

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

Hailesboro Post Office
Hailesboro, New York

Docket No. A2011-72

ORDER AFFIRMING DETERMINATION

(Issued January 5, 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 13, 2011, Natalie J. Spilman (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Hailesboro, New York post office (Hailesboro post office).² The Final Determination to close the Hailesboro post office is affirmed.

II. PROCEDURAL HISTORY

On September 15, 2011, the Commission established Docket No. A2011-72 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On September 28, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

Petitioner filed a Participant Statement in support of her Petition.⁶

² Petition for Review received from Natalie J. Spilman regarding the Hailesboro, New York post office, 13645, September 13, 2011 (Petition).

³ Order No. 856, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 15, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, September 28, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Hailesboro, New York Post Office and Extend Service by Rural Route Service (Final Determination).

⁵ United States Postal Service Comments Regarding Appeal, November 7, 2011 (Postal Service Comments).

⁶ Participant Statement received from Natalie J. Spilman, October 18, 2011 (Participant Statement).

III. BACKGROUND

The Hailesboro post office provides retail postal services and service to 133 post office box customers. Final Determination at 2. No delivery customers are served through this office. *Id.* The Hailesboro post office, an EAS-11 level facility, has retail access hours of 8:15 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 pm., Monday through Friday, and 8:30 a.m. to 11:45 a.m. on Saturday. Final Determination at 2. Lobby access hours are from 8:00 a.m. to 5:00 p.m., Monday to Friday, and from 8:15 a.m. to 12:15 p.m. on Saturday. *Id.*

The postmaster position became vacant on June 29, 2010 when the Hailesboro postmaster retired. *Id.* An officer-in-charge (OIC) was installed to operate the post office. *Id.* at 2. Retail transactions averaged 76 transactions daily (85 minutes of retail workload). Office receipts for the last 3 years were \$60,635 in FY 2008; \$67,792 in FY 2009; and \$63,163 in FY 2010. There were no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$35,448 annually. *Id.* at 11.

After the closure, retail services will be provided by the Gouverneur post office located approximately 2.5 miles away.⁷ Delivery service will be provided by rural carrier through the Gouverneur post office. *Id.* at 2. The Gouverneur post office is an EAS-18 level office, with retail hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturday. Seventy-four post office boxes are available. *Id.* The Postal Service will continue to use the Hailesboro name and ZIP Code. *Id.* at 10, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Hailesboro post office. Petitioner argues the Hailesboro citizens and customers should not be penalized for the

⁷ *Id.* at 7, Concern No. 2. MapQuest estimates the driving distance between the Hailesboro and Gouverneur post offices to be approximately 2.7 miles (6 minutes driving time).

failure of the Postal Service to appoint a new postmaster after the postmaster retired on June 29, 2010. In addition, Petitioner argues that the Hailesboro post office does not operate at a deficit. Petitioner also argues that the process by which the Postal Service determines whether or not to close a post office is flawed.

In her Participant Statement, Petitioner challenges the finding of the Postal Service that the Hailesboro post office retail transactions require only 85 minutes a day. Petitioner also questions the Postal Service's decision to hold a community meeting from 8:00 a.m. to 12:00 p.m. in the lobby of the Hailesboro post office rather than an evening meeting in a community center. Petitioner notes that the Postal Service did not communicate directly with any of the town officials prior to the meeting.

Petitioner argues that the Postal Service did not thoroughly investigate the problem of vandalism to rural boxes. Petitioner also argues that closing the Hailesboro post office will place an undue hardship on citizens and customers of the Hailesboro post office. She contends customers will be forced to spend money erecting rural boxes which are not as safe as post office boxes, or customers will be forced to travel a distance to another post office to collect their mail. Petitioner also argues that the Gouverneur post office has only 74 available boxes to rent, which is not sufficient for the 133 post office box customers from the Hailesboro post office. Petitioner argues that the parking, particularly the handicap parking, is insufficient at the Gouverneur post office.

