

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

Lanagan Post Office
(Lanagan, Missouri)

Docket No. A2012-62

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

(January 13, 2012)

I. INTRODUCTION AND BACKGROUND

On November 8, 2011, the Postal Regulatory Commission (Commission) docketed the petition for review of the closing of the Lanagan Post Office.¹ On November 28, 2011, the Commission issued an order instituting the current review proceedings, appointing a Public Representative, and establishing a procedural schedule.² On November 23, 2011, the Postal Service filed an electronic version of the administrative record concerning its Final Determination, Postal Service Docket Number 1369766- 64847.³

The Petitioners, David and Donna Willet, has not filed a Participant Statement in lieu of a formal legal brief. The Postal Service filed comments supporting its closure determination on January 4, 2012, in lieu of a legal brief.⁴

¹ Petition Received from David and Donna Willet, November 8, 2011 (Petition).

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 28, 2011. (Order No. 1003).

³ United States Postal Service Notice of Filing Administrative Record, November 23, 2011 (AR).

⁴ United States Postal Service Comments Regarding Appeal, January 4, 2012 (Postal Service Comments).

II. STATEMENT OF FACTS

The Lanagan Post Office is described by the Postal Service in its Final Determination as an EAS-11 level post office located in Lanagan, MO 64847-9998, McDonald County. AR, Item No. 1 at 1. Before being closed, the Lanagan Post Office provided service to 171 post office box customers, 1 general delivery customer, 22 Highway Contract Route (HCR) customers, and 194 retail customers. *Id.*, Item No. 1 at 1. The retail window transactions at the Lanagan Post Office averaged 21.1 daily with average workload of 20.4 minutes. *Id.*, Item No. 10 at 1.

On April 12, 2011, the Manager of Post Office Operations requested permission to investigate the possible closure of the Lanagan Post Office. *Id.*, Item No. 1 at 1. The request was granted. *Id.*

On May 4, 2011, the Postal Service notified customers of the Lanagan Post Office of a possible change in the way their postal service is provided. *Id.*, Item No. 21 at 1. As described in the notice, customers were given the option of receiving pickup, delivery, sale of stamps and all other customary postal services, by highway contract route service from the Pineville Post Office located 5.8 miles away. *Id.* Included was a questionnaire to be completed and returned by May 31, 2011. *Id.* 200 questionnaires distributed by the Postal Service and 76 were completed and returned. *Id.*, Item No. 23 at 1. In addition, customers were invited to attend a public meeting on May 31, 2011, at which Postal Service representatives would be available to answer questions and provide information about postal service. *Id.* The meeting was held on May 31, 2011 at the Lanagan City Hall, as scheduled with 58 customers in attendance. *Id.*, Item No. 24 at 1.

On June 13, 2011, a formal proposal to close the Lanagan Post Office was forwarded to that post office for posting for a period of sixty days. *Id.*, Item No. 31 at 1. An invitation to file comments was also posted in Lanagan Post Office, Pineville Post Office, and Anderson Post Office on June 25, 2011. *Id.*, Item No. 32 at 1. A total of 5 comments were received during the posting period that ended August 26, 2011. *Id.*,

Item No. 40 at 1. That proposal was transmitted to the Vice President for Delivery and Post Office Operations on September 6, 2011. *Id.*, Item No. 45 at 1.

On September 26, 2011, the Final Determination to close the Lanagan Post Office was approved. *Id.*, Item No. 47. The decision was based upon (1) declining workload; (2) intending to improve operational efficiencies by providing the alternate service; (3) planning to provide regular and effective service by the Post Office box section in Pineville, MO located 5.8 miles away; and (4) availability of 3 other post offices within 7 mile radius. *Id.* The Final Determination did consider and respond to various concerns expressed by postal customers. *Id.*, Item No. 47.

III. POSITIONS OF THE PARTIES

A. The Petitioners

In the Petition, the Petitioners argue that the Postal Service didn't consider the effect of the closing on postal service and the community. Petition at 1. The Petitioners suggested that the Post office be relocated to the Lanagan City Hall. Petition at 1.

B. The Postal Service

On January 4, 2012, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 1003. In that filing, the Postal Service supports its decision to close the Lanagan Post Office due to the following reasons: (1) the postmaster vacancy; (2) minimal workload; (3) Low office revenue; (4) availability of different delivery and retail options including the convenience of HCR delivery service; (5) very little recent growth in the area; (6) minimal impact upon the community; and (7) expected financial savings. Postal Service Comments at 4 and 5. The Postal Service claims that it considered the Petitioners' concerns. The Postal Service explains that services provided by the Post Office including sale of stamps, envelopes, post cards and

money orders will be provided by the carrier to roadside mailbox located close to the customer residences. *Id.*, at 6. The Postal Service argues that delivery and retail services provided by HCR is the most cost effective alternative for service to the Lanagan community. *Id.*, at 8.

IV. STANDARD OF REVIEW AND APPLICABLE LAW

A. Standard of Review

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). That section requires that the Postal Service's determination be reviewed 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 are: (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.⁵

B. The Law Governing Postal Service Determinations

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404 to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to

⁵ Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal.

the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. § 404(d)(2)(A)

In addition, the Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. § 404(d)(3). Finally, the Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available. 39 U.S.C. § 404(d)(4).

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioners and the Petition submitted by customers of the Lanagan Post Office, and the Postal Service Comments, the Public Representative concludes that the Postal Service has followed applicable procedures, that the decision to close the Lanagan Post Office is not arbitrary or capricious, and that the Postal Service's decision is supported by substantial evidence.

The Petitioners requested to reconsider the closing of the Lanagan Post Office because of the adverse effect on the community. Based on the record in this proceeding, the Public Representative finds that the Postal Service has considered inputs from the community by distributing questionnaires, holding a community meeting, and responding to customers' concerns about the closure of the Lanagan Post Office. In response to customers concern about change of zip code, the Postal Service explains that the proposed change of the zip code is necessary to 911 addressing requirements. AR, Item No. 33 at 3. The Postal Service states that it will preserve the community identity by continuing the use of the community name, the suspended Post Office name, zip code in addresses and in the National Five-Digit zip code & post office directory. *Id.*

The Postal Service acknowledges the importance of regular and effective postal service to the community and business. It states that it will continue to provide effective and regular postal service to the Community. *Id.*, Item No. 33 at 6. Regarding the effect

on business, it explains that no business will be adversely affected by the closure of the Post Office. *Id.*

The Postal Service estimates an annual savings of \$37,304 after deducting the estimated cost of HCR service. *Id.*, Item No. 33 at 9.2. This includes the Postmaster's salary and benefits of \$44,279, and a rental cost of \$4,089. The cost of the replacement HCR service is estimated at \$11,064. *Id.*, Item No. 41 at 11. The Public Representative believes that this cost saving estimate is inflated as it does not take into account the possibility of revenue losses due to: (1) possible loss of customers to competitors for certain services; and (2) loss of post office box revenue resulting from post office box customers switching to roadside highway contract route service.

VI. CONCLUSION

For the reasons set forth above, the decision of the Postal Service to close the Lanagan Post Office should be affirmed.

Respectfully Submitted,

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