

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

Boles Post Office
Boles, Arkansas

Docket No. A2012-37

ORDER AFFIRMING DETERMINATION

(Issued February 14, 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, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

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'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 October 27, 2011, Carlene Stovall (Petitioner) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Boles, Arkansas post office (Boles post office).² The Final Determination to close the Boles post office is affirmed.³

II. PROCEDURAL HISTORY

On November 2, 2011, the Commission established Docket No. A2012-37 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On November 14, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ On December 16, 2011 the Postal Service filed an addendum to the Administrative Record.⁶ Also, on December 21, 2011, the Postal Service filed additional supplement to the Administrative Record.⁷ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁸

² Petition for Review received from Carlene Stovall regarding the Boles, Arkansas post office 72926, October 27, 2011 (Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 943, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 2, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 14, 2011. The Administrative Record includes, as Item No. 47, the Final Determination to Close the Boles, Arkansas Post Office and Provide Delivery and Retail Services by Highway Contract Route (Final Determination).

⁶ United States Postal Service of Filing of Addendum, December 16, 2011 (Addendum).

⁷ United States Postal Service Notice of Filing of Supplement to the Administrative Record, December 21, 2011 (Post Service Supplement).

⁸ United States Postal Service Comments Regarding Appeal, December 21, 2011 (Postal Service Comments).

Petitioner and others filed participant statements supporting her Petition.⁹ On January 5, 2012, the Public Representative filed reply comments.¹⁰

III. BACKGROUND

The Boles post office provides retail postal services and service to 52 post office box customers. Final Determination at 2. Two hundred thirty-three (233) delivery customers are served through this office. *Id.* The Boles post office, an EAS-11 level facility, provides retail service from 7:00 a.m. to 1:00 p.m. and 1:30- 3:15 p.m., Monday through Friday, and 7:30 a.m. to 10:45 a.m. on Saturday. *Id.* at 2. Lobby access hours are 24 hours Monday through Saturday. *Id.*

The postmaster position became vacant on May 1, 2009, when the Boles postmaster retired. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 2. The Boles post office averaged eight (8) transactions daily (8 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$12,650 in FY 2008; \$11,508 in FY 2009; and \$13,351 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$43,867 annually. Addendum at 1.

After the closure, retail services will be provided by the Waldron post office located approximately 10 miles away.¹¹ Delivery service will be provided by highway contract route (HCR) service through the Waldron post office. *Id.* The Waldron post

⁹ Participant Statement received from Bennie Angel (Angel Participant Statement) and Teresa and John Klir (Klir Participant Statement) and Carlene Stovall (Stovall Participant Statement), November 28, 2011; Participant Statement received from Linda Rogers (Rogers Participant Statement); Mark Rose (Rose Participant Statement); and Jim and Birdie Stauffer (Stauffer Participant Statement) December 1, 2011; Participant Statement received from Ann House (House Participant Statement); Patt Biggs (Biggs Participant Statement), Geraldean Biggs (G. Biggs Participant Statement) and Anthony Venable (Venable Participant Statement) December 2, 2011; Participant Statement received from Ronnie and Lynda Langley (Langley Participant Statement) December 7, 2011 (collectively referred to herein as Participants).

¹⁰ Reply Comments of the Public Representative, January 5, 2012 (Public Representative Comments).

¹¹ *Id.* at 2. MapQuest estimates the driving distance between the Boles and Waldron post offices to be approximately 9.3 miles (13 minutes driving time).

office is an EAS-18 level office, with retail hours of 9:00 a.m. to 4:30 p.m., Monday through Friday, and 10:00 a.m. to 12:00 p.m. on Saturday. *Id.* Seven hundred fifty-eight (758) post office boxes are available. *Id.* The Postal Service will continue to use the Boles name and ZIP Code. *Id.* at 5, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Boles post office. Participants raise the issue of whether the Postal Service can continue to provide effective and regular postal service to the Boles community and express concern as to whether the effect of the closure will be detrimental to the business community. Final Determination at 5. They note the convenience of the Boles post office and request its retention. Stovall Participant Statement at 2. Participants express concern about the possible need to travel to other nearby post offices for service and the impact on senior citizens and the disabled. Angel Participant Statement at 1-2; Rose Participant Statement at 1; Klir Participant Statement at 1; Venable Participant Statement at 1; Stovall Participant Statement at 1- 2. Petitioner was also concerned about accountable mail. Langley Participant Statement at 2. Furthermore, Petitioner has put forth alternatives to the closure of the Boles post office. Langley Participant Statement at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Boles 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 Boles' community; and (3) the economic savings expected to result from discontinuing the Boles' post office. *Id.* The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Boles post office should be affirmed. *Id.*

