

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Mountain City Post Office
Mountain City, Nevada

Docket No. A2012-70

PUBLIC REPRESENTATIVE COMMENTS
(January 31, 2012)

The Postal Service has determined to close the Mountain City, Nevada post office and provide delivery and retail services by independent post office under the administrative responsibility of the Owyhee post office. Petitioners claim the Postal Service: violated 39 U.S.C. § 101 (b) by closing the Mountain City post office solely for operating at a deficit; failed to consider the closure's effect on the community; failed to consider the closure's negative effect on accessible quality postal services; and inflated the estimated economic savings expected from the closure. The Postal Service asserts that it followed all procedures and considered all factors required by law. After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioners, and the Postal Service Comments, the Public Representative concludes that the Postal Service has failed follow applicable procedures and rendered a decision that is not substantially supported by the evidence. For the reasons set forth below, the Public Representative concludes the decision of the Postal Service to close the Mountain City post office should be remanded.

On November 15, 2011, the Commission received an appeal from Becky Goff (Petitioner Goff) and The Customers of Mountain City Post Office (Customer

Petitioners), objecting to the closing of the Mountain City, NV Post Office.¹ On November 2, 2011, the Commission issued Order No. 1014, accepting the appeals, directing the Postal Service to file the administrative record, establishing a procedural schedule, and a Public Representative.² On November 30, 2011, the Postal Service filed the Administrative Record.³ On December 23, 2011, the Customer Petitioners filed a statement.⁴ On January 9, 2012, the Postal Service filed a supplement to its Administrative Record,⁵ and later that day it filed Comments in lieu of a brief.⁶ The Postal Service seeks to continue to provide retail and delivery services to Mountain City, NV via an independent post office under the administrative responsibility of the Owyhee Post Office. FD at 2; Postal Service Comments at 2.

39 U.S.C. §101. Petitioners claim the Postal Service violated 39 U.S.C. § 101(b) when it closed the Mountain City post office. The Public Representative agrees.

Title 39 clearly states that a small post office shall not be closed solely for running a deficit. 39 U.S.C. §101(b). While the Postal Service adequately considers

¹ Petition for Review Received from Beck Goff Regarding the Mountain City, NV Post Office 89831, November 15, 2011 (Goff Petition); Petition for Review Received from the Customers of Mountain City Post Office Regarding the Mountain City Post Office 89831, November 15, 2011 (Customers' Petition).

² Order No. 1014, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 1, 2011. The Commission later filed a subsequent Order No. 1120, Notice and Order Designating Substitute Public Representative, January 9, 2012.

³ United States Postal Service Notice of Filing Administrative Record, November 30, 2011. The Postal Service subsequently filed a corrected Administrative Record, United States Postal Service Notice of Filing Corrected Administrative Record [Errata], December 9, 2011 (AR). The AR includes, the Final Determination to Close the Mountain City, NV Post Office and Continue to Provide Service by Independent Post Office (FD). The FD is neither identified by an Item No., nor does it contain numbered pages. For the simplicity of these comments, the first page of the FD will be considered page 1 and the last will be page (the one that includes the signature of Mr. Dean Granholm) will be page 7. All references thereto will be in the following format: FD at ____.

⁴ Participant Statement Received from Mountain City Citizens, December 23, 2011 (Customers' Statement).

⁵ United States Postal Service Notice of Supplemental Filing, January 9, 2012 (Supplement).

⁶ United States Postal Service Comments Regarding Appeal, January 9, 2019 (Postal Service Comments).

viable alternatives to service, it fails to articulate a legitimate reason for closure that is neither a cause nor symptom of Mountain City's operational deficit, leaving the Public Representative to question if the closure is actually based on an improper policy decision in violation. Title 39 U.S.C. §101(b), states:

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).

In its Final Determination the Postal Service cites Mountain City post office's low workload, declining revenue, postmaster vacancy, minimal communal impact, expected financial savings, and existence of alternative retail and delivery options as six distinct reasons for the discontinuance. Postal Service Comments at 4; See FD at 2. The Postal Service's mere listing of other factors and calling them "reasons" does not qualify them as such. In reality, these six consist of two causes of Mountain City's deficit, one symptomatic administrative decision precipitated by the deficit, two mischaracterizations, and one moot point.

First, Mountain City post office's low workload and declining revenues are at the root of the office's discontinuance. The Mountain City post office is a part-time, EAS-55 level, post office that services 43 customers. FD at 2. The Postal Service states it expects to save \$39,421, annually, by closing the Mountain City post office, with a possible one-time cost of \$4,028.17, should the customers opt for street delivery. FD at 6; Postal Service Comments at 12; Supplement at 2. For the last three fiscal years, Mountain City post office's revenues have steadily declined: \$5,911 for FY 2008 (15 revenue units); \$4,645 for FY 2009 (12 revenue units); and \$3,585 for FY 2010 (9 revenue units). AR Item No. 18 at 1; FD at 2. Mountain City post office's revenues have dwindled to the extent that the gross revenues equal little more than half the office's annual rent of \$6,200. FD at 6. The retail window averages 42 transactions accounting for 46 minutes of retail workload, daily. FD at 2. It is precisely this low

workload that has caused and perpetuated the dwindling gross fiscal revenue, resulting in an operational deficit. The deficit and low workload cannot be separated. In fact, the Postal Service admits the decline in workload, and thereby the decline in revenue, is the reason it initiated Mountain City post office's discontinuance study. *Id.*

Second, the absence of a postmaster is not a reason for closure because, as the record shows, it does not affect the daily operations of the Mountain City post office. Though not a reason, the vacant postmaster position constitutes a reoccurring trait, or indicator, of post offices selected for discontinuance studies, and ultimately, closure. The trend of conducting discontinuance reviews on post offices with a postmaster vacancy is acknowledged by the Postal Service. The Postal Service explains the trend of conducting discontinuance studies on offices that no longer have postmasters as "promoting consistency of decision-making." Postal Service Comments at 6.⁷ In the instant case, Mountain City's postmaster was promoted on August 30, 2008. The Postal Service chose not to fill the postmaster vacancy and instead installed a presumably cheaper Officer-in-Charge (OIC) to operate the office. FD at 2. This substitution enabled the Postal Service to maintain Mountain City post office's regular operations at significantly lower costs.

The Postal Service's admission that "[i]f the Post Office is not discontinued, that slot would have been filled with a career employee, and the salary and benefits to be paid would be as shown for a postmaster," is disturbing. By refraining from replacing postmasters in small offices with low workloads and declining revenues, like Mountain City, the Postal Service ultimately creates a circumstance that it then uses as a standardized premise for the closure. Even more disturbing, if following the Postal Service's logic, the Postal Service's failure to install a new postmaster on or about August 30, 2008, is indicative of its intent to close the facility. Such a pre-determination

⁷ The Postal Service cites to the handbook it wrote and uses as a governing tool, "Under regulations in Handbook PO-101 in effect at the time the discontinuance study was commenced, it was common to initiate a study when the postmaster position became vacant. See Handbook PO -101 § 213 (pre-July 14, 2011 version)." Postal Service Comments at 6.

is disingenuous and violates Title 39, which requires the Postal Service to provide notice to customers and consider a number of other factors prior to determining whether to closer or consolidate a post office. 39 U.S.C. § 404(d). Since the Postal Service's administrative decision not replace the Mountain City postmaster is a situation of the Post Office's own making and one of the main reasons upon which it now relies to justify the Mountain City post office's closure, it must be required to provide evidence in support of this administrative decision in the present case's Administrative Record. Without such information, the Administrative Record is incomplete.

