

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Old Chatham Post Office
Old Chatham, New York

Docket No. A2011-69

ORDER AFFIRMING DETERMINATION

(Issued January 4, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 8, 2011, Karen Murphy (Petitioner Murphy) and Richard Dorsey (Petitioner Dorsey) filed petitions with the Commission seeking review of the Postal Service’s Final Determination to close the Old Chatham, New York post office (Old Chatham post office).² Additional petitions for review were received from Joan and James Murray (Petitioners Murray) and Gail Lundy (Petitioner Lundy).³ The Final Determination to close the Old Chatham post office is affirmed.

II. PROCEDURAL HISTORY

On September 13, 2011, the Commission established Docket No. A2011-69 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴ The Postal Service filed the Administrative Record with the Commission.⁵

² Petition for Review Received from Karen Murphy Regarding the Old Chatham, NY Post Office 12136, September 8, 2011 (Murphy Petition); Petition for Review Received from Richard J. Dorsey regarding the Old Chatham, NY Post Office 12136, September 8, 2011.

³ Petition for Review Received from Joan & James Murray regarding the Old Chatham, NY Post Office 12136, September 13, 2011 (Murray Petition); Petition for Review Received from Gail Lundy Regarding the Old Chatham, NY Post Office 12136, September 14, 2011.

⁴ Order No. 853, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 13, 2011.

⁵ On September 22, 2011, the Postal Service filed the Administrative Record as six separate files attached to the United States Postal Service Notice of Filing. On September 23, 2011, the Postal Service attached the Administrative Record as a single file to the United States Postal Service Notice of Filing, September 23, 2011. The Administrative Record includes, as Item No. 47, the Final Determination to Close the Old Chatham, NY Post Office and Extend Service by Rural Route Service (Final Determination).

Petitioners Dorsey, Murphy, and Lundy each filed participant statements supporting their Petition.⁶ On November 2, 2011, the Postal Service filed comments requesting that the Commission affirm the Final Determination.⁷

III. BACKGROUND

The Old Chatham post office provides retail postal services and service to 154 post office box customers. Final Determination at 2. Three-hundred-forty-five delivery customers are served through this post office. The Old Chatham post office, an EAS-13 level facility, provides retail service from 9:00 a.m. to 1:00 p.m. and 2:30 p.m. to 4:45 p.m., Monday through Friday, and 9:00 a.m. to 11:00 a.m. on Saturday. Lobby access hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to 11:00 a.m. on Saturday. *Id.*

The postmaster position became vacant when the Old Chatham postmaster was promoted on August 2, 2008. *Id.* A career officer-in-charge (OIC) from a neighboring post office was installed to operate the post office. Postal Service Comments at 2. Retail transactions averaged 27 transactions daily (32 minutes of retail workload). Office receipts for the last 3 years were \$66,834 in FY 2008; \$51,008 in FY 2009; and \$49,230 in FY 2010. There were two permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$28,567 annually. *Id.* at 9.

After the closure, retail services will be provided by the East Chatham post office located approximately 3 miles away.⁸ Delivery service will be provided by rural carrier through the East Chatham post office. The East Chatham post office is an EAS-15 level

⁶ Participant Statement Received from Richard J. Dorsey, October 12, 2011 (Dorsey Participant Statement); Participant Statement Received from Karen A. Murphy, October 18, 2011 (Murphy Participant Statement); Participant Statement Received from Gail Lundy, October 18, 2011.

⁷ United States Postal Service Comments Regarding Appeal, November 2, 2011; United States Postal Service Notice of Filing Errata, November 2, 2011 (Postal Service Comments).

⁸ *Id.* at 2. MapQuest estimates the driving distance between the Old Chatham and East Chatham post offices to be approximately 3.19 miles (8 minutes driving time).

office, with retail hours of 9:30 a.m. to 12:00 p.m. and 1:15 p.m. to 5:00 p.m., Monday through Friday, and 9:30 a.m. to 11:00 a.m. on Saturday. One hundred-eighty-three post office boxes are available. *Id.* Customers who retain their post office box or currently have street delivery will not be required to change their address. The Postal Service will continue to use the Old Chatham name and ZIP Code. Postal Service Comments at 8.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioners oppose the closure of the Old Chatham post office. They discuss the inconvenience and possible danger⁹ that could be experienced from having to travel to the East Chatham post office to obtain postal services. Murphy Petition at 1; Murray Petition at 4. They also argue that the estimated cost savings from the closing are inaccurate because they are based on the salary and benefits of a postmaster rather than the OIC who operates the post office. Murphy Participant Statement at 3.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Old Chatham post office. Postal Service Comments at 13. The Postal Service believes the appeal raises four main issues: (1) the effect on postal services; (2) the impact on the Old Chatham community; (3) the economic savings expected to result from discontinuing the Old Chatham post office; and (4) the effect on employees. *Id.* at 1-2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes the determination to discontinue the Old Chatham post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Old Chatham post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and declining office revenue;

⁹ The alleged danger arises from having to travel over a narrow railroad-owned bridge.

- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Old Chatham community when the Final Determination is implemented. *Id.* at 5.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Old Chatham community, economic savings, and effect on postal employees. *Id.* at 5-13.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On April 22, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Old Chatham post office. Final Determination at 2. A total of 504 questionnaires were distributed and 179 were returned. *Id.* On May 3, 2011, the Postal Service held a community meeting at the Chatham Town Hall to address customer concerns. *Id.* Forty-four attended. *Id.*

The Postal Service posted the proposal to close the Old Chatham post office with an invitation for comments at the Old Chatham and East Chatham post offices from May 17, 2011 through July 18, 2011. *Id.* The Final Determination was posted at the same two post offices from August 9, 2011 to September 10, 2011. *Id.* at 1.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Old Chatham, New York is an unincorporated community located in Columbia County, New York. Administrative Record, Item No. 16.

The community is administered politically by Chatham. Police protection is provided by the New York State Police. Fire protection is provided by the Tri Village Fire Company. *Id.* The community is comprised of farmers/retirees and those who work in local businesses or commute to work in nearby communities. Postal Service Comments at 7-8. Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Old Chatham community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Old Chatham post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 8.

Petitioner Dorsey raises the issue of the effect of the closing of the post office on the Old Chatham community, expressing the concern that the Old Chatham post office has a significant historical presence and plays an active role in the local business and residential community. Dorsey Participant Statement at 1. The Postal Service contends that it considered this issue and explains that the community identity will be preserved by continuing the use of the Old Chatham name and ZIP Code. Postal Service Comments at 8.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Old Chatham postmaster was promoted on August 2, 2008 and that an OIC has operated the Old Chatham post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the OIC will return to her position at a nearby post office. Postal Service Comments at 10.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Old Chatham post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Old Chatham customers. Postal Service Comments at 5-7. The Postal Service asserts that customers of the closed Old Chatham post office may obtain retail services at the East Chatham post office located 3 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the East Chatham post office. The 154 post office box customers may obtain Post Office Box service at the East Chatham post office, which has 183 boxes available. *Id.*

For customers choosing not to travel to the East Chatham post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 5-6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. Final Determination at 4, Concern No. 13.

Petitioners express concerns about the inconvenience and possible danger from having to travel to the East Chatham post office to obtain postal services. In response, the Postal Service argues that it considered these concerns and that most services provided at the Old Chatham post office are available to customers without having to travel to East Chatham. Postal Service Comments at 5. It asserts that customers can purchase money orders and special services from the letter carrier, who will also accept packages and letters for mailing. *Id.* at 6.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$28,567. Final Determination at 9. It derives this figure by summing the following costs: postmaster salary and benefits (\$48,569) and annual lease costs (\$9,025), minus the cost of replacement service (\$29,027). *Id.*

Petitioners assert that the estimated savings are inaccurate. Murphy Participant Statement at 3. She notes that the amounts saved are based on the salary and benefits of a postmaster rather than the OIC, who receives a lower salary and no benefits. Petitioner Murphy also asserts that there will be no savings for any employee who is retained by the Postal Service. *Id.* The Postal Service responds that discontinuing the Old Chatham post office would eliminate a permanent career position, thereby allowing the Postal Service to avoid the cost of filling that position in the future. Postal Service Comments at 8.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs that are not eliminated by the discontinuance of a post office. The Old Chatham postmaster was promoted on August 2, 2008. Final Determination at 2. The office had since been run by a career OIC who, upon discontinuance of the post office, will return to her duties at a nearby post office. Postal Service Comments at 10. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Old Chatham post office has been staffed by an OIC for more than 3 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Old Chatham post office is affirmed.

It is ordered:

The Postal Service's determination to close the Old Chatham, New York post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

I dissent in this case.

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service argues that savings should be calculated based on a fulltime postmaster's salary. Yet the Old Chatham post office has been operated by an OIC since 2008. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal; yet, on the other hand, it argues that the savings should be calculated using a fulltime position. There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Postal Regulatory Commission to correct the record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the record.

Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings.

It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium.

The citizens of Old Chatham, New York and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since August 2008, not an EAS-13 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Old Chatham post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley