

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

RETAIL ACCESS OPTIMIZATION INITIATIVE

Docket No. N2011-1

INITIAL BRIEF OF THE PUBLIC REPRESENTATIVE
(November 4, 2011)

Respectfully Submitted,

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1. INTRODUCTION

Raw implementation of RAOI will result in the Postal Service's repeated violation of 39 U.S.C. § 101. The United States Postal Service (Postal Service) proffers RAOI as an optimizing initiative that will change the nature of postal services by using a top-down, centralized approach to identifying up to 3650 postal retail facilities, nationwide, for discontinuance reviews.¹ The Public Representative submits that the manner in which RAOI will change postal services is illegal, and will ultimately be to the detriment of the Postal Service and the public it serves.

The Postal Service oversimplifies RAOI's objective to be "to evaluate certain categories of facilities within the postal retail network to determine whether their numbers can be reduced while the Postal Service still: maintain[s] postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services," as prescribed in 39 U.S.C. § 403(b)(3).²

In accordance with the Postal Accountability and Enhancement Act of 2006, § 3661, the Postal Service has sought the advisory opinion of the Postal Regulatory Commission (hereinafter, "Commission") on the legal legitimacy of RAOI.³ After reviewing the available data, the Public Representative finds that the RAOI does not achieve the Postal Service's proffered objective and violates Title 39 of the United States Code (Title 39).

RAOI's tragic flaw is embedded in its very foundation, its selection criteria. Specifically, the its "low workload" criteria: \$27,500 in gross revenue and 2 or less hours of daily workload, is a formalized pretext for identifying and eliminating small and rural post offices operating at a deficit. The Public Representative submits that when stripped and assessed head-on, omitting discussion and analysis of causes

¹ Request of the United States Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, July 27, 2011 (hereinafter, "Request").

² *Id.*, at 3-4. Notably, the Postal Service has not determined what the terms "ready access" or "reasonable economies" mean in the context of the postal retail network.

³ *Id.*, at 2; See 39 U.S.C. § 3661(b), as implemented by 39 CFR § 3001.72.

(declining revenues), symptoms (postmaster vacancies) or consequences (nearby alternative access) of discontinuing postal facilities, RAOI is nothing less than a mechanism used to target small postal facilities running a deficit for swift discontinuance.

RAOI's top-down structure is ineffective. As proposed, the headquarters initiated RAOI identifies postal retail facilities to be reviewed for discontinuance. The review is still conducted by the local postal management and the decision on which facility to close still resides with Vice President Granholm. However, the failure of this proposal to offer top-down reorganization of the retail network is revealed in three ways: 1) Headquarters has not utilized any information other than the selection criteria to balance compliance with statutory guidelines; 2) if local management assesses that the facility should not be the subject of the discontinuance study, they may no longer stop or readily advise against the study without, now, fear of reprisal; and 3) local management has not been provided with standard definitions of important aspects of the PO-101 handbook, such as a definition for rural and a definition of disparate demographic impact, that would ensure local officials maintain non-discriminatory universal service compliant with statutory guidelines.

Finally, the Public Representative's analysis of the RAOI is that it is a misnomer. It is neither access-oriented nor optimal. The Postal Service has been unable to articulate any specific improvements to its retail network that may result from the Implementation of RAOI, aside from the general statement that discontinuances will result in a net savings. However, the Postal Service cannot say what those savings will be or, state with confidence, if they will be significant. The Postal Service has not provided any evidence that it would be better off if the initiative is implemented. The Postal Service has made no effort to define customer access and show that the initiative improves the accessibility of postal services. What the evidence does show is that RAOI fails to optimize the postal retail network, customer access, and the postal services provided to the America's public.

The Postal Service has failed to use the information and analytics at its disposal to develop a actual optimization model with clear and distinct objectives that improves

the Postal Service's economic efficiency. The RAOI proposal offers no improvement on postal accessibility or Postal Service financial viability.

2. EXECUTIVE SUMMARY

Failure to Define "Rural" Speaks Volumes

The Postal Service has admitted to operating without an official definition or justifiable industry-wide understanding of the term "rural." This is problematic, for three major reasons: (1) in Title 39, Congress mandated that the Postal Service to provide a "maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (2) it allows the Postal Service to claim that it is unaware that the RAOI disproportionately impacts on rural and low-income communities; and (3) the Postal Service was put on notice that its failure to have such a definition was of grave concern to the Commission, that expressly advised the Postal Service to rectify this problem in its Advisory Opinion in Docket No.N2009-1. Failure to establish an official or industry-wide definition of the terms "rural" or "small" leaves the Postal Service voluntarily unable to gauge whether it or its programs are in accordance with postal law i.e. Title 39, and thus legitimate.

RAOI is Incompatible With Title 39

The Postal Service's "low workload" criteria for this initial phase of the RAOI targets rural and small town facilities running at a deficit. By its own admission, the Postal Service initially pulled those facilities with \$27,500 or less in operational revenues. Given that this revenue would not fund a self sustaining office with one employee means that these postal facilities will, by definition, run at a deficit. In fact, the Postal Service never explains how it selected this oddly low and specific number as its main criterion. The Postal Service's subsequent application of the 2 hours or less daily workload filter (applied to the initial RAOI list "to make it manageable"),⁴

⁴ Transcript vol. 1 at 498.

ultimately ensures the offices identified are facilities running an operational deficit with little consumer traffic, i.e., with small populations.

