

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

Retail Access Optimization Initiative, 2011)
_____)

Docket No. N2011-1

SUBMISSION OF BRIEF OF JEFFREY MUSTO,
ON BEHALF OF THE
CENTER FOR STUDY OF RESPONSIVE LAW
REGARDING THE U.S. POSTAL SERVICE'S
RETAIL ACCESS OPTIMIZATION INITIATIVE

INITIAL BRIEF

(November 4, 2011)

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The Center for Study of Responsive Law (“CSRL”) respectfully submits this brief in opposition to the Retail Access Optimization Initiative (“RAOI”) proposed by the United States Postal Service (“USPS”) in the above-referenced case.

Subject Index / Citations

Library References

USPS-LR-N2011-1/1 – United States Postal Service Handbook PO-101. Docket N2011-1. Submitted July 27, 2011. 8

USPS-LR-N2011-1/6 – Number and Type of Alternate Access Points Close to RAO Station and Branches – POIR 1, Q. 15. Docket N2011-1. Submitted August 25, 2011. 4, 6, 7

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Statement of the Case

Pursuant to 39 U.S.C. §3661(b), the USPS requested an advisory opinion from the Postal Regulatory Commission regarding proposed changes in postal service that may result from a centrally-directed plan, the Retail Access Optimization Initiative (RAOI), to examine whether to continue providing retail and other services and products at approximately 3,650 Post Offices, stations, and branches.

Statement of Position

The Center for Study of Responsive Law (CSRL) strongly opposes the closure of postal facilities in general, but especially the majority of those described as a part of the RAOI. The presence of a Post Office, station, or branch (“postal facilities”) in a community provides its citizens with a wide range of benefits. People in our country rely on the Postal Service to bind their communities together, to do their business, to receive (and send) precious communication from (or to) a distant friend or relative, to pay bills, and to receive medicine, among many other things.

The simple study of a postal facility for closure is not, on its face, contrary to Title 39. However, the CSRL holds that the direct consequences that will result from the RAOI and the determinations made by USPS management to close or consolidate postal facilities throughout the country could violate the USPS’s requirement under Title 39 to provide a “...maximum degree of effective and regular postal services...”

The CSRL believes that the pursuit of the RAOI is imprudent for several reasons. Closing postal facilities that are candidates in the RAOI could do serious harm to the communities that surround these facilities. The cost savings that may result from the closure or consolidation of postal facilities are minimal at best. The alternative access available to people proximate to a significant portion of the RAOI candidate facilities is woefully inadequate and has been misleadingly represented by the USPS in both witness Boldt’s testimony and in Library References 6 and 7. The proximity of the nearest Post Office to RAOI candidate facilities is not nearly as close as the USPS, through witness Boldt’s testimony, has led people to believe (see a chart on page 12 of his testimony, submitted on July 27, 2011). The procedure for public comment on the study of postal facilities for closure or consolidation has left the consumers and citizens that would be affected most without an adequate voice in this process. Finally, the diminution of postal services that would result in communities that experience a closure or consolidation of a postal facility according to the RAOI would not provide citizens with the maximum degree of services according to Title 39.

The CSRL urges the Postal Regulatory Commission to support consumers and citizens throughout the country by issuing an opinion that declares the RAOI in violation of Title 39 of the U.S. Code and implores the USPS to take measures in the future to ensure that the USPS fulfill its universal service mandate, that it not take actions that would result in a diminution of services such that citizens would no longer have reasonable access to a “maximum degree of services,” and that citizens’ and consumers’ interests be adequately represented and considered in the study of postal facilities for closure or consolidation.

Discussion

Closing or Consolidating RAOI Candidate Facilities Could Do Harm Surrounding Communities

The closure or consolidation of postal facilities can inflict great harm on the surrounding communities. Though the RAOI is simply the study of postal facilities for closure, the direct consequences of this initiative is likely to foreshadow in the closure or consolidation of many postal facilities throughout the country. Thus, the RAOI has the potential to precipitate harm to and place added burdens on consumers and residents in communities that ultimately see the closure of their postal facilities.

As has been previously discussed in this brief – and in CSRL witness Jeffrey Musto’s prior testimony¹ – citizens of this country rely on the Postal Service to bind their community together, to conduct business, to receive (and to send) precious communications from (and to) distant friends or relatives, to pay bills, and to receive medicine, among many other things.