Third, the Postal Service claims the closure of the Mountain City post office will have minimal effect on the community and generate in over \$39,000 in estimated savings. Both are mischaracterizations of the facts. The Postal Service's consideration of the closure's effect on the community is discussed in greater detail in the section entitled, *Effect on the Community*. The Postal Service's perceived expected savings are inflated and cannot be viewed as a reason separate and apart from Mountain City's operational deficit.

The Mountain City post office's deficit is borne from the combination of the low workload and declining revenues, and it is precisely this deficit that forms the basis of the large economic savings resulting from the discontinuance. The Postal Service claims it will reap annual savings in the amount of \$39,421 (minus a potential one-time cost of \$4028.17 to establish street delivery), because it costs this much to staff and operate the Mountain City post office.⁸ FD at 6; Supplement at 2. If the Mountain City post office generated \$3,585 in revenues for FY 2010, this means in 2010 it was running an operational deficit of and it costs \$39,421 to run, the Mountain City post office's operational deficit of \$35,836. This is a significant monetary loss and is alone enough to justify the closing of a fiscally unsound outlet. However, the Postal Service is prohibited from closing a small post office for this very reason, yet it is what the Postal Service is doing in the case of the Mountain City post office. While it is true that

⁸ The issue of inflated savings is discussed in the section entitled, *Economic Savings*.

economics does and should play a role in the Postal Service's decision, Congress distinctly forbade the Postal Service to solely use economics of a post office in a small or rural community as a basis for a post office closure, as the evidence shows it is doing in the present case.

Fourth, the fact that alternatives exist is not a reason for closure. Even if the Post Office is able to show that viable cheaper alternatives exist to serve Mountain City customers, the Postal Service's improper basis for closing Mountain City, rooted in declining revenues, renders the existence of these alternatives moot. The presence of access alternatives is insufficient to alleviate or validate the Postal Service's flawed foundation upon which its decision is based. In the absence of an independent non-deficit related reason for discontinuing service, the Postal Service's closure of the Mountain City post office constitutes a violation of 39 U.S.C. §101(b), and requires its decision be remanded.

Effect on Community: The Postal Service failed to consider the impact of the Mountain City post office's discontinuance on the community because it was unresponsive to the community's concerns regarding the change in service⁹ and failed to alleviate the service vacuum the closure imposes on the isolated Mountain City community.¹⁰

Petitioners state the Postal Service was unresponsive to their questions and concerns voiced at the May 17, 2011, community meeting, where Postal Service representatives were present to answer questions and inform customers of the proposed change in service.¹¹ According to the Postal Service, there were only 18 questions or concerns posed by Mountain City customers through questionnaires, the

⁹ Goff Petition at 1; Customers' Petition at 1; Customers' Statement at 2.

¹⁰ Goff Petition at 2-3; Customers' petition at 1-3.

¹¹ Goff Petition at 1; Customers' Petition at 1; Customers' Statement at 2; FD at 2.

community meeting, customer letters, on the petition,¹² and from the congressional inquiry. However, according to the Petitioners and the evidence in the Administrative Record, the Postal Service's list is incomplete.

A review of record shows that most of the Postal Service's responses to customers' questionnaires were standard boilerplate acknowledging receipt of the questionnaire, but containing no substantive content. See AR Item No. 22. Some of the issues raised in customers' questionnaires did make it onto the 18 listed concerns on the Proposal and Final Determination. See AR Item No. 33 at 2-6; see FD at 2-6. It is difficult to determine whether the Postal Service's Customer Community Meeting Analysis adequately memorializes the customers' questions and concerns raised at the May 17, 2011, community meeting. The accuracy of the Community Meeting Analysis becomes questionable when reviewing the content of Proposal, Final Determination, and explanations in the Postal Service Comments. AR Item No. 25.