Political Implications of RAOI

While the economic motivations behind RAOI are relatively clear, the political motivations behind it are more ambiguous. All recognize that the Postal Service must reduce expenditures in order to maintain service in light of its current financial difficulties. The RAOI was developed as a top-down discontinuance aid to help the Postal Service cut costs by quickly identifying candidates for closure. However, the fact that the Postal Service will continue to conduct discontinuance reviews on facilities it finds are erroneously on the candidate list, i.e., that do not satisfy the RAOI criteria, is evidence that the RAOI criteria do not embody what is most important to the Postal Service. It also shows there is no systematic method for identifying these facilities. The Postal Service is currently running a deficit of over \$8 billion. Whatever cost savings the Postal Service can generate by closing retail locations, tinkering at the fringes of the retail network will not put the Postal Service on a path to financial solvency. Many have suggested that the Postal Service has proposed the discontinuance review of the RAOI identified offices not for the financial benefit, but for the benefit of increased political pressure.⁵

The RAOI selective criteria are not what are important to the Postal Service. If they were, then a candidate found not to meet the criteria would immediately be removed from the candidate list by Postal Service Headquarters personnel. This, however, is something the Postal Service said it is not willing to do.⁶ In fact, it is not even obligated to follow the request of local/district Postal Service personnel, who may advise removal. Despite questions designed to illicit descriptive and explanatory information as to: why Headquarters is reluctant to check for and remove candidates erroneously placed on the RAOI list; who at the “top” or Headquarters determines – by use of an undisclosed method/individual, what facilities will be removed from the

⁵ <http://thinkprogress.org/economy/2011/09/28/330524/postal-non-crisis-post-office-save-itself/>

⁶ See Transcript 1 at 315-316.

list; and ultimately, which ones will close,⁷ the Postal Service did not provide a substantive answer.

The Postal Service's inability (or refusal) to explain/justify its removal of 26 out of 35 Alaskan facilities on the candidate list is the most egregious example of apparent political motivated action, thus far.⁸ This coupled with the specious proposed closing of 17 facilities in one of Chicago's urban political districts smacks of something wholly unsavory and inappropriate for a transparent quasi-governmental agency with a legal mandate to provide universal service in a non-discriminatory manner.

Failure To Properly Use Available Tools

The Postal Service has the tools and intellectual capital to adequately determine what offices are required for it to provide universal service to the U.S. population, and conversely, what facilities it can close, and in what location it should erect alternative access facilities or VPOs in order to optimally service the population's postal needs.

Demographics: Disparate Impact

The Postal Service provides universal service but admitted to not looking to see if the RAOI disparately affected particular sectors of the U.S. population. The Postal Service did not look to see if a disproportionate amount of rural,⁹ low-income, racial minorities, elderly, or particular ethnic groups would be disadvantaged as a result of RAOI.

Irresponsible Service: Failure to Track

The Postal Service has not historically tracked the effects, changes, or concerns of communities where closures have occurred, despite having the capability to do so. The Postal Service has no information gauging if offered alternative access sites in

⁷ See Transcript 1 at 488 "it's inherently dangerous to set an absolute guideline."

⁸ The Postal Service conducted this removal without providing a justifiable reason for its actions, thus making it impossible to obligate it apply the same reasoning to all others RAOI candidates. All this, while other less influential political districts have a disproportionate amount of facilities on the candidate list being closed.

⁹ "Rural" for the purpose of these comments will be in accordance with the National Census definition: Census blocks with fewer than 500 people per square mile are defined as rural. See

<http://www.justice.gov/ndic/pubs27/27612/appenda.htm>

fact did provide consumers adequate access to postal services. The Postal Service's failure to follow-up on post office closures indicates that they did not and do not care, either way. Such tracking and follow-up is not only possible, but is a responsible activity given the Postal Service's universal service obligation.

3. CRITERIA WITH SMOKE AND MIRRORS

At least one RAOI criteria violates Title 39, and the Postal Service has gone to great lengths to obscure the connection between the RAOI identification, discontinuance procedures, and potential closing. The Postal Service's "low workload" selection criteria: \$27,500 in gross revenue and 2 hours or less in workload, targets facilities serving small communities and operating at a deficit. The Postal Service is explicit in its statement that the purpose of the RAOI is simply to identify facilities for discontinuance studies.¹⁰ The Postal Service has attempted to separate the "identification" of facilities via the RAOI selection criteria and the closing of the facilities via the PO-101 procedures. The Post Offices that face closure do not face closure because of the PO-101 procedures, they face closure because they have been selected using the RAOI criteria by postal headquarters. As such, both the PO-101 handbook and the RAOI criteria must conform to the statutory requirements for the Commission to judge Docket No. N2011-1 consistent with the policies of Title 39. The Postal Service has used smoke and mirrors to insinuate that the RAOI selection methodology does not need to comply with the statute, and useless hypotheticals to support the idea that the PO-101 handbook will protect against statutory violations. In reality, the RAOI selection criteria will lead to repeated violations of title 39, and the PO-101 handbook offers scant protection.

a. The Four Criteria of RAOI

The RAOI proposal has four components: 2825 "Low Workload" offices with less than 2 hours of "earned" workload calculated using the Postal Service's Small Office

¹⁰ Postal Service's Request at page 5 lines 12-13.

