

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

Spring Lake Post Office  
Spring Lake, Minnesota

Docket No. A2012-74

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

February 6, 2012

I. INTRODUCTION

On November 16, 2011, the Commission received correspondence from postal customer Sally Sedgwick objecting to the Postal Service's decision to close the Spring Lake, Minnesota Post Office (Spring Lake Post Office).<sup>1</sup> The Postal Service's decision, which is the subject of this proceeding, was made on October 27, 2011.<sup>2</sup>

On December 2, 2011, the Commission issued an order instituting the current review proceedings, appointing the undersigned Public Representative, and establishing a procedural schedule.<sup>3</sup>

II. STATEMENT OF FACTS

The Spring Lake Post Office is located at 48501 County Road 4, Spring Lake, Minnesota, 56680-2000. AR Item No. 4. Spring Lake is an unincorporated rural community located in Itasca County in north-central Minnesota. *Id.* The Spring Lake

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<sup>1</sup> See Letter of Sally Sedgwick, November 7, 2011 (Petition for Review).

<sup>2</sup> Final Determination to Close the Spring Lake, MN Post Office and Extend Service by Rural Route Service, October 27, 2011 (Final Determination). The Final Determination was included as Item No. 47 in the Administrative Record (AR) filed by the Postal Service on December 1, 2011. Citations to the Final Determination will use the abbreviation "FD" followed by the page number, rather than to AR Item No. 47. All other items in the Administrative Record are referred to as "AR Item No. \_\_\_\_"

<sup>3</sup> PRC Order No. 1018, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 2, 2011.

Post Office provides service to 20 post office box customers and retail customers 24 hours per week. AR Item No. 13. There are no permit mailers or postage meter customers. *Id.*

On June 15, 2011, the Postal Service notified customers of the Spring Lake Post Office of a "possible change in the way your postal service is provided." AR Item No. 21. The notice informed customers that pickup and delivery services, as well as the sale of stamps and all other customer postal services, would be provided by rural route carriers emanating from the Marcell Post Office. *Id.* Post office box customers were informed that post office box service would continue to be "available at the [Marcell] location at the same fees." *Id.* The Marcell office is located approximately 10 miles away. *Id.* Customers were also invited to attend a community meeting on June 29, 2011, where postal representatives "would answer questions and provide information about our service." The meeting was held on June 29<sup>th</sup> as scheduled with four customers indicating attendance. AR Item No. 24. In addition, customers were asked to complete and return a questionnaire accompanying the notice by the date of the community meeting. AR Item No. 21.

On July 15, 2011, a Proposal to Close the Spring Lake, MN Post Office and Extend Service by Rural Route Service was posted at the Spring Lake and Marcell post offices. AR Item Nos. 32 and 36. Subsequently, on October 26, 2011, the Final Determination was posted at the Spring Lake Post Office and the following day at the Marcell Post Office for the mandatory 30-day posting period. AR Item No. 49.

The Final Determination states that the decision to close was based upon (1) a decline in workload; (2) effective and regular service will continue to be provided by rural route service emanating from the Marcell Post Office; and (3) estimated annual savings to the Postal Service of \$18,223. FD at 6. The Final Determination also responded to various concerns expressed by postal customers in the questionnaires and at the April 14, 2011, public meeting. *Id.* at 2-3.

### III. POSITIONS OF THE PARTIES

#### A. The Petitioner

In its Petition for Review filed November 16, 2011, Petitioner argues that the estimate of cost savings is “inaccurate.” The Petitioner also claims that closing the Spring Lake Post Office, located “in a rural, poor area is relatively more severe than closing an urban post office, and this should be assigned a value in the decision.” Petition for Review. In addition, Petitioner argues that the Spring Lake Post Office is a “Village Post Office,” which represents “a progressive idea to streamline postal services and save money.” *Id.*

#### B. The Postal Service

In PRC Order No. 1018, the Commission directed the Postal Service to “file the applicable administrative record in this appeal.”<sup>4</sup> On December 1, 2011, the Postal Service provided an electronic version of the administrative record.<sup>5</sup>

On January 10, 2012, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 1018.<sup>6</sup> In that filing, the Postal Service argues that: (1) it has met all the procedural requirements of section 404(d); and (2) it has considered all pertinent criteria, including the effect of the closing on postal services, the community, employees, and the economic savings from the discontinuance of the Spring Lake facility. *Id.* at 13.

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<sup>4</sup> Order No. 1018 at 5. .

<sup>5</sup> See United States Postal Service Notice of Filing Administrative Record, December 1, 2011 (Notice). The Notice states that the Postal Service is filing an “electronic version” of the administrative record concerning the Final Determination to Close the Spring Lake, MN Post Office and Extend Service Rural Route Service. *Id.*

<sup>6</sup> See United States Postal Service Comments Regarding Appeal, January 10, 2012 (Comments).

#### IV. STANDARD OF REVIEW AND APPLICABLE LAW

##### A. Standard of Review

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

##### B. The Law Governing Postal Service Determinations

Prior to making a determination to close or consolidate a post office, 39 U.S.C. §404(d)(1) requires that the Postal Service shall provide adequate notice of its intention at least 60 days prior to the proposed date of such action to persons served by such post office to insure they have an opportunity to present their views. The Postal Service's rules require posting of the Final Determination for at least 30 days. 39 CFR 241.3(g)(1)(ii).

In addition, prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404(d)(2) 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 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)

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).

The Postal Service also has regulations prescribing its requirements for closing post offices. 39 CFR 241.3.