Especially during times of natural disasters and when our national security is threatened, people rely on the USPS for critical emergency supplies and medicine. The closure of postal facilities could impair these citizens’ ability to gain access to these necessary provisions at times of peril. The RAOI may leave those who are most vulnerable in our society to feel the harshest effects of a post office closing or the inherent service cuts related to an unexpected reliance on “alternate access sites.”

Cost Savings From RAOI Is Minimal At Best

The USPS has claimed several times throughout these proceedings that the primary purpose of the RAOI was not to capture cost savings from postal facility closures or consolidations. However, evidence provided by the National League of Postmasters (“NLP”) at the request of the Commission seems to indicate that in fact the actions taken by the USPS are intended to produce cost savings.²

If this is, in fact, a primary consideration in pursuing the RAOI, then it bears closer examination. Questions have been raised regarding the likely savings that could result from the RAOI. Originally the USPS claimed \$1 billion would be saved if all offices included in the RAOI were closed. The NLP has provided the commission with materials that the USPS presented to Congressional staff that also indicate cost savings from small Post Offices topping \$1 billion. The cost savings projected, by the USPS, from closure of *all* RAOI candidate facilities was eventually lowered by the USPS to \$200 million. This figure may also exaggerate potential savings.

In light of the net deficit projected by the Postmaster General of nearly \$10 billion, an annual cost savings of \$200 million is miniscule. It represents just 2 percent of a \$10 billion deficit. This is hardly going to have a major impact on the USPS’s finances. And if one considers

¹ Direct Testimony of Jeffrey Musto, CSRL T-1, On Behalf of the Center for Study of Responsive Law. Docket N2011-1. Pages 4, 8, 9. Submitted September 26, 2011.

² Notice of Additional Material Provided By The National League of Postmasters Per The Request Of The Commission During The Hearings Held On October 17 And 18, 2011. Docket N2011-1. Page 54 through 58. Submitted October 21, 2011.

the negative effects and consequences on communities that would result from postal facility closures or consolidations, this cost savings hardly seems worth it.

On top of this, \$200 million is the *maximum* cost savings that could be realized from the RAOI. It is only achieved if *all* RAOI candidate facilities are ultimately closed – something that the USPS has already stated it does not intend to do. Further, testimony provided by Mayor Donald Hobbs raises questions about the projected cost savings that would be realized by the RAOI. First, he notes that the USPS rejected a town that offered to provide the USPS with free space from which to conduct its operations in exchange for keeping its postal facility open.³

In redirect-examination of this witness, there were questions raised as to the terms of some leases of postal facilities.⁴ The witness suggested that some postal facility leases may extend beyond any closure that would result from the RAOI. In this case, the USPS would be paying out the term of these leases without operating any postal facility out of these locations or collecting any revenue from postal services provided in these locations. This hardly seems prudent and certainly would cut into the cost savings that would result from the closure or consolidation of such a facility included in the RAOI.

In light of all of this, the cost savings that could result from closing facilities included in the RAOI seem to be minimal and certainly would not outweigh the potential costs of pursuing closures or consolidations of postal facilities according to the RAOI. Such postal facility closures would not only harm the surrounding communities, but also weaken the USPS in the long term, allow private competitors to expand their share of the U.S. mailing market, and threaten the USPS's viability.

Inadequate Alternative Access Available to Communities That Have RAOI Candidate Facilities That Could Be Closed Or Consolidated

The consequences of inadequate alternative access have been fully detailed in CSRL witness Jeffrey Musto's prior testimony⁵. In short, the USPS has included nearly 575 postal facilities in the RAOI candidates for closure, in part due to their proximity to alternate access facilities. USPS witness Boldt's testimony leads one to believe that "alternate access" facilities could serve to replace the facilities that may ultimately closed. Those facilities included as "alternate access" sites, however, do not provide a full range of services to patrons and cannot adequately replace postal facilities. The simple sale of postage stamps does not constitute a "maximum degree" of service, as is the only service provided by stamps on consignment operations.

