

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

Daisy Post Office
(Daisy, Georgia)

Docket No. A2012-104

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

(March 5, 2012)

I. INTRODUCTION AND BACKGROUND

On January 3, 2012, the Postal Regulatory Commission (Commission) docketed eleven petitions for review of the closing of the Daisy Post Office in Daisy City, Georgia.¹ On January 5, 2012, the Commission issued an order instituting the current review proceedings, appointing a Public Representative (PR), and establishing a procedural schedule.² On January 11, 2012, the Postal Service filed an electronic version of the administrative record concerning its Final Determination, Postal Service Docket Number 1360170-30423.³ The Postal Service filed a corrected and complete administrative

¹ Petitions Received from Inman Brown, Jr. (Mayor of Daisy City), Larry Morgan, Bill and Priscilla Hearn, Cletus B. Strickland, Carolyn S. Brown, Carroll Skinner, Sarah Rountree, Patricia Ann Strickland, Manuel A. and Blanca Rosa Balcarcel, Carson Sands, Jr, Joann Griffis Against the Closure of the Daisy Post Office, December 27, 2011 (Petitions).

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, January 5, 2012. (Order No. 1105).

³ United States Postal Service Notice of Filing Administrative Record, January 11, 2012 (AR).

record supporting the Final Determination to Close the Daisy Post Office in Georgia on January 13, 2012.⁴

The Commission received Participant Statements from nine Petitioners. The Commission received a Participant Statement from Carroll Lee Skinner on January 24, 2012. Six more Petitioners (Inman Brown, Jr., Larry Morgan, Bill and Priscilla Hearn, Carolyn S. Brown, Manuel A. and Blanca Rosa Balcarcel, and Patricia Ann & Cletus B. Strickland) filed Participant Statements supporting their appeal on January 31, 2012. Two Petitioners (Sarah Rountree, and Carson Sands, Jr.) filed Participant Statements supporting their appeal on February 6, 2012. The Postal Service filed comments supporting its closure determination on February 21, 2012, in lieu of a legal brief.⁵

II. STATEMENT OF FACTS

The Daisy Post Office is described by the Postal Service in its Final Determination as an EAS-11 level post office located in Daisy, Evans County, Georgia. AR, Item No. 1 at 1. The post office has 252 installed post office boxes. Before being under consideration for closure, the Daisy Post Office provided service to 179 post office box customers, and one permit mailer. *Id.*, Item No. 13 at 1 & 2. Based on a two-week study conducted from March 12 to 25, 2011, the Daisy Post Office averaged 24.5 daily retail window transactions representing 26.2 minutes of daily retail workload. *Id.*, Item No. 10 at 1.

On April 14, 2011, the Postal Service notified customers of the Daisy Post Office of a possible change in the way their postal service is provided. *Id.*, Item No. 21 at 1. As described in the notice, customers were given the option of receiving pickup, delivery, sale of stamps and all other customary postal services by rural route service from the Claxton Post Office located 7 miles away. *Id.* Included was a questionnaire to

⁴ United States Postal Service, Notice of Filing Corrected Administrative Record – Errata, January 13, 2012.

⁵ United States Postal Service Comments Regarding Appeal for Review of the Daisy Post Office, February 21, 2012 (Postal Service Comments).

be completed and returned by April 26, 2011. *Id.* A total of 200 questionnaires were distributed to customers, and 60 were completed and returned. The Administrative Record shows that: 3 responded favorably to the proposal, 6 customers expressed opposition or concern, and 51 expressed no opinion. *Id.*, Item No. 23 at 1.

In addition, customers were invited to attend a public meeting at the Daisy Community Center at which Postal Service representatives would be available to answer questions and provide information about postal service to the community. *Id.* The meeting was held on April 26, 2011 as scheduled with 104 customers in attendance. *Id.*, Item No. 24 at 1.

An invitation to file comments on the proposal was posted in the Daisy Post Office on June 4, 2011 and removed on August 5, 2011. *Id.*, Item No. 32 at 1. The invitation was also posted at the Claxton Post Office for sixty days. *Id.*, Item No. 32 at 1. A total of 5 comments were received during this posting period and all of the comments were unfavorable. *Id.*, Item No. 40 at 1.

On August 30, 2011, the Final Determination to close the Daisy Post Office was approved. *Id.*, Item No. 47 at 7. The decision was based upon (1) the vacancy of the postmaster's position; and (2) decline in workload. *Id.*, at 2. The Final Determination did consider and respond to various concerns expressed by customers. *Id.*, Item No. 47.

III. POSITIONS OF THE PARTIES

A. The Petitioners

The Petitioners present the following arguments in opposition to the closing of the Daisy Post Office:

1. The effect on providing effective and regular postal service to the community – Petitioners expressed concern about availability of enough number of post office boxes at Claxton Post Office. Petitioner Inman Brown Jr. argued that the Claxton Post Office has 72 post office boxes available, whereas the Daisy Post Office had about 180 post office boxes rented. Other Petitioners, Bill and Priscilla

Hearn, Carroll Lee Skinner, Cletus B. Strickland, Blanca Rosa Balcarcel, and Carson Sands, Jr. raised concern about the elderly people who are not able to drive or walk across the highway to a mail box. Also, the Petitioners expressed concern about mail security and traveling to other post office and incurring extra costs in transportation.