The Commission may take notice that questions pertaining to Cluster Box Units (CBUs) are strangely absent from the Postal Service's Analysis of the Community Meeting. AR Item No. 25. As the Postal Service states, Highway Contract Route (HCR) delivery utilizes CBUs, making it increasingly doubtful that any explanation of the proposed change in service at the May 17th community meeting did not generate one customer question regarding CBUs. See Postal Service Comments at 7. In light of the importance of CBUs to HCR delivery, the Postal Service's statement that customers have the choice of opting for street delivery, and the basic questions raised by the Petitioners pertaining to the service, strongly suggests to the Public Representative that the AR is incomplete and does not contain all the questions posed by Mountain City customers.

¹² It is unclear to what document the Postal Service is referring to when it says "the petition." This "petition" must be a document that precedes the Postal Service's Proposal to Close the Mountain City, NV Post Office and Establish Service by Highway Contract Route Service, (Proposal), as it is mentioned therein.

Petitioners correctly point out the Postal Service erroneously reports the distance between the Mountain City and Owyhee post offices to be 10 miles, when it is approximately 13 miles.¹³ Petitioner Goff at 2; Customer Petitioners at 1. Petitioners state that this increase of 26 miles roundtrip can cause the most isolated Mountain City customers' to drive 146 miles to the Owyhee post office. Customers' Petition at 1; Goff Petition at 1. Though the installation of roadside mailboxes made provide some relief, 73 miles one-way is an unacceptable distance to require even just one customer to travel to the closest retail postal facility, especially to the postal facility responsible for the administration of his/her mail. While the Final Determination list of concerns refers to customers' reactions to the establishment of a Community Post Office (CPO), there is no evidence in the Administrative Record that the Postal Service considered or planned to establish a CPO in Mountain City to eliminate the travel and access problems resulting from the Mountain City post office discontinuance. FD at 4, Concern No. 11.

This travel distance for Mountain City customers to the Owyhee post office becomes even more problematic for the elderly or physically challenged. The Postal Service states that most retail services will be provided by the carrier service which is beneficial to those populations that find it difficult to access mail by travelling to and from a post office. FD at 6 Concern No. 5; Postal Service Comments at 9. However, since Mountain City is a community spread out in a large area, it is unreasonable to expect that an elderly or handicapped person (excluding those who qualify for the Postal Service's hardship assistance) will be able to catch a roving contract carrier. Expecting or instructing customers to meet the carrier or leave a note in the mail receptacle asking the carrier to sound his horn is no solution; the customer must still hang around within hearing distance waiting for the carrier. FD at 4, Concern Nos. 13 and 14.

¹³ MapQuest estimates the driving distance between the Mountain City and Owyhee post offices to be approximately 12.89 miles (178 minutes driving time).

Customer Petitioners express concern that the discontinuance of the Mountain City post office will result in the loss of a meaningful social gathering place. Customers' Statement at 1. While the Postal Service does not address this point, a review of the record shows the closure of the Mountain City post office will not leave the community without other meeting places. Mountain City residents may continue to gather at other local sites including businesses, a visitor center, and residences in the community. See FD at 5.

Effect on Postal Services: Petitioners claim that the closure of the Mountain City post office and designation of the Owyhee post office as the community's new retail and delivery facility will deprive Mountain City customers of regular and efficient service. The Mountain City post office is part-time EAS-55 level facility, open five hours Monday through Friday, and four hours on Saturday, and 24 hour lobby accessibility. FD at 2. The Owyhee post office is a full-time EAS-13 level facility, open seven hours Monday through Friday, and two hours on Saturday. *Id.*¹⁴ The Postal Service will allow Mountain City customers to choose to continue Post Office box service at the Owyhee Post Office or receive delivery and retail service through Highway Contract Route service to roadside mailboxes located close to customers' residences. Postal Service Comments at 3.