Variance tool (SOV) and less than \$27,500 in “Walk in Revenue”¹¹; 384 Stations and Branches with less than \$600,000 in FY2010 revenue located within two miles of at least five alternative sites; 178 Stations and Branches with less than \$1,000,000 in FY2010 revenue located within a half mile of at least five alternate sites; and 265 Post Offices currently under closure procedures.

These four components were developed so that the Postal Service could study at least as many facilities as SBOC and “to create a more diverse mix” while keeping the total number of facilities “manageable.”¹² The Postal Service has implied that it has too many retail facilities,¹³ but has not stated it has too many “low workload” offices in small communities or too many stations and branches. The Postal Service has chosen to leave the development of the selection criteria a mystery behind the curtain of “a determination by senior management.”¹⁴ Regarding the decision to use the specific RAOI selection criteria, USPS-T-1 stated “other candidate types could have been created. Different criteria for existing types could have been used.”¹⁵ While it remains a mystery why the specific RAOI selection criteria were chosen, it is clear that Postal Service management did not review vital information regarding the retail locations identified by the selection criteria. Because vital information has not been reviewed (and the resulting analysis revealing that the selection criteria do not comply with statutory guidance), and the Postal Service argues, de facto, that the selection criteria do not need to comply with statutory guidance. All of the selection criteria will lead to the closure of offices in clear violation of Title 39.

b. “Low Workload” Criteria Targets Facilities Operating at a Deficit

The majority of the RAOI identified retail locations have been selected using the “low workload” selection criteria. In FY2010, the 2825 “low workload” offices all had an “earned workload” of less than two hours, and “walk in revenue” of less than

¹¹ Walk in Revenue is generally stamp purchases, and excludes revenue from the permit system used by bulk mailers. The revenue selection criterion is \$10,000 of walk in revenue for Alaskan Post Offices.

¹² Transcript vol. 1 at 36.

¹³ See USPS-T-1 at 2-3.

¹⁴ See USPS-T-1 at 13.

¹⁵ Transcript vol. 1 at 36-37.

\$27,500.¹⁶ According to the Postal Service, the preliminary criterion yielded 5993,¹⁷ which Headquarters determined needed to be reduced to produce a “manageable” number of candidates.¹⁸ In order to reduce the candidate pool to a “manageable amount,” the Postal Service applied the secondary criterion of 2 or less daily workload hours.¹⁹ This second “low workload” criterion, earned workload of less than two hours, reduces the number of RAOI candidates to 2825.²⁰ The Postal Service defines “workload” hours as the time a postal employee /clerk spends conducting a transaction with a walk-in customer.²¹ Two-hours of earned workload hours is the minimum EAS classification for a Post Office.²² According to USPS-T-1, roughly 4,000 to 4,500 retail locations were identified as having less than two hours of earned workload and less than \$100,000 in walk in revenue.²³ Ultimately, the Postal Service determined that 2825 “low workload” facilities was a “manageable” amount for local discontinuance coordinators. Unfortunately for the already overworks discontinuance coordinators, Postal Service headquarters did not review important relevant information regarding the “low workload” identified offices before initiating the discontinuance studies and the current docket.

Witness PR-T-2 demonstrated the vast majority of “low workload” offices were unprofitable, with a total operating deficit of over \$158 million and an average operating deficit per office of over \$59 thousand. The total FY2010 “operating cost” for these 2646 offices was just under \$210 million. Of the \$210 million, \$11.6 million was spent on building leases.” PR-T-2 at 7. This low-workload criterion singles out those facilities that service an undersized number of walk-in transaction customers. Regardless, by its very nature, this second criteria is synonymous with, as witness USPS-T-1 acknowledged “low activity,”²⁴ and consequently, with low revenue.

¹⁶ The revenue selection criteria is \$10,000 of walk in revenue for Alaskan Post Offices.

¹⁷ Transcript vol. 1 at 497 line 17.

¹⁸ Transcript vol. 1 at 314.

¹⁹ Transcript vol. 1 at 36.

²⁰ Transcript vol. 1 at 497.

²¹ Transcript vol. 1 at 57.

²² see USPS-T-1 at 3.

²³ Transcript vol. 1 at 498.

²⁴ Transcript vol. 5 at 1837.

PR-T-2 also shows that the revenue criterion of \$27,500 is less than the productive hourly wage earned by the postmaster and the average lease cost for the RAOI offices.²⁵ The \$27,500 revenue maximum has the effect of eliminating facilities in populous areas with a great deal of retail customers and substantial profits, from the pool. In the converse, its application avails facilities operating at a deficit to the RAOI candidate list.

