

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

Scottville Post Office
Scottville, Illinois

Docket No. A2012-47

ORDER AFFIRMING DETERMINATION

(Issued February 23, 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,

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 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 October 31, 2011, Mark Keeney (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Scottville, Illinois post office (Scottville post office).² The Final Determination to close the Scottville post office is affirmed.³

II. PROCEDURAL HISTORY

On November 16, 2011, the Commission established Docket No. A2012-47 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 15, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

On January 11, 2011, the Public Representative filed a reply brief.⁷

² Petition for Review received from Mark Keeney, Mayor of Scottville regarding the Scottville, Illinois post office 62683, October 31, 2011 (Petition). Attached to the Petition are several copies of the same form letter opposing closure, with a total of 139 signatures.

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. 970, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 16, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 15, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Scottville, Illinois Post Office and Extend Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, December 27, 2011 (Postal Service Comments).

⁷ Reply Brief of the Public Representative, January 11, 2012 (PR Reply Brief).

III. BACKGROUND

At the time the Postal Service issued its Final Determination, the Scottville post office provided retail postal services and service to 33 post office box customers. Final Determination at 2. There were no delivery customers served through this post office. The Scottville post office, an EAS-55 level facility, provided retail service from 11:00 a.m. to 2:30 p.m., Monday through Friday, and 11:00 a.m. to 12:00 p.m. on Saturday. Lobby access hours were the same as retail access hours. *Id.*

The postmaster position became vacant on July 31, 2007 when the Scottville postmaster retired.⁸ A non-career officer-in-charge (OIC) was installed to operate the post office. On October 21, 2011, the Postal Service suspended service to the Scottville post office because the OIC resigned. Administrative Record, Item No. 2. In a letter to its customers, the Postal Service stated that it was unable to find a replacement for the OIC and was, therefore, imposing an immediate emergency suspension of operations at the Scottville post office. Administrative Record, Item No. 3 at 1. Retail transactions average 24 transactions daily (28 minutes of retail workload). Final Determination at 2. Post office receipts for the last 3 years were \$8,617 in FY 2008; \$7,523 in FY 2009; and \$9,712 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$30,644 annually. *Id.* at 8.

After the closure, retail services will be provided by the Modesto post office located approximately 6 miles away.⁹ *Id.* at 2. Delivery service will be provided by rural route service through the Modesto post office. The Modesto post office is an EAS-13 level post office with retail hours of 8:30 a.m. to 12:30 p.m. and 1:30 p.m. to 4:15 p.m., Monday through Friday, and 8:30 a.m. to 10:15 a.m. on Saturday.

⁸ The Administrative Record has conflicting dates for the postmaster's retirement. See, e.g., Administrative Record Item No. 3 (A letter to customers concerning the suspension of service at the Scottville post office indicated that the postmaster retired on February 29, 2009).

⁹ MapQuest estimates the driving distance between the Scottville and Modesto post offices to be approximately 6.8 miles (9 minutes driving time).

Ninety (90) post office boxes are available. *Id.* The Postal Service will continue to use the Scottville name and ZIP Code. *Id.* at 6, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Scottville post office. Petitioner contends that rural route service will not provide Scottville residents with a maximum degree of regular and effective postal services. Petition at 1. Petitioner asserts that consolidating the Scottville post office with the Modesto post office will result in a loss of community identity for Scottville. Petitioner also questions whether the Postal Service will realize any economic savings. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Scottville 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 Scottville community; and (3) the economic savings expected to result from discontinuing the Scottville post office. *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 Scottville post office should be affirmed. *Id.* at 10-11.

The Postal Service explains that its decision to close the Scottville 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);
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Scottville 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, the effect on the Scottville community, economic savings, and the effect on postal employees. *Id.* at 10-11.

Public Representative. The Public Representative contends that the Postal Service has followed applicable procedures, and that the Postal Service's decision to close the Scottville post office is supported by substantial evidence and is neither arbitrary nor capricious. PR Reply Brief at 5.

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 Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On May 16, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Scottville post office. Final Determination at 2. A total of 43 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 17 questionnaires were returned. On June 1, 2011, the Postal Service held a community meeting at the Scottville post office to address customer concerns. Twelve (12) customers attended. *Id.*

The Postal Service posted the proposal to close the Scottville post office with an invitation for comments at the Scottville and Modesto post offices from June 21, 2011 through August 22, 2011. *Id.* The Final Determination was posted at the same two post offices from September 27, 2011 through October 29, 2011. Administrative Record, Item No. 49.

On October 19, 2011, the Postal Service sent a letter to patrons of the Scottville post office explaining that the OIC had resigned and that services at the Scottville post office would be suspended. Administrative Record, Item No. 3. On October 21, 2011, service at the Scottville post office was suspended. Administrative Record, Item No. 2. The Postal Service contends that this temporary suspension was necessary in the absence of employees to run the facility. Postal Service Comments at 3.

Section 404(d)(4) states: "The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office." At the time the Postal Service imposed its

emergency suspension, 35 days of the 60-day period mandated by section 404(d)(4) remained.