Petitioners' primary concern is that Qwyhee post office does not have the capacity to handle the retail and delivery service to Mountain City customers. Petitioner Goff states, "the Owyhee Post Office is small for its own community let alone adding the Mountain City community to it. Goff petition at 2. "There are no boxes available to rent in Owyhee. In fact, several of their 'overflow' customers currently have postal boxes in Mountain City." Customers' Petition at 1. This fact is not challenged by the Postal Service. However, in light of the Customers' Petition, the Postal Service vaguely responds the "discontinuance coordinator has a number of options, including a

¹⁴ The AR is silent on the existence of Owyhee post office lobby hours.

transfer of the Mountain City Post Office Boxes to the Owyhee Post Office so the Owyhee Post Office with a sufficient number of Post Office Boxes available for use by Mountain City customers.” Postal Service Comments at 9. It is disconcerting that the Postal Service remained unaware of the limitations of the Owyhee post office when building the Administrative Record, analyzing the service options, and structuring postal services for the Mountain City community prior to drafting the Final Determination. The expense associated with this transfer or any other plausible options was not included in Postal Service’s estimated economic savings.

The Public Representative finds that the Postal Service has not adequately considered discontinuance’s effect on postal services and has failed adequately determine what methods of service will provide Mountain City customers with the maximum degree of regular and effective postal service.

Economic Savings: The Postal Service estimates it will save \$39,421, annually, through the closure of the Mountain City post office, with a possible one-time cost of \$4,028.17, if the customers opt for street delivery. FD at 2; Supplement at 2. The majority of this amount is attributable to the postmaster salary and benefits. FD at 6. Petitioners correctly argue the Postal Service misrepresents the estimated savings by calculating in the salary and benefits of the Mountain City postmaster, \$33, 221,¹⁵ who was promoted August 30, 2008; instead of using the current and presumably less generous salary of the current officer-in-charge (OIC). Customers’ Petition at 1; Goff Petition at 1; FD at 2. The Postal Service’s explanation for using the higher postmaster salary and benefits, three and a half years after the postmaster’s promotion, is disingenuous. The Postal Service reasons:

“the economic savings calculation conducted as a part of a discontinuance study is forward-looking; that the Postal Service may have paid less in salary and benefits over the past years does not

¹⁵ The Mountain City, EAS-55, postmaster salary is \$24,885. Postmaster fringe benefits are \$8,336. The total amount of economic savings the Postal Service attributes to the Mountain City postmaster are \$33,221 (i.e., \$24,885+\$8,336). FD at 6.

mean that it could count on those savings annually in the future. If the Mountain City Post Office closes, one career slot will be eliminated. If the Post Office is not discontinued, that slot would have been filled with a career employee, and the salary and benefits to be paid would be as shown for a postmaster.” Postal Service Comments at 12.

The Postal Service should use the Mountain City post office’s current finances, i.e., the salary and any benefits paid to the OIC. Any and all Mountain City post office savings attributable to the promoted postmaster have already been reaped, and the proper time for them to be calculated into the savings was during the FY in which the one-time savings were received. It is inappropriate to attribute savings regarding a departed postmaster, ad infinitum simply because the mere option to fill the vacancy exists.

The Public Representative finds that by using out-of-date or hypothetical “forward-looking” costs, the Postal Service has failed to properly consider the economic savings of the Mountain City post office closure. Instead, it has provided imprecise and misleading statistics that are substantially unsupported by the record and thus statutory grounds for a remand. 39 U.S.C. § 404.

Conclusion: The Postal Service’s unresponsiveness to Mountain City customers’ concerns leave it unable to adequately consider what effect the post office’s discontinuance will have on the Mountain City community. The Postal Service has not demonstrated it will provide Mountain City customers with regular and efficient service. By shifting Mountain City retail and delivery service to the Owyhee post office without knowing that office’s service limitations calls the diligence of the Postal Service into question. This is compounded by its failure to provide any evidence that it duly considered the possibility of establishing a Community or Village Post Office to service Mountain City customers, some of whom live up to 73 miles away from Owyhee post office. Finally, the economic savings reported by the Postal Service are inflated and unsupported by the record.

For the reasons stated above, the Public Representative concludes the decision of the Postal Service to close the Mountain City post office should be remanded.

Respectfully Submitted,

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