#### V. THE POSTAL SERVICE’S FINAL DETERMINATION

After reviewing the Postal Service’s Final Determination, the materials in the Administrative Record, the arguments presented by the Petitioner, and Postal Service Comments, the Public Representative believes that the Postal Service has complied with the statute and its own rules. This includes posting procedures concerning the Final Determination on October 26, 2011. Moreover, the Postal Service’s Final Determination has adequately considered the effect of closing the Spring Lake Post Office on the community. The Postal Service has also considered the effect of the closing on postal services provided to Spring Lake customers. In this regard, it appears that effective and regular service will be maintained if the post office is closed.

However, the Final Determination’s analysis of the effect on employees of closing the Spring Lake Post Office is inadequate as it relates to the calculation of economic savings, which are overstated. These flaws rise to the level of a failure to consider sufficiently the factors required by section 404(d). Consequently, the Final Determination should be remanded.

Section 404(d)(2)(A)(iv) requires consideration of “the economic savings to the Postal Service resulting from such closing.” This requirement is impacted to a

considerable degree by another requirement of Section 404(d): the effect on employees of the Postal Service employed at the office. 39 U.S.C. § 404(d)(2)(A)(ii).

The Postal Service estimates annual savings of \$18,223 from closure of the Spring Lake Post Office. FD at 5. Most of these savings are attributable to “Postmaster Salary (EAS-55, No COLA)” of \$14,726 and fringe benefits equal to 33.5 percent, or \$4,933. *Id.* The Postmaster at Spring Lake retired on August 31, 1995, and has not been replaced. Since that time, an Officer-in-Charge (OIC) has operated the Spring Lake Post Office as a noncareer Postmaster Relief (PMR). *Id.* No other employee will be affected by the closure. *Id.*

As indicated previously, the Petitioner asserts that the Postal Service’s estimate of economic savings is “inaccurate.” The Public Representative agrees. More specifically, the Public Representative considers the Postal Service’s calculation of economic savings based upon the salary and benefits of an EAS-55 Postmaster to be faulty and therefore cannot stand up to scrutiny.

The Postal Service has enjoyed economic savings that arise from installing an OIC at a reduced salary and no benefits rather than replacing the EAS-55 Postmaster. However, the Postal Service maintains that the calculation of economic savings is “forward-looking” and that salary and benefits saved from employing an OIC cannot be counted on in the future because upon closing the Spring Lake Post Office, “that slot would have been filled with a career employee.” Comments at 11. As presented in the Final Determination, the Postal Service argues that “the salary and benefits to be paid would be as shown for a postmaster.” *Id.*

The Postal Service’s arguments lack merit. The Postal Service has relied on an OIC to operate the Spring Lake Post Office for more than 16 years. This history reveals that the Postal Service is under no obligation of any type to replace the current OIC even if the Spring Lake Post Office remains open. To the contrary, economic logic suggests that the Postal Service would continue to employ an OIC at the Spring Lake Post Office to generate future savings rather than installing an EAS-55 Postmaster. Thus, the Postal Service’s economic saving calculations based upon the salary and

benefits of a future EAS-55 Postmaster, *assuming the Spring Lake Post Office remains open*, are unlikely and therefore not a basis for estimating savings.

As a result, the Postal Service's calculation of economic savings must begin with the elimination of costs currently being incurred at Spring Lake Post Office *assuming that office is closed*. It is simply wrong to calculate economic savings based upon the salary and benefits of a possible future Postmaster assuming continued operation of the Spring Lake Post Office when the costs to be saved are the real salary costs of the OIC arising from closure of Spring Lake Post Office. If the post office remains open the Postal Service will incur costs upon the hiring of an EAS-55 Postmaster, not cost savings. Therefore, the salary and benefits of the EAS-55 Postmaster should be replaced with the salary of the OIC in the calculation of economic savings.

However, the Postal Service's calculation of economic savings is faulty in another respect. The claim that the noncareer OIC "may be separated from the Postal Service" identifies one obvious alternative for the OIC. However, the Postal Service also states that "attempts will be made to reassign the employee to a nearby facility." Comments at 2 and 12. Or that employee may otherwise continue employment elsewhere with the Postal Service. These are the other obvious alternatives. Consequently, Postal Service simply provides no basis for determining whether the OIC will be separated from or will continue employment with the Postal Service.

Unless and until the Postal Service provides a justification for considering that there will be a reduction in employment associated with closure of the Spring Lake Post Office, the inflated economic savings claimed by the Postal Service should also be reduced by excluding any assumed employee costs. In the case of the Spring Lake Post Office, those employee costs represent the amount of OICs salary.

After adjusting the calculation of economic savings by removing the EAS-55 Postmaster costs, and excluding any savings associated with the OICs salary assuming continued employment, the economic savings to the Postal Service are negative. The adjusted economic savings total a negative \$1,436 (\$720 Annual Lease Costs, less \$2,156 Annual Cost of Replacement Service). All other things being equal, the Postal

Service will be able to provide postal services to customers at less cost by continuing operation of the Spring Lake Post Office than closing it.

## VI. CONCLUSION

The Postal Service's Final Determination to close the Spring Lake Post Office should be remanded to the Postal Service to remedy the deficiencies identified above.

Respectfully Submitted,

/s/ James F. Callow  
James F. Callow  
Public Representative

901 New York Avenue, N.W.  
Washington, D.C. 20268-0001  
(202) 789-6839 Fax (202) 789-6891  
[callowjf@prc.gov](mailto:callowjf@prc.gov)