The Administrative Record clearly indicated that the Scottville post office was suspended as of October 21, 2011. See Administrative Record, Item Nos. 2, 3. Postal customers with little or no background in postal law cannot be expected to understand the implications of an emergency suspension for their rights under section 404(d)(4). As a matter of course, customers should receive timely notification of emergency suspensions, and an explanation as to how that suspension may affect appeal proceedings. In this case, the Postal Service contends that this temporary suspension was necessary in the absence of employees to run the facility. Postal Service Comments at 3, n.3.

Despite any concerns with the timing of the emergency suspension, based on the facts in the Administrative Record, the Postal Service satisfied the requirements of section 404(d)(4) in this case.

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. Scottville, Illinois is an incorporated community located in Macoupin County, Illinois. Administrative Record, Item No. 16. The community is administered politically by the Village of Scottville. Police protection is provided by the Macoupin County Sheriff. Fire protection is provided by the Scottville Modesto Rural Fire Protection District. The community is comprised of retirees, the self-employed, farmers, 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).

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 Scottville community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Scottville 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 6-7.

Petitioner asserts that closing the Scottville post office will result in a loss of community identity. Petition at 1. The Postal Service contends that a community's identity comes 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 Scottville 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 Scottville postmaster retired on July 31, 2007 and that a non-career OIC has operated the Scottville post office since then until October 21, 2011. Final Determination at 8. It asserts that after the Final Determination is implemented, a temporary OIC will no longer be needed at the facility 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 employees and has satisfied its obligation to consider the effect of the closing on employees at the Scottville 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 Scottville customers. Postal Service Comments at 5. It asserts that customers of the closed Scottville post office may obtain retail services at the Modesto post office located 6 miles away. Final Determination at 2. Delivery service will be provided by rural route service through the

Modesto post office. The Scottville post office box customers may obtain Post Office Box service at the Modesto post office, which has 90 post office boxes available. *Id.*

Petitioner contends that rural route service will not provide a maximum degree of regular and effective postal services. Petition at 1. The Postal Service asserts that the rural carrier will provide a maximum degree of regular and effective postal services. Postal Service Comments at 6-7.

For customers choosing not to travel to the Modesto post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 5. 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.*

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 \$30,644. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,704) and annual lease costs (\$2,400), minus the cost of replacement service (\$2,496). *Id.*

Petitioner questions whether the Postal Service will realize any economic savings from closure. Petition at 1. The Postal Service asserts that rural route carrier service will cost substantially less than maintaining the Scottville post office, and estimates that the total annual savings annual savings associated with discontinuing that post office are \$30,644. Postal Service Comments at 8-9.

The Scottville post office postmaster retired on July 31, 2007. Final Determination at 2. The post office has since been staffed by a non-career OIC who resigned during the discontinuance process. The postmaster position and the corresponding salary will be eliminated. *See, e.g.,* Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Scottville post office has been staffed by an OIC for approximately 4 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).

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 Scottville post office is affirmed.¹⁰

It is ordered:

The Postal Service's determination to close the Scottville, Illinois post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹⁰ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

I would vote to remand this case because the Postal Service imposed an emergency suspension of operations at the Scottville post office for unconvincing reasons prior to the completion of the legal closing process. 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). The suspension of operations was, in effect, a post office closing for all practical purposes, and the closing was made without observance of the procedure required by law.

The situation in Scottville bears some resemblance to another case recently reviewed by the Commission. The Commission remanded a final determination to close the Monroe, Arkansas post office and was unable to conclude that the requirements of section 404(d)(4) were met when the post office had been suspended during the closure proceeding due to the resignation of the officer-in-charge (OIC), and the Postal Service provided no explanation of why, after a few days, no replacement for the OIC could be found. See Docket No. A2011-40, Nov. 18, 2011, Order No. 982.

In addition, 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 Scottville post office was, until it was suspended on October 21, 2011, operated by a non-career OIC since the former postmaster retired on July 31, 2007. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

A non-career OIC was in place for more than 4 years. Given this extended period of time, and the Postal Service's current financial difficulties, it is clear that the

Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Scottville. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

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.

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 Scottville, Illinois 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

On October 21, 2011, operations at the Scottville post office were suspended. The Postal Service states “[t]he suspension is necessary in the absence of employees to run the facility; however, its suspension is not tantamount to a permanent discontinuance, which is the subject of this appeal.” Postal Service Comments at 3, n.3. Therefore, in reviewing the Administrative Record, I find 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 July 2007, not an EAS-55 postmaster, and reflect the PMR’s salary and benefits in its cost savings analysis.¹

Furthermore, the current lease does not terminate until December 31, 2013 and does not have a 30-day termination clause. Administrative Record, Item No. 18 at 1. The Postal Service should note that any savings from the lease will not be realized for at least 22 months. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

In addition, customers should receive timely notification of emergency suspensions and an explanation as to how that suspension may affect appeal proceedings. Public perception is an important aspect of all discontinuance studies or emergency suspensions. The Postal Service and the customers they serve benefit by addressing all issues fully during such studies and suspensions.

¹ See Administrative Record, Item No. 44; Final Determination at 2; Postal Service Comments at 2.

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

Nanci E. Langley