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

- the postmaster vacancy;

- a minimal workload and low office revenue;
- 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 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the Boles community when the Final Determination is implemented. *Id.*

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 Boles community, economic savings, and effect on postal employees. *Id.* at 5-6.

Public Representative. The Public Representative objects to the Postal Service's attempt to supplement the record with information concerning economic savings. Public Representative Comments at 2. She recommends that the Commission remand the matter to the Postal Service to resolve these discrepancies in the record. Alternatively, she suggests that, if the Final Determination is affirmed, the Commission limit its review to the the record filed by the Postal Service on November 14, 2011. *Id.* at 3.

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 providing notice of its intent to close. On June 2, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Boles post office. Final Determination at 2. A total of 285 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. *Id.* A total of 76 questionnaires were returned. *Id.* On June 14, 2011, the Postal Service held a community meeting at Boles Community Center to address customer concerns. *Id.* Thirty-nine (39) customers attended. *Id.*

The Postal Service posted the proposal to close the Boles post office with an invitation for comments at the Boles and Waldron post offices from June 22, 2011 through August 23, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from September 29, 2011 through October 31, 2011. Administrative Record, Item No. 49.

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. Boles, Arkansas is an unincorporated community located in Scott County, Arkansas. Administrative Record, Item No. 47. The community is administered politically by Scott County. Police protection is provided by the Scott County Sheriff's Department. Fire protection is provided by Boles Volunteer Fire Department. The community is comprised of farmers, retirees and those who work in local businesses or commute to work in nearby communities. *Id.* 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).

Participants are concerned about the effect the discontinuance will have on the Boles community and the hardship senior citizens and the disabled will face with the added travel to Waldron post office. Angel Participant Statement at 1; Mays Participant Statement at 2; Venable Participant Statement at 1. Petitioner also notes the history of the Boles post office and its connection to the community. Stovall Participant Statement at 2. The Postal Service contends that it considered these issues and understands that a community's identity is derived from the interest and vitality of its residents. Postal Service Comments at 5. It explains that the community identity will be preserved through the continuing use of the Boles name and ZIP Code. *Id.* Further, the Postal Service asserts that it will continue to provide regular and effective postal services to all residents of Boles. *Id.*

In addition, Participants claim that growth projections within the state of Arkansas indicate that the western portion of the state, particularly Scott County, are expected to experience moderate growth. Langley Participant Statement at 2. The Postal Service

contends that county-wide averages are not necessarily indicative of trends in a particular small community. Postal Service Comments at 10. Further, the Postal Service notes that Participants have not provided any data to support their assertion. *Id.*

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 Boles' community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Boles 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 5.

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 Boles postmaster retired on May 1, 2009 and that an OIC has operated the Boles post office since then. *Id.* at 2. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. *Id.*

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 Boles 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 Boles' customers. Postal Service Comments at 5. It asserts that customers of the closed Boles post office may obtain retail services at the Waldron post office located 10 miles away. Final Determination at 2. Delivery service will be provided by highway contract route service through the Waldron post office. *Id.* The Boles post office box customers may obtain Post Office Box Service at the Waldron post office, which has 758 boxes available. *Id.*

For customers choosing not to travel to the Waldron post office, the Postal Service explains that retail services will be available from the carrier and special services, such as certified, registered, and Express Mail. Postal Service Comments at 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. *Id.*