The effect of identifying facilities with both markedly low walk-in revenue and the lowest measurable transaction hours is that 99% of the majority of RAOI candidates are small, rurally located, operating at a deficit.²⁶ The cost of operating a retail counter for 2 hours per day and 6 days a week for 52 weeks at the average hourly wage of a Postmaster in FY2010 and the average lease amount for “Low Workload” offices²⁷ was \$29,387. Given that the average cost of a postmasters wage and the building lease are, barring exceptional circumstances, greater than the walk-in-revenue generated by the “Low-Workload” selection criteria, it is not surprising that 99% of the “Low-Workload” offices have operating expenses greater than operating revenue.

c. RAOI's Criteria Violate 39 U.S.C. § 101(b)

In tandem, the RAOI criteria ensure that the RAOI's 2825 “low workload” identified candidates are postal facilities with marginal to non-existent profits and operating in low populated areas, i.e., small town facilities operating at or near a deficit. The Public Representative submits that this is no coincidence. The Postal Service is looking to reduce its monetary losses by closing a large number of facilities, and it is attempting to do so where the least number of people will be affected. Business-wise, terminating service from the least profitable outlets and in a manner that disturbs the least number of patrons is practical and economically prudent.

²⁵ See PR-T-2 at 9-10.

²⁶ An analysis linking “low workload” offices to the nearest census block demonstrated that 99.6% of “low workload” offices are located near a rural census block. See PR-T-2 at 16-17.

²⁷ The Average Postmaster hourly wage was \$40.04 in FY2010. The average lease amount for an RAOI office was \$4,399, as provided in Table 2 “Lease Amount: Total.”

However, a significant problem arises when such action is taken by the Postal Service, a quasi-governmental agency that is statutorily prevented from such action.

Title 39 U.S.C. § 101, states, in relevant part:

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. **No small post office shall be closed solely for operating at a deficit**, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities. (emphasis added)

Title 39 U.S.C. § 101, mandates that Postal Service shall not close a small town postal facility solely for running a deficit. To get around this, the Postal Service has attempted to shift focus from the RAOI results (the end), to the RAOI criteria (the means). As explained, *supra*, the means have been defined to yield the highest number of small deficit running facilities for discontinuance review.

The Postal Service claims the application of the RAOI criteria and elimination of RAOI candidates will result in an optimization of the postal retail network, but the Postal Service has not been able to articulate what it, if anything, is optimizing. The only RAOI positive the Postal Service has extolled is that savings are expected as a result of the RAOI precipitated closures, yet it has been unable or unwilling to specify any anticipated dollar amount or range and has repeatedly stated it is unable to provide concrete evidence of savings versus costs associated with the closing of an RAOI candidate. Such assumed and incalculable savings are not enough to qualify an optimization of an entire network. The Postal Service does not lay any evidence before the Commission on how its services will legitimately and tacitly be optimized by the closing of the RAOI candidates or how the retail network will be improved in any fashion through the RAOI closings.

d. The Other RAOI Criteria are Also Problematic.

Witness APWU-T-1 provided a demographic analysis showing that the RAOI selection criteria have a disparate demographic impact. Consistent with the lack of analysis concerning the impact of the “Low Workload” selection criteria, the Postal

Service has not considered this information previous to proffering the germane proposal. The Postal Service, as a public agency, has an obligation to act in a non-discriminatory manner. The Postal Service does not believe it is important to review demographic information, either with respect to the overall impact of the headquarters' determined criteria, or at the local level through the PO-101 procedures. The top-down selection process offers the opportunity to ensure that, if postal customers must have services reduced, the reduction in service occurs in a fair and equitable manner. The Postal Service has declined to take advantage of that opportunity with this proposal.

e. Difficult Removal from RAOI List Indicative of Deeper Problems

Removal from the RAOI candidate list is extremely difficult. The Postal Service drastically oversimplifies the full extent and impact of RAOI by referring to the Initiative as a mere identifier or nominating mechanism. In reality, in application, the RAOI is much more than that. The notion of an identifier implies that it simply points to, highlights, or simply suggests facilities and a separate process checks that the facilities have been properly identified and then moved them to the next stage, in this case the discontinuance list. However, the RAOI candidate list doubles as list of facilities to undergo discontinuance studies, pursuant to Handbook 101, and Postal Service has openly stated it performs no official quality check to determine whether the selected RAOI candidates actually satisfy the RAOI's selective criteria. Rather, the Postal Service expects that local management may alert Headquarters if a particular RAOI candidate warrants removal from the list. The consequence is that facilities that do not fit the RAOI criteria are subjected to discontinuance studies and ultimately risk closure based on attributes they do not possess.²⁸ This is problematic for several reasons, the least of which is devalues even further the face value of the criteria.

²⁸ While it cannot be said whether or not a particular facility would undergo a discontinuance process in the absence of RAOI, the point to be made here is that some facilities, at least at that point in time, are not the subject of a discontinuance study but for the application of RAOI.

