

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

Waverly Post Office  
Waverly, Washington

Docket No. A2012-49

ORDER AFFIRMING DETERMINATION

(Issued February 22, 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.”<sup>1</sup> 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,

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<sup>1</sup> 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 November 3, 2011, Evelyn Heinevetter (Petitioner Heinevetter) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Waverly, Washington post office (Waverly post office).<sup>2</sup> An additional petition for review was received from Kim Billington (Petitioner Billington).<sup>3</sup> The Final Determination to close the Waverly post office is affirmed.<sup>4</sup>

## II. PROCEDURAL HISTORY

On November 17, 2011, the Commission established Docket No. A2012-49 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>5</sup>

On November 29, 2011, the Postal Service filed the complete Administrative Record with the Commission.<sup>6</sup> The Postal Service also filed comments requesting that the Commission affirm its Final Determination.<sup>7</sup>

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<sup>2</sup> Petition for Review Received from Evelyn Heinevetter regarding the Waverly, Washington post office 99039, November 3, 2011 (Petition).

<sup>3</sup> Petition for Review Received from Kim Billington, November 18, 2011 (Billington Petition).

<sup>4</sup> The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

<sup>5</sup> Order No. 978, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 17, 2011.

<sup>6</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing Corrected Administrative Record – [Errata], November 29, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Waverly, WA Post Office and Extend Service by Rural Route Service (Final Determination). See United States Postal Service Notice of Filing, November 18, 2011.

<sup>7</sup> United States Postal Service Comments Regarding Appeal, December 28, 2011 (Postal Service Comments).

Petitioners filed participant statements supporting their Petitions.<sup>8</sup> The Public Representative filed two sets of reply comments.<sup>9</sup>

### III. BACKGROUND

The Waverly post office provides retail postal services and service to 87 post office box customers. Final Determination at 2. No delivery customers are served through this post office. *Id.* The Waverly post office, an EAS-11 level facility, provides retail service from 7:30 a.m. to 11:30 a.m. and 12:00 p.m. to 4:00 p.m., Monday through Friday, and 7:30 a.m. to 9:30 a.m. on Saturday. *Id.* Lobby access hours are 24 hours Monday through Saturday. *Id.*

The postmaster position will become vacant when the Waverly postmaster is reassigned on April 1, 2012. *Id.* at 2, 6. Retail transactions average 10 transactions daily (10 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$17,251 in FY 2008; \$13,383 in FY 2009; and \$16,057 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$38,412 annually. *Id.* at 6.

After the closure, retail services will be provided by the Fairfield post office located approximately six miles away.<sup>10</sup> Delivery service will be provided by rural route service to cluster box units (CBUs), through the Fairfield post office. *Id.* The Fairfield post office is an EAS-13 level office, with retail hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Saturday. *Id.* Two-hundred-twenty-two (222) post office boxes are available. *Id.* The Postal Service will continue to use the Waverly name and Zip Code. *Id.* Concern No. 2.

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<sup>8</sup> Participant Statement Received from Evelyn Heinevetter, December 6, 2011 (Heinevetter Participant Statement); Participant Statement Received from Kim Billington, December 8, 2011 (Billington Participant Statement).

<sup>9</sup> Reply Comments of the Public Representative, December 5, 2011 (PR Reply Comments); Reply Comments, January 12, 2012 (PR Supplemental Comments).

<sup>10</sup> *Id.* at 2. MapQuest estimates the driving distance between the Waverly and Fairfield post offices to be approximately 5.4 miles (13 minutes driving time).

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners oppose the closure of the Waverly post office. Petitioners assert that the post office plays a vital role in the Waverly community, which would suffer if it were closed. Heinevetter Petition at 3; Billington Petition at 1. Petitioner Heinevetter is particularly concerned that Waverly keep its ZIP Code. Heinevetter Petition at 4. Petitioners contend that much of the information provided in the Community Survey Sheet is inaccurate. See, e.g., Billington Participant Statement at 2. Petitioner Heinevetter notes that the community meeting was held at an inconvenient time, and none of Waverly's younger residents could attend because of work and family commitments. Heinevetter Petition at 2.

Petitioners dispute the Postal Service's calculation of economic savings. Heinevetter Petition at 3; Billington Petition at 2. Petitioners contend that Waverly customers will no longer receive the required maximum degree of regular and effective postal services, as they believe the service provided by rural carrier will be inferior to that provided by the Waverly post office. Heinevetter Petition at 1; Billington Participant Statement at 6.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Waverly post office. Postal Service Comments at 2. The Postal Service believes the appeal raises four main issues: (1) the effect on postal services; (2) the impact on the Waverly community; (3) the economic savings expected to result from discontinuing the Waverly post office; and (4) the effect on employees. *Id.* at 1-2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Waverly post office should be affirmed. *Id.* at 2.

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

- the forthcoming postmaster vacancy due to reassignment;
- low office revenue;

- a variety of other delivery and retail options (including nearby retail service);
- 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 Waverly 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 Petitioners regarding the effect on postal services, effect on the Waverly community, economic savings, and effect on postal employees. *Id.* at 12-13.