Petitioner also notes several errors in the Postal Service's Final Determination, including the failure to list some businesses in the community, and several discrepancies in the documents included in the Final Determination which were not in the Official Record posted at the Hailesboro post office.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Hailesboro post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Hailesboro community; and (3) the economic savings expected to result from discontinuing the Hailesboro post office. The Postal Service

asserts that it has given these and other statutory issues serious consideration and concludes the Final Determination to discontinue the Hailesboro post office should be affirmed. *Id.* at 2.

The Postal Service responds to the discrepancies noted by Petitioner between the Administrative Record on file at the Hailesboro post office and the Administrative Record compiled for filing with the Commission. The Postal Service states that all customers received a response letter, but when those letters are retrieved, the system automatically updates some fields such as the date. The content of the letters remains the same, and the letters in the Administrative Record represent the letters that were actually sent to the addressees. The Postal Service states it regrets any confusion the technical error has caused, but submits those technical errors do not have any substantive implications for this appeal. *Id.* at 1 n.1. The Postal Service has adequately explained the discrepancies noted by the petitioner, and they have no substantive implications in this matter.

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

- the postmaster vacancy;
- a minimal workload and low revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- the projected population decline in the area;
- minimal impact on the community; and
- expected financial savings.

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

The Postal Service also asserts that it has followed all statutorily required procedures and addresses the concerns raised by Petitioner regarding the effect on

postal services, effect on the Hailesboro community, economic savings, and effect on postal employees. *Id.* at 1-2.

The Postal Service explains that rural carriers can pick up and deliver packages as well as pick up and deliver regular mail and provide retail services. *Id.* at 7-8. The Postal Service notes that customers who opt for carrier service will not have to pay post office box fees. The customer would be responsible for installing and maintaining a mailbox. *Id.* at 9.

The Postal Service states also that in addition to the 74 post office boxes available at the Gouverneur post office, additional swivel units could be installed to meet customer demands. The Postal Service also offered the option of a centralized delivery within the Hailesboro community which would offer locked boxes for security and 24-hour access if these boxes are located outdoors. *Id.*; see also Final Determination at 3, Concerns 3 and 4.

The Postal Service responds to Petitioner's contention that the Hailesboro post office is profitable and, therefore, should be continued. Postal regulations in Handbook PO-101 do not consider the profitability of a post office as a factor triggering or justifying the outcome of a discontinuance study. Rather, the Postal Service considers numerous factors, including workload, revenue trends, usage patterns, and alternate access. *Id.* at 14. In this case, given the proximity of another post office and the provision of service through rural route, the Postal Service states it has determined that it can still provide regular and effective service to the community.

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. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On April 15, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Hailesboro post office. Final Determination at 2. A total of 133 questionnaires were distributed and 64 were returned. On April 28, 2011, the Postal Service held a community meeting in the lobby of the Hailesboro post office (Open House format) to address customer concerns. Sixty customers attended. *Id.*

The Postal Service posted the proposal to close the Hailesboro post office with an invitation for comments at the Hailesboro and Gouverneur post offices from May 11, 2011 through July 12, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from August 9, 2011 through September 10, 2011. *Id.* at 1.

Petitioner challenges the Postal Service decision to hold the community meeting during daytime hours in an Open House format. The Postal Service asserts that because there is no street delivery at the Hailesboro post office, the Open House format enabled customers to have discussions while picking up their post office box mail. Postal Service Comments at 4 n.13.

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 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. Hailesboro, New York is an unincorporated community located in St. Lawrence County, New York. Administrative Record, Item No. 16. The community is administered politically by the Town of Fowler. Police protection is provided by New York State Police. Fire protection is provided by Gouverneur Volunteer Fire Department. *Id.* The community is comprised of retirees, self-employed persons, commuters, and others who reside in the community, but travel elsewhere for supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and the 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 Hailesboro community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Hailesboro 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 10-11.