4. RAOI THREATENS UNIVERSAL SERVICE

The Postal Service is tasked with providing universal postal service to the American public, yet failed to consider and compare alternative optimization modeling techniques before filing the RAOI.²⁹ This is a cause of great concern, especially because the Postal Service has multiple alternatives and tools at its disposal, even overlooking Postal Service licensed software that has the ability to produce greater cost savings, enhance the efficiency of the network, and work in accordance with Title 39. However, when devising the RAOI, the Postal Service was unaware it could, or should, conduct a location analysis to determine optimal allocation of postal resources based on consumer populations and postal patterns, or examine whether the proposed RAOI would have a disparate impact on a certain demographic. It is surprising, given its commitment to universal service and the potential magnitude of RAOI that the Postal Service did not conduct any data-driven analyses to determine what improvements, if any, the RAOI is able to contribute to the Postal retail network and whether these improvements are outweighed by the detriment inflicted on the public it is meant to service.

a. The Postal Service Did Properly Not Consider Access

The Postal Service has the tool in ArcGIS software and intellectual capital to determine the least number of postal facilities, and their respective locations, that are required to provide the universal service to the U.S. population. Conversely, this same tool has the capability to inform the Postal Service which facilities can be closed and pinpoint ideal locations for alternative access facilities in order to optimally service the population's postal needs. Despite having the ArcGIS software which can perform all the aforementioned analyses, the Postal Service did not employ it when considering optimizing its retail network.

This software uses algorithms to determine the optimal placement of service facilities by integrating current Census population numbers and demographic information. To determine the optimal location of postal facilities, or which facilities could close while

²⁹ CSRL/USPS-9.

inconveniencing the smallest amount of people, the Postal Service could have used ArcGIS, but did not. Had the Postal Service employed ArcGIS' location allocation program, it would have identified optimal facilities based on their location, distance from population clusters, services provided, and demographic data.

Witness PR-T-1 discusses at length the level of detailed data ArcGIS is able to filter, combine, and plot. ArcGIS can import any data, such as purchasing patterns, so long as it is in a compatible database. Once given a number of facilities to close, ArcGIS applies factors in the chosen data and performs an optimal location allocation analysis. As PR-T-1 demonstrates in his Kansas example, that an optimization analysis performed using ArcGIS may enable the Postal Service to realize greater savings and better rationalize its retail network, while balancing its universal access obligations efficiently with minimal harm to consumers.

b. Failure to Consider Demographics Information

Had the Postal Service utilized ArcGIS' location allocation program, it may have prevented RAOI's disparate impact on rural communities and small post offices. The Postal Service neither requested nor factored in any demographic information when devising the RAOI and has not reviewed the demographics of RAOI candidates' locations and patronage to determine whether certain populations are disparately affected the initiative. When asked why such information was not considered but deemed important enough to request in discontinuance studies, the Postal Service's initial response was that there was no way to track demographic data,³⁰ then it opined that Census Bureau data reveals nothing specific about a subset of postal customers, the frequency with which they visit a postal facility, or their postal transactions and habits.³¹ Reliance on such data would result in sweeping assumptions and generalizations. *Id.* Instead of devising a systematic way to account for and track demographic information, the Postal Service relies on customers to provide it through discontinuance study questionnaires and at the community meetings.³² However, later, the Postal Service stated that the purpose of the community meetings is for the Postal

³⁰ Transcript vol. 1 at 513.

³¹ POIR/USPS-1; Transcript vol. 1 at 413-414.

³² *Id.*; Transcript vol. 1 at 514.

Service to inform the community of possible service changes and address the related concerns; the meetings are not forums for information gathering.³³ .

It is vital that the Postal Service understand the demographic impact of the RAOI. As discussed, *infra*, a thorough analysis the RAOI candidate lists reveal that 99% of RAOI candidates are located in rural areas or small towns. When confronted with this information, the Postal Service openly admitted it has no official or industry-wide definition for “small” or “rural.”³⁴ . This is problematic, for three reasons: (1) Title 39, Congress mandates the Postal Service to provide a “maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;” (2) neglecting to have an official definition allows the Postal Service to circumvent the notion that the RAOI criteria targets and disproportionately impacts rural and small communities; and (3) the Postal Service’s failure to adopt an official definition is a blatant disregard for the advisory role of the Commission, which put the Postal Service on notice in N2009-1 that its failure to have such a definition was of grave concern and expressly requested the Postal Service to rectify this problem.

c. Irresponsible Service: Failure to Track Access Alternatives

The Postal Service claims it will provide access alternatives to fill vacancies left by some discontinued RAOI candidates. Just as with the choice of selection criteria, the Postal Service is redirecting the spotlight away from what should be the focus (the number and depth of actual service vacancies) and places it on limited access alternatives in an effort to pose them viable substitutes for postal services lost. However, though the Postal Service touts the use of access alternatives, it is unable, or unwilling, to provide details, such as: what standards are used to determine where an alternate access site is established; how does the Postal Service intend to protect the sanctity of the mail at such sites; and, more importantly, how the Postal Service intends to track their success. The Postal Service admits it does not track the success of alternative access sites to determine whether they are truly effective in meeting the needs of the consumers they

³³ Transcript vol. 5 at 1730.