*Public Representative.* The Public Representative contends that the Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d), and advises that the Commission affirm the decision to close the Waverly post office. PR Reply Comments at 6. The Public Representative filed supplemental comments acknowledging the Participant Statements and reiterating his initial recommendation of affirming the decision to close. PR Supplemental Comments at 1.

## 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 providing notice of its intent to close. On May 2, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Waverly post office. Final Determination at 2. A total of 87 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. *Id.* A total of 45 questionnaires were returned. *Id.* On May 18, 2011, the Postal Service held a community meeting at the Waverly Fire Station to address customer concerns. *Id.* Thirty-eight (38) customers attended. *Id.*

The Postal Service posted the proposal to close the Waverly post office with an invitation for comments at the Waverly and Fairfield post offices from June 6, 2011 through August 7, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from October 5, 2011 through November 6, 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.* Waverly, Washington is an incorporated community located in Spokane County, Washington. Administrative Record, Item No. 16. The community is administered politically by a mayor and council. *Id.* Police protection is provided by the Spokane County Sheriff. *Id.* Fire protection is provided by volunteers. *Id.* The community is comprised mostly of retirees and some commuters. *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).

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 Waverly community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Waverly 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 5-6.

Petitioners raise the issue of the effect of closure on the Waverly community. See, e.g., Heinevetter Petition at 3; Billington Petition at 1. The Postal Service responds that a community's identity derives from the interest and vitality of its residents and their use of its name. Postal Service Comments at 8. The Postal Service states that residents will continue to use the Waverly name and Zip Code. *Id.*

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 Waverly postmaster will be reassigned on April 1, 2012 and that any non-career officer-in-charge may be separated from the Postal Service. Postal Service Comments at 11. It asserts 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 Waverly 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 Waverly customers. Postal Service Comments at 5. It asserts that customers of the closed Waverly post office may obtain retail services at the Fairfield post office located 6 miles away. Final Determination at 2. Delivery service will be provided by rural route service through the Fairfield post office. *Id.* The Waverly post office box customers may obtain Post Office Box service at the Fairfield post office, which has 222 boxes available. *Id.*

For customers choosing not to travel to the Fairfield post office, the Postal Service explains that retail services will be available from the carrier. 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.*

Petitioners contend that a rural carrier will not provide the Waverly community with the required maximum degree of regular and effective postal services. *See, e.g.,* Billington Participant Statement at 7. They express concerns about traveling further to other post offices for service. Heinevetter Petition at 1; Billington Participant Statement at 7. The Postal Service responds that the rural carrier will provide Waverly customers with regular and effective postal services, and that customers may also choose to obtain retail services from the Fairfield post office. Postal Service Comments at 6. It notes that customers may purchase stamps by mail, arrange for package mailing, and conduct postal money orders through transactions with the rural carrier. *Id.*

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 \$38,412. Final Determination at 6. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$4,200), minus the cost of replacement service (\$10,067). *Id.* The Postal Service states that a one-time expense of \$12,000 will be incurred for the movement of this facility. *Id.*

Petitioners dispute the Postal Service's calculation of economic savings. Heinevetter Petition at 3; Billington Petition at 2. They assert that the Postal Service is incorrect in stating that it will save the postmaster's salary and benefits, when the postmaster is being reassigned elsewhere. *See, e.g.,* Heinevetter Petition at 3. The Postal Service responds that if the Waverly post office is not discontinued, the position to which the Waverly Postmaster is to be reassigned 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 10.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. Because the Waverly postmaster will be reassigned, the postmaster position and the corresponding salary will be eliminated.<sup>11</sup>

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

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<sup>11</sup> *See, e.g.,* Docket No. A2011-98, Order No. 1137, Order Affirming Determination, January 17, 2012, at 11.

## 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 Waverly post office is affirmed.<sup>12</sup>

*It is ordered:*

The Postal Service's determination to close the Waverly, Washington post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

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<sup>12</sup> See note 4, *supra*.

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

I would agree with my colleagues to affirm the Postal Service's decision to close the Waverly post office but for the inaccurate economic savings put forth in the Administrative Record.

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Waverly postmaster is to be reassigned on April 12, 2012, and is likely to be replaced by a non-career officer-in-charge (OIC). Postal Service Comments at 11. 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.

Based on longstanding practice, and given the Postal Service's current financial difficulties, it is clear that the Postal Service has no obligation to install a full-time postmaster in small facilities such as Waverly. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

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 has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

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 Waverly, Washington 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 the requirements of 39 U.S.C. § 404(d), and did not truly afford the patrons of the Waverly post office with a fair opportunity to present their views.

This discontinuance study was initiated more than a year before the end of the lease term and the Postal Service contends that it initiated a review because the current rent exceeds the fair market value. Administrative Record, Item No. 1. The latter may be a reasonable basis on which to commence the study, however, the record lacks any indication that the Postal Service addressed this issue. The failure to address this issue casts doubt on the ostensible basis for initiating the review. Public perception is an important aspect of all discontinuance studies. The Postal Service and the customers they serve benefit by addressing all issues fully during such studies.

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

Nanci E. Langley