In response to customers' concern about the effect of the closing of the Hailesboro post office on the Hailesboro community, the Postal Service contends that

the community identity will be preserved by continuing the use of the Hailesboro name and ZIP Code. Postal Service Comments at 11-12.⁸ Petitioner asserts that the Postal Service erred in listing no businesses in the Final Determination. She includes in her Participant Statement a list of 67 businesses located in the Town of Fowler, 17 of which reside in the Hamlet of Hailesboro. Administrative Record, Item 38; Participant Statement at 6. While it is not clear what the source of this discrepancy is, the Postal Service states that businesses will continue to receive regular and effective postal services. In addition, the Postal Service states that the answers to questionnaires indicated customers will continue to use local businesses if the post office is closed. Final Determination at 11, Concern No. 6.

Although the Final Determination erroneously stated there were no businesses in the community of Hailesboro, the Postal Service has established that the businesses in the community will receive regular and effective postal services. In addition, based on the customers' questionnaires, the Postal Service has established the businesses will not be adversely affected by the closing of the Hailesboro post office. 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 postmaster retired on June 29, 2010, and that an OIC has operated the Hailesboro post office since then. *Id.* at 11. It asserts that after the Final Determination is implemented, the temporary OIC will be reassigned and the non-career postmaster relief (PMR) may be separated, and no other Postal Service employee will be adversely affected. Postal Service Comments at 15-16.

The Postal Service has considered the possible effects of the post office closing on the OIC when it stated that the OIC will be reassigned and the PMR may be reassigned or separated. The Postal Service has satisfied its obligation to consider the

⁸ Customers who elect to close their post office boxes for street delivery would be required to change their addresses. *Id.* at 10.

effect of the closing on employees at the Hailesboro 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 Hailesboro customers. *Id.* at 6. The Postal Service asserts that customers of the closed Hailesboro post office may obtain retail services at the Gouverneur post office located 2.5 miles away. Final Determination at 2, 12. Delivery service will be provided by rural carrier through the Gouverneur post office. The Hailesboro post office box customers may obtain Post Office Box service at the Gouverneur post office, which has 74 boxes available. *Id.* In addition, the Postal Service states that additional swivel units can be installed at the Gouverneur post office to meet the demand of Hailesboro customers for additional post office box access. Postal Service Comments at 9. The Postal Service has also offered the option of centralized delivery within the Hailesboro community which would offer locked boxes for security and 24-hour access if located outdoors. *Id.*

For customers choosing not to travel to the Gouverneur post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 7-9. 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. In addition, the Postal Service states that carrier service can pick up packages when customers contact the Gouverneur post office. Large parcels can either be left at a location designated by the customer or a notice will be left in the mailbox. Customers can then choose whether to pick up the parcel at the post office or arrange online or by telephone for re-delivery. *Id.* at 8.

Petitioner and several customers raised the issue of mail security. The Postal Inspection Service reported no incidents of mail theft in the area. The New York State Police, however, stated they have received complaints of vandalism to mailboxes. Administrative Record, Item No. 14. The Postal Service states that customers can put locks on their mailbox as long as the slot is large enough to accommodate normal mail volume. Postal Service Comments at 10.

The Commission notes that customers' concern about vandalism to rural mail boxes was raised in numerous questionnaires. See *generally* Administrative Record, Item No. 22. The Postal Service has offered to consider centralized delivery within the Hailesboro community to alleviate many of the concerns raised by the customers. Postal Service Comments at 9. Since the Postal Service has offered an option that would address these concerns, the Postal Service has responded to customers' concerns regarding mail security on rural carrier routes.

Petitioner contends that the Gouverneur post office has inadequate parking, particularly for handicapped customers. In addition, Petitioner states the service is slow. The Postal Service states that customers can obtain all retail and delivery services from a rural carrier, obviating the need to travel to the Gouverneur post office. In addition, the Postal Service states that the postmaster in Gouverneur would be notified of this concern. The Postal Service further states that courteous and helpful service will be provided from the personnel at the Gouverneur post office and from the rural carriers. Final Determination at 8, Concern Nos. 11, 12.