³⁴ POIR/USPS – 2; Transcript vol. 1 at 517, 520-522.

were instituted to serve.³⁵ Not surprisingly, when asked if it intended to track those alternative access sites erected as a result to RAOI related closures, the Postal Service responded that it currently has neither a plan nor method to do so. *Id.*

Even if the Postal Service were able to provide information concerning alternative access sites and show that they can successfully serve select customers, the improper basis for the alternatives' existence, i.e., the application of the RAOI's "low workload" criteria, ultimately render the value of these alternatives moot. As they are fruit of the poisonous tree, the viability of access alternatives is insufficient to alleviate or validate the Postal Service's flawed foundation that brought them into existence.³⁶

5. TOP-DOWN STRUCTURE INEFFECTIVE

The RAOI does not improve the manageability of the discontinuance process. The Postal Service claims that the selection criteria (the dual "low -workload" criteria in particular) are necessary to reduce the number of applicable facilities to a manageable amount. However, the bulk of the work continues to fall on local management who is still tasked with conducting the discontinuance studies, but now has the added responsibility of ensuring the candidates meet the RAOI criteria and the added responsibility of reporting on the accuracy of the criteria as it applies to each RAOI facility. The RAOI continues to require the bulk of the work to be at the "bottom" and the ultimate review performed by the "top."

a. Unrealistic to Expect Local Management to Challenge RAOI

The top-down structure as stated in the Request is intimidating and ineffective as subordinates and lower-tiered management may find it difficult to challenge an RAOI

³⁵ Transcript vol. 1 at 337-338, see 413.

³⁶ If history is a marker, the Postal Service may claim that declining revenues, low workload, postmaster vacancies, and the presence of alternative access sites are separate and distinct reasons for selecting to review and eventually discontinue select RAOI candidate services. They are not. It is illogical and deceiving to portray these problems as independent of an RAOI candidate's deficit problem when, in reality, they are either causes or symptoms thereof. Again, the Postal Service is attempting to redirect attention away from the true motivations behind the RAOI and its related closures.

selection without fear of reprisal. This is especially true, given the fragility of the national economy and financial status of the Postal Service. Witness USPS-T-1 began his testimony on the part of the Postal Service by stating that district managers are graded on a number of elements, one being their ability to favorably manage their total operating expenses (TOE).³⁷ This means, their ability to do what is required of them while maintaining a balanced budget or ending the fiscal year with a surplus. The current “bottoms-up” system requires a district official, often a manager, to request approval from supervisors before initiating a discontinuance study.³⁸ In support of this request, the district official provides direct supervisors and Headquarters with supportive economic and county specific data evidencing the financial benefit to such a closing. *Id.* This “bottom-up” approach works well with the Total Operating Expenses (TOE) requirement for district officials, since a discontinuance often results in savings for the Postal Service and a surplus for the district. Conversely, a district official asking Headquarters not to conduct or to halt a discontinuance study, i.e., to remove one or more facilities from the RAOI candidate list, may be seen as preventing Postal Service savings and thus negatively affect that district official’s TOE review.³⁹ Especially if this removal request is done without simultaneously offering to include an alternative facility estimated to save an equal or greater amount of dollars should it be discontinued.

b. Part & Parcel

i. Handbook 101

The RAOI proposal has provided the Commission with an opportunity to review aspects of the Postal Service’s Handbook 101 (PO-101). PO-101 contains the discontinuance procedures that are to commence at each RAOI facility. Though RAOI targets rural and small candidates, PO-101 is the official tool used to execute

³⁷ Transcript volume 1 at 346.

³⁸ Handbook 101 at 3.

³⁹ In his surrebuttal testimony, witness USPS-T-1 noted that there have been instances when a discontinuance study has been stopped based on information collected during the study. Transcript vol. 5 at 1811. However, he did not clarify whether the facilities in question were RAOI candidates, where they were located, or the reasons their respective studies were terminated. *Id.*

the violations of Title 39. For this reason, it is imperative that certain aspects of the Handbook be examined.

ii. Lack of Accuracy Reviews or Quality Checks

Once the discontinuance study commences on a particular facility, there is virtually nothing preventing the Postal Service from closing it. Handbook 101 does not provide a sure-proof formula or closure laundry list that must be satisfied before the ultimate decision to close is made. It only lists procedures that must be followed in order for the process to be considered complete. Since prior to RAOI, discontinuance reviews initiated from the “bottom – up,” with the local postal officials, Handbook 101 contains no procedural step at which local management or discontinuance review coordinators are required to assess whether there is a justifiable reason for conducting a review of a particular facility.

c. Irresponsible Reliance

So long as Handbook 101’s procedures do not appear to negatively impact rural and small post offices, very little can be done once a facility reaches the point at which Handbook 101 comes into play. As long as the Postal Service follows the Handbook 101’s procedures, states that it considered a variable number of factors as outlined in 39 U.S.C. § 404(d), articulates a minimally sensible reason for closure (not solely basing the decision on the facility’s deficit), and provides documents created during the discontinuance, barring any clear statutory violations the closure will stand.⁴⁰ Once a discontinuance process commences, there is no procedural step at which the local management or discontinuance review coordinator is required to determine a concrete reason why that particular facility is being reviewed at all; there are no standards required to keep track of closings.