As stated in our testimony, it is clear that, should the "alternate access sites" that are included in the criteria for determining a part of the list of RAOI candidate facilities be entirely or almost exclusively composed of facilities that only sell postage, this would represent a diminution of services to USPS patrons. Services that were once available to them at another postal facility would no longer be readily available to them at these "alternate access facilities."

³ Official Transcript of Proceedings Before the Postal Regulatory Commission. Docket N2011-1. Docket N2011-1. Page 1302, Lines 17 to 25 through Page 1303 Lines 1 and 2. October 17, 2011.

⁴ Official Transcript of Proceedings Before the Postal Regulatory Commission. Docket N2011-1. Volume #3. Page 1303. Lines 3 through 19. October 17, 2011.

⁵ Direct Testimony of Jeffrey Musto, CSRL T-1, On Behalf of the Center for Study of Responsive Law. Docket N2011-1. Page 6 through 7. Submitted September 26, 2011.

Our analysis, detailed in testimony reveals that many of the RAOI facilities included based, in part, upon their proximity to “alternate access sites” did not actually have adequate alternative access when we exclude those facilities determined to provide minimal services. Of 380 facilities included in the RAOI based upon “alternate access sites” within 2 miles of the postal facility being considered for closure or consolidation, nearly 17 percent of these postal facilities referenced “alternate access sites” that were solely composed of stamp on consignment outlets. There were no other alternate access sites within the prescribed radius of 2 miles.

Of nearly 575 postal facilities that were included in the RAOI in part based on their proximity to five “alternate access sites,” over 70 percent of them would have been excluded from the RAOI if stamps on consignment outlets were excluded as an appropriate “alternate access site.” Further, if *only* other post offices were included in the definition of “alternate access sites,” only 17 percent of the nearly 575 postal facilities requiring 5 nearby “alternate access sites” would remain a part of the RAOI, eliminating at the outset nearly 475 postal facilities from even being considered for closure or consolidation.

Lastly, we looked at the total “alternate access sites” for the postal facilities that were included in the RAOI based, in part, upon their proximity to these sites. The total amounted to almost 20,000. Of these 20,000 alternate access sites, over 85 percent of them were stamp on consignment outlets. This shows that for the small percentage of postal facilities that would have remained on this list, had stamp on consignment outlets been eliminated from the definition of “alternate access site,” the options available to postal patrons of the surrounding communities remains limited. The inclusion of stamp on consignment outlets in the definition of “alternate access sites” inflates the number of “alternate access sites” found nearby the nearly 575 postal facilities referenced above.

This demonstrates that a significant number of the RAOI facilities do not in fact have adequate “alternate access sites.” Consequently, closing many of the facilities included in the RAOI could leave the citizens in many communities without a “maximum degree of services” should the RAOI precipitate the closure or consolidation of these facilities.

Driving Distances From Many RAOI Candidate Facilities To Nearest Post Office Neighbor

The problems with comparing the figures provided by the USPS in witness Boldt’s testimony to distances between RAOI candidate facilities and Post Office Neighbors has been fully detailed in CSRL witness Jeffrey Musto’s prior testimony⁶. But to summarize, the USPS witness, James Boldt, has provided information in his testimony, submitted on July 27, 2011 – in the form of a chart on page 12 – that indicates that many postal facilities are in fact not far from their nearest neighbors. However, in the context of the RAOI, this chart is in fact incredibly misleading.

As discussed in our testimony, the USPS uses the distance between geographic coordinates in this chart. This does not accurately represent the added distance that postal patrons may have to travel to reach the next closest post office should one of the postal facilities studied as a part of the RAOI ultimately be closed or consolidated. A more accurate representation would be a measure of driving distance. For example, if there are two post offices on either side of a large mountain that are, by geographic coordinates, 3 miles apart but that require 30 miles of

⁶ Direct Testimony of Jeffrey Musto, CSRL T-1, On Behalf of the Center for Study of Responsive Law. Docket N2011-1. Page 6 through 7. Submitted September 26, 2011.

driving on winding, slow mountain roads, it is ludicrous to suggest that a measure of the “proximity” of the two facilities is their geographic separation. One need not abandon common sense in determining the actual traveled distance between two points.

Moreover, the chart used does not examine the same subset of post offices as those included in the RAOI. This information is entirely useless in determining the impact that the RAOI and subsequent post office closures or consolidations may have on residents and communities since it is not actually examining the data for the same subset of postal facilities.