Participants raise concern about accountable mail and the security of their mail. Langley Participant Statement at 2. The Postal Service advises its customers that they may place a lock on their mailboxes. Postal Service Comments 8. The Postal Service conducted an inquiry and found that there were only two reports of vandalism in the area. *Id.* Further, the Postal Service explains that customers have a variety of options that cater to the individual needs of each customer, such as retail services provided by a carrier, postal online services, and Stamps by Mail. Postal Service Comments 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 Administrative Record indicates that annual savings are estimated to be \$49,379. Final Determination at 5. This figure is derived by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$5,100). Subsequently, the Postal Service sought to supplement record, lowering the annual lease costs to \$4,200 and including the cost of replacement service, \$5,032, and a one-time installation cost of \$7,568 for Cluster Box Units (CBUs). Addendum at 1.

Participants contend that the estimated economic savings from the discontinuance of the Boles post office is inaccurate. Stovall Participant Statement at 1. Petitioner asserts that the annual lease costs is \$4,200 rather than \$5,100. *Id.* This matter was later corrected in the Addendum.

The Public Representative opposes the Postal Service's introduction of the extra-record materials and recommends that the matter be remanded to to resolve discrepancies in developing estimated savings. Public Representative Comments at 2-3.

While the failure to include these cost estimates initially is a concern, it does not warrant a remand in this instance.

The Boles post office postmaster retired on May 1, 2009. Final Determination at-2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. As the Postal Service notes, “[t]he economic savings calculation conducted as a part of a discontinuance study is forward-looking.... If the Boles post office closes, one career slot will be eliminated. Hence, it was appropriate to use a career postmaster’s salary in the calculation because the career position would have ultimately been filled if the Boles post office had not been identified as a candidate for discontinuance.” Postal Service Comments at 12. See *also, 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 Boles post office has been staffed by an OIC for approximately 2.5 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).

Further, Participants propose alternatives to the closure of the Boles post office that might reduce cost, including consolidating the Boles and Parks post offices, purchasing the Boles post office as opposed to leasing it, and eliminating Saturday delivery. Langley Participant Statement at 2. The Postal Service assures Boles customers after investigating all options, that HCR service coupled with service at the nearby Waldron post office is more cost-effective. Postal Service Comments at 12.

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 the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Boles post office is affirmed.⁶

It is ordered:

The Postal Service's determination to close the Boles, Arkansas post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

⁶ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

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 full-time postmaster's salary. Yet the Boles post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on May 1, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative 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 were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The Postal Service submitted an addendum to the Administrative Record, providing a correction regarding the amount of the post office building lease. This submission is a prima facie admission that the Administrative Record is incorrect. Because the Commission may not accept an addendum to the Administrative Record, we should remand the case so that the Postal Service can submit a corrected Record for the Commission to rule on.

The Administrative Record describes a steady increase in revenue between 2008 and 2010, indicating that this post office is a vibrant and essential part of the community. This increase in revenue affirms the Petitioner's argument that the Postal Service did not adequately consider the impact on the community, and contradicts the Postal Service's list of reasons to consider closing the post office which includes a statement that there is declining revenue. Interest in the use of the mail in a community and the potential for growth should be considered as part of both the economic impact and the impact on the community. Therefore, the Postal Service did not adequately consider the impact of the closure on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

The Commission has just issued its Advisory Opinion in Docket No. N2011-1, pointing to the fact that the Postal Service's closing plans do not optimize the network. The Commission has advised the Postal Service to select post offices for closing through a genuine optimization process. Closing a post office with growing revenues in a region of some growth is not strategic and is not optimal.

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 and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Boles, Arkansas 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 May 2009, not an EAS-11 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.

The Public Representative questions that there is no cost for replacement service. Public Representative Comments at 1. The Postal Service filed an Addendum to the Administrative Record indicating that there would be a cost incurred if the customers of Boles elect to have street delivery. Postal Service Addendum at 1. The Addendum seeks to add post-record information for the Commission's consideration on appeal. However, by statute, the Commission may only consider "the record before the Postal Service in the making of such determination[s]." 39 U.S.C. § 404(d)(5). The Postal Service should adjust the economic savings to reflect the cost of replacement service, which surely must be greater than \$0.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Boles post office and should be remanded.

Nanci E. Langley