At first, RAOI’s “top-down” theory appears beneficial in that it enables a centralized entity (Headquarters) to view the number, rate, and patterns of discontinuance

⁴⁰ The Postal Regulatory Commission conducts a de novo review of post office closings. 39 U.S.C. § 404. It may only remand a Postal Service’s decision to discontinue if the evidence shows the Postal Service: abused its discretion, statutory violations, or a decision unsupported by the record. Factual errors within an administrative record, historically, have not risen to the level of “unsupported” for the purpose of a Commission remand. *Id.*

studies on a national scale. Ostensibly, this would empower Headquarters to determine whether rural communities, are disparately affected by postal closings and thus cause it to monitor discontinuance studies and the motivations for them. However, as it stands, the ability to monitor the disparate impact on rural communities is not and cannot be effectuated since the Postal Service, and thus Handbook 101, does not have an official definition for what “rural” actually is. Thereby, even if a significant number of closings were to occur in what clearly would be defined by Merriam Webster or the United States’ Census as “rural,” can be reasoned away by the Postal Service should it elect to rely on a different characterization.

Without a written definition of “rural” or “small” post office the Commission cannot expect the Handbook 101 to prevent or guard against disproportionately negative effects in rural areas. In fact, USPS testimony indicates the Handbook is already being interpreted and applied to circumvent its own written procedures.

d. More Useful and Legal Optimal Alternatives Exist

The “top-down” RAOI proposal is ultimately a disappointing referendum on the lack of methodical consideration that Postal Service headquarters has chosen to employ with respect to the retail network. Postal Service Headquarters has determined that “opportunities exist for making the network more efficient and customer access more convenient, while continuing to provide adequate access to its products and services,”⁴¹ and identified nearly 3700 locations that it suggests can be closed in accordance with these goals. Yet Postal Service headquarters has provided no information that suggests closing the RAOI offices will make the network more efficient, customer access easier, or comply with the statutory requirement of providing adequate access. When the RAOI was initially proposed, several important claims were made that, after further review, are false.

⁴¹ USPS-T-1 at 13.

The Postal Service Request that initiated this docket stated:

“Simultaneously with the RAO Initiative, the Postal Service intends to introduce the concept of a “Village Post Office,” a contractor-operated retail unit at which customers will be able to purchase stamps and pre-paid Flat Rate packaging. Collectively, these alternatives extend, facilitate, and often expedite customer access to retail postal transactions that once required a visit to a retail window during specified hours at a Post Office, station or branch.” Request at 4.

The Request implied that the Postal Service intended to open VPOs to replace or improve upon closed Post Offices. However, as of November 3,2011, the Post Master General appears to be backing off of that implication. CNBC reported “the agency set an eventual goal of 2,000 Village Post Offices, but it has fewer than 10 fully operating.” Regarding the ability of the Postal Service to replace a Post Office with a VPO in locations without neighboring businesses, the Post Master Stated “I think as you get out to these areas that don’t have that option, we’ve got to figure out the best way to provide.”⁴² Postal Service headquarters argued that Post Offices could be replaced with local business before having determined that there are no local business to replace Post Offices. The RAOI criteria are designed to lead to a “manageable” amount of studies for local discontinuance coordinators, but Postal Service headquarters could not spare the local officials the trouble of looking to see where the nominated offices are located.

As further evidence of the Postal Service headquarters lack of methodological rigor with in considering the impact of the RAOI selection criteria, the Postal Service witness sponsoring the RAOI method had not reviewed summary statistics regarding the operating revenue, operating cost, or geographical location of the identified Post Offices.⁴³ USPS-T-1 states that only 11% of all offices with under \$100,000 in walk in revenue in FY 2010 are more than 10 miles from the nearest post office.⁴⁴ Yet, nearly 30% of the RAOI identified offices are more than 10 miles from the nearest Post Office.⁴⁵ If the Postal Service does not intend to close offices where no

⁴² <http://www.cnbc.com/id/45130395>

⁴³ Transcript vol. 1 at 532, “We didn’t look at costs.”

⁴⁴ Transcript vol 1 at 539.

⁴⁵ When asked how many RAOI offices are more than 10 miles from the nearest Post Office, Witness Bodlt stated he “didn’t have that answer.” Transcript vol 1 at 541.

alternative office is located within 10 miles, then there will be over 1,000 discontinuance studies that did not need to be performed. This is contrary to the Postal Service' stated goal of a manageable amount of studies. If the Postal Service headquarters believes that forcing the customers of over 1,000 Post Offices to drive at least 10 additional miles to purchase stamps is a coherent attempt at providing customers with more convenient access (if local offices do not vehemently object), it is unclear who is actively taking responsibility to ensure that the legal mandate for universal service is being enforced.

There are more optimal and legally legitimate methods that RAOI for determining which retail postal facilities could close while maintaining access to essential postal services. Public Representative Witness PR-T-1 Dr. Nigel Waters provides an empirical analysis based on location allocation module of the ArcGIS software. By fusing post office locations with census data, he is able to develop an optimal scenario in which a designated number of postal facilities are closed, yet the maximum services for the majority of customers are retained. This is crucial, especially because Dr. Water's methodology can incorporate factors that all stakeholders find important: economic savings, location, population density, demographics, and could potentially show that USPS can close more facilities, negatively affect fewer people, and reap even greater savings, than if all the RAOI facilities were discontinued.

The benefits of having a top-down process are tangible, but not achieved through the currently proposed RAOI. A discontinuance process that is initiated and evaluated by Headquarters can be successful if it centralizes the essential functions and decisions in those with the ability to acquire and analyze knowledge of the entire postal network. A district or other local manager is often times only very familiar with his/her district. Facilities chosen may differ in characteristic from district to district, state to state, and region to region. It thus makes sense that to properly, systematically, and equivocally apply any sort of initiative to optimize the USPS' complex nationwide retail network would require this application to be done by a centralized force if it is to have any merit in its standardization.

RAOI is an initiative that does not have a data-driven backbone. Based on the very limited data provided by the Postal Service, RAOI is neither logical nor systematic in its application to various retail facilities across the country. As of November 3, 2011, the Postal Service has been unable to provide cost, revenue, and operational data for all of the locations that are under consideration for closure. As demonstrated, *infra*, there is no standard circumstance under which it is deemed no longer to apply. The Postal Service states in its Discontinuance Handbook 101, that stations and branches will be treated the same as post offices for the purpose of closings (CITE). Nevertheless, the Postal Service has neglected to generate, and thus provide, cost-revenue data for stations and branches, that account for 20% of the RAOI candidates slated for discontinuance reviews.⁴⁶ Outside of the stations and branches, the volume of RAOI supportive data requested that the Postal Service either cannot or simply will not provide is disturbing. The Postal Service has not instituted a routine and methodical way to calculate the costs and savings resulting from each application of the initiative, has not taken the time to study and see if the initiative has a disparate impact on rural, low-income, or vulnerable communities, and has not institutionalized a tracking system to assess the success of established access alternatives to determine whether the alternatives are worthy and actually rise to meet the needs of the communities in which they are placed.

The objective of the Postal Service is a laudable one. The Public Representative agrees that this is necessary and attainable goal, but does not agree that the currently proposed RAOI is the means to achieving it.

6. TOTAL SAVINGS NOT ENOUGH TO SAVE THE POSTAL SERVICE

The Postal Service stated that if all RAOI facilities were to close, it estimates it would save \$200 million in operating costs. The Postal Service has not provided data justifying this amount, nor has it provided any information on the estimated or actual savings that would result from any of the RAOI candidates, despite stating such information would be available as of October, 2011. The Public Representative submits, that giving the Postal Service the benefit of the doubt, \$200 million would

⁴⁶ PR-T-2 at 6

be saved by closing all RAOI facilities, this dollar amount is but a drop in the bucket given the Postal Service's \$8.5 billion FY 2010 deficit.

a. The First \$200M

The Postal Service is experiencing severe financial difficulties. The Postal Services total costs for FY2010 exceeded revenues by over \$8.5 billion. However, closing the RAOI identified offices is unlikely to save a significant amount of money. In press releases, the Postal Service has stated that it anticipates savings of roughly \$200 million by closing the RAOI offices. By closing the 10% of retail facilities identified in this docket, the Postal Service would save less than .3% of its total operating costs. The Postal Service projects it would have reduced its FY2010 deficit by less than 2.5% by closing the RAOI offices. Of course, the Postal Service has not provided any savings projection in the context of this docket. In response to an interrogatory, the Postal Service stated "No detailed calculations were involved. The statement was merely an attempt to illustrate that if the total operating cost of the candidate facilities was approximately \$200 million and all of them were discontinued, then operating costs would be reduced by that amount."⁴⁷ In response to another interrogatory, the Postal Service stated "facility-specific analysis is underway, but that the first decisions will not be made until October 2011. Accordingly, the first facility-specific studies are not expected to be completed until then. At that time, the Postal Service will have estimates of the savings expected for specific facilities for which studies have been completed."⁴⁸ As of November 4, 2011, no facility specific savings have been provided.

b. What Must Close to Save \$8.5B

PR-T2 provided an estimate of the Postal Service's total expenditure on the retail network. That analysis showed that the Postal Service spends between \$4.5 and \$5.5 operating and leasing its retail facilities. This is \$3-4 billion less than the yearly financial deficit experienced by the Postal Service. While the Postal Service should

⁴⁷ Transcript vol 1 at 40.

⁴⁸ Transcript vol 1 at 157.

prudently close antiquated and outdated offices no longer serve the needs of any captive customers, there is no amount of retail facilities the Postal Service could close that would close the Postal Service's financial gap. Indeed, the Postal Service has made no showing in this docket as to how closing the RAOI identified offices will improve the Postal Service's ability to comply with the either of the mandates of title 39 to provide retail access or to be financially stable.

7. CONCLUSION

After careful review of the Postal Service's testimony, arguments presented by the parties and interveners, and expert testimony, the Public Representative concludes that RAOI is fundamentally flawed. Its selection criteria target small and rural post offices operating at a deficit for closure. If applied, all post office closings initiated by RAOI would violate the spirit and regulations of Title 39.