As such, the Postal Service believes that such information should be accorded non-public status indefinitely.

(8) Any other factors or reasons relevant to support the application.

Under prior Postal Service practices which continue to apply to this discontinuance action, a discontinuance study for a station or branch, such as the Evansdale Branch, is not undertaken pursuant to the standards for a discontinuance study affecting an independent Post Office, where a formal proposal is posted for sixty days, with the underlying administrative record then made available for inspection. In discontinuance studies subject to section 404(d), customers participating in or providing input for the discontinuance study's purposes are customarily advised that their input may become part of a public record, a fact which customers may want to consider as they craft their

comments or other input. With respect to participants in a discontinuance study affecting a station or branch, however, study participants are not necessarily made aware that their input may become part of a public record. The Postal Service accordingly proceeds with an expectation that, consistent with 39 U.S.C. § 410(c)(1) and 5 U.S.C. § 552(b)(6), other federal agencies will also keep such information confidential.

Conclusion

For the reasons discussed, the Postal Service requests that the Commission grant this application for non-public treatment of the identified materials.