To illustrate this point, the chart reveals that only 11 percent of retail locations (of the subset used to create the chart) are 10 miles from the nearest Retail Location. However, in USPS-N2011-1/12, the USPS provides information regarding the driving distances from most of the RAOI candidate facilities to their nearest Post Office neighbor. Looking at this data, we see that among these facilities, nearly 30 percent are 10 miles or more away from their nearest neighbor post office. This is nearly triple the percentage that witness Boldt presents for his subset of nearly 13,500 post offices. That represents a material difference between the subset of facilities studied by witness Boldt to create this chart and those that are a part of the RAOI.

It also demonstrates that a significant portion of those postal facilities that are a part of the RAOI may in fact be quite a large distance from their nearest neighbor. In the absence of adequate “alternate access sites,” detailed in the previous section, postal patrons would need to travel even greater distances to take advantage of the “maximum degree” of postal services.

Poor Public Comment Practices Leaves Citizens Without A Voice

In the process of a discontinuance review, the United States Postal Service Handbook PO-101 reviews procedures to solicit public comment and input. This is an especially important part of the process, since it is the citizens and consumers in the communities surrounding a postal facility that can best express the benefits that a postal facility provides them and the potential harm that removing it could do to the community. It would be misguided to assume that those at USPS headquarters could account for these local needs in determining the value and necessity of a postal facility to the local community. For this reason, it is crucial that the USPS make every effort to ensure that the public is given ample opportunity to voice its opinions and to ensure that the public interest is represented.

Unfortunately, evidence provided by the National League of Postmasters (“NLP”) at the request of the Commission reveals some troubling examples of situations in which the public interest was not protected and the public interest may have been ignored.⁷ There are disturbing examples provided of public meetings being scheduled during weekdays – at times when local residents may be at work and unable to attend, meeting being held outside of the local communities or in a different town altogether, accounts of misrepresentations made by postal management and staff, accounts of restricting audio or visual recordings of the public meetings, and accounts of entirely inadequate recording of public comments for inclusion in the discontinuance review or of inadequate answers provided to public questions and comments.

⁷ Notice of Additional Material Provided By The National League of Postmasters Per The Request Of The Commission During The Hearings Held On October 17 And 18, 2011. Docket N2011-1. Page 4 through 54. Submitted October 21, 2011.

These accounts are especially disturbing for a process, the RAOI, that has the potential to negatively impact the lives and postal services needed by so many people throughout our country.

Conclusion

Should the RAOI precipitate the closure or consolidation of a number of postal facilities, the CSRL believes that the USPS will fail to provide a “maximum degree” of services that it is obligated to provide to citizens throughout the country. Moreover, it is clear that the public interest, in many cases, is not being represented in the RAOI process.

Closing postal facilities pursuant to the RAOI could do harm to communities and residents throughout the country that rely on postal services. One of the benefits – cost savings – of pursuing the RAOI has been overstated and is far outweighed by the potential negative consequences. The alternate access available to many of the RAOI candidate facilities is severely lacking and inadequate to maintain a “maximum degree” of services. Further, that the distance of nearly 30 percent of RAOI candidate facilities to the nearest Post Office is greater than 10 miles and would place an added burden on consumers that wish to take advantage of postal services. And lastly, evidence has been provided in this proceeding that details the inadequate process the USPS has had in some cases for soliciting public comment. In these cases, the public’s voices have not been heard and their opinions have not been adequately considered or represented as a part of the discontinuance review process.

For these reasons, the RAOI undermines the requirement that a “maximum degree” of services that the USPS must provide the public according to Title 39 will be available. And beyond that, it threatens the USPS’s ability to remain competitive with other private mailers in the United States and could weaken the Postal Service in the long term.

The CSRL urges the Postal Regulatory Commission to protect consumers and citizens throughout the country by issuing an opinion that declares the RAOI violates the spirit of Title 39 of the U.S. Code and implores the USPS to take more thorough measures in the future to ensure that the USPS fulfill its universal service mandate, that it not take actions that would result in a diminution of services such that citizens would no longer have reasonable access to a “maximum degree of services,” and that citizens’ and consumers’ interests are sufficiently represented and considered in the study of postal facilities for closure or consolidation.