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 \$35,448. *Id.* at 11. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$6,780), minus the cost of replacement service (\$15,611). *Id.*

In response to Petitioner's assertion that the post office is profitable and should be continued, the Postal Service points out that profitability is not a factor in a discontinuance study. The Postal Service considered other factors, including the postmaster vacancy, workload and revenue, usage patterns, and alternate areas of access. *Id.* at 14-15. Petitioner challenges the amount the Postal Service included as a cost of replacement service. The Postal Service responds that the replacement service estimates are based on its experience and are reasonable. *Id.* at 14.

The Commission has previously stated that the Postal Service should not compute savings based on compensation costs unless there is a reasonable assurance that closing will actually eliminate those costs. The Hailesboro postmaster retired on June 29, 2010. Final Determination at 2. The post office has since been operated by a temporary OIC, who upon discontinuance will return to her home post office or be offered another OIC opportunity. Postal Service Comments at 2-3. The Hailesboro post office also had a non-career PMR working in the office, who, upon discontinuance of the post office, may be separated from the Postal Service. *Id.* 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; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Hailesboro post office has been staffed by an OIC for over a year, 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 Hailesboro post office is affirmed.

It is ordered:

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

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION BY 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 Hailesboro post office has been operated by an officer in charge (OIC) since the former postmaster retired on June 29, 2010. 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 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.

In addition, the Administrative Record states that revenue received by the Hailesboro post office was higher in 2010 than in 2008. The Postal Service says that it considers revenue trends in making a closing determination, but the revenue trend in Hailesboro does not exhibit a downward slope. Moreover, the Postal Service does not dispute that the post office operates at a net profit. The Commission has recently issued its Advisory Opinion in Docket No. N2011-1, pointing to the fact that its closing plans do not optimize the network. In the case of Hailesboro, the failure to undertake actual retail network optimization is exhibited by the Postal Service selecting for closure a post office with strong revenue that actually increased from 2008 to 2010. This proposed closing should be reconsidered in this light as well.

Customers have commented on the lack of parking at the receiving post office in Gouverneur. The Postal Service has not satisfactorily addressed this concern about the sufficiency of the designated replacement facility. The Commission cannot presume that fewer people will use the Gouverneur facility. Again, it is the Postal Service's responsibility to correct the Administrative Record.

Further, the record presents the fact that there are significantly fewer post office boxes in the receiving facility than in the one being closed. The Postal Service says in the Administrative Record that it *can* provide "swivel" boxes in Gouverneur, but does not *commit* to providing post office boxes and thus comparable service to serve the customers of Hailesboro.

Petitioners expressed concerns about the adequacy of the nature and timing of the community meeting. The Postal Service says it held a community meeting in the "Open House" format, in which a location is open for drop-in comments. Such an "Open House" does not provide the opportunity for postal customers to hear the concerns and opinions of their neighbors. Therefore, the Postal Service did not adequately consider the effect on the community.

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 Hailesboro 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 BY VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider all requirements of 39 U.S.C. § 404(d).

The Postal Service did not adequately comply with 39 U.S.C. § 404(d)(2)(A)(iii) which requires that the Postal Service provide a maximum degree of effective and regular postal services to rural communities and small towns. The Postal Service indicates that the Hailesboro post office has 133 post office box holders and that the proposed Administrative Office, Gouverneur post office, has 74 post office boxes available. Final Determination at 2. Should all current post office box holders opt for a post office box, it appears that the Gouverneur post office does not have enough available post office boxes to accommodate the Hailesboro post office box holders. Although the Postal Service notes in response to individual consumer concerns that additional swivel units could be installed at the Gouverneur post office. *Id.* at 3, Concerns 3 and 4. There is no assurance that alternative delivery options will be instituted.

In addition, 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 since June 29, 2010, a non-career postmaster relief (PMR) has been in charge of this facility, not an EAS-11 postmaster. The PMR's salary and benefits should be reflected in the Postal Service's 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, and that the community will continue to receive a maximum degree of effective and regular postal services.

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

Nanci E. Langley