2. The effect on the community –Petitioners, Cletus B. Strickland, Bill and Priscilla Hearn, and Carson Sands, Jr. noted that the post office is very important for the identity of the City of Daisy, and a meeting place for the community. Petitioner Carolyn S. Brown, Cletus B. Strickland, and Sarah Routree expressed concern about changing addresses on drivers' license, credit cards and all other bills and correspondence. Petitioners, Larry Morgan, Manuel A. Balcarcel, Carroll Lee Skinner, Sarah Routree, and Carson Sands, Jr. expressed concern about the effect of the closing on the business community.
3. The economic savings – Petitioner, Inman Brown Jr., claimed that the Daisy Post Office has shown a profit for the past two years operating with a noncareer officer in charge (OIC). In the Petitioner's view the Post Office generated revenues of \$35,248, and \$36,470 and profits of about \$10,000 to \$12,000 per year in 2009 and 2010. He also noted that the post office building lease will not expire until March 31, 2016.
4. Procedural requirements – Petitioners, Inman Brown, Jr., and Carson Sands, Jr. argued that the Postal Service failed to follow procedures required by law regarding the closure of Daisy Post Office. Petitioner, Inman Brown, Jr., noted that the Postal Service final determination was posted with no closing date. He stated that the first meeting concerning the closing was in April 2011 and they had not received any correspondence except the final determination to close. According to Petitioners, the questionnaires that were mailed to customers were misleading.

B. The Postal Service

On February 21, 2012, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 1105. In this filing, the Postal Service supports its decision to close Daisy Post Office for the following reasons: (1) the postmaster vacancy; (2) a minimal workload; (3) low office revenue; (4) availability of a variety of delivery and retail options; (5) very little recent growth in the area; (6) minimal impact upon the community; and (7) the expected financial savings. Postal Service Comments at 4 and 5.

IV. STANDARD OF REVIEW AND APPLICABLE LAW

A. Standard of Review

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). That section requires that the Postal Service's determination be reviewed 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 are: (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.⁶

B. The Law Governing Postal Service Determinations

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404 to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed

⁶ Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal.

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)

In addition, 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).

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioners and the Petition submitted by customers of the Daisy Post Office, and the Postal Service Comments, the Public Representative finds that the Postal Service has followed applicable procedures. However, the decision to close the Daisy Post Office is unsupported by substantial evidence.

Effective and Regular Postal Service

The Postal Service claims that it will provide effective and regular postal service to Daisy customers by rural route carrier service. It also offers delivery and retail services by the Claxton Post Office. The Public Representative concludes that the alternative service offered by the Postal Service does not adequately meet the demands of the Daisy community. The administrative record shows that the Daisy Post Office has been providing delivery and retail services to 179 post office box customers. There are only 72 post office boxes available at the Claxton Post Office. If Daisy's post office box customers decide to rent post office box at Claxton, there is a limited number of post

office boxes available to fulfill their demand. Therefore, the Administrative Record does not show that the Postal Service has adequately considered the concern of Daisy customers regarding the provision of effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic Savings

The Petitioners raised concern about the economic savings from the closure. The Petitioners argue that the Postal Service has generated profits for the last two years by operating with a noncareer OIC. The Public Representative concurs with the Petitioners view. A non-career employee has been assigned as the temporary OIC to operate the Daisy Post Office since the retirement of the postmaster on July 1, 2009. AR, Item No. 47, at 2. Using the salary of the OIC that is currently operating the post office, the total annual cost would be much less than the amount reported in the Administrative Record.⁷ On the other hand, the Administrative Record shows that office receipts for the Daisy Post Office were \$35,384 in 2008, \$35,248 in 2009, and \$36,470 in 2010.

Additionally, the Public Representative finds anomalies in the Postal Service economic savings calculation.

- First, the Postal Service failed to take into account the estimated costs of replacement service in its Final Determination. The Postal Service provides estimates of \$47,379 in annual economic savings without deducting the

⁷ “Temporary employees hired as OICs are paid in accordance with the Officers in Charge schedule. Prior to hiring a temporary employee for other positions, the installation head or other appointing official should carefully assess operational needs of the office and determine the EAS grade for the types of work to be performed. Based on this determination, the temporary employee is hired at the minimum salary for that grade. The full-time salary is divided by 2080 to determine the appropriate hourly rate.” See the 2011 Employee and Labor Relations Manual, Page 418-2, available at <http://about.usps.com/manuals/elm/elm.htm>.

estimated cost of the replacement service.⁸ AR, Item No. 47, at 5. The economic savings calculation is based on the Postmaster's salary and benefits of \$44,279, and annual lease cost of \$3,100. The cost of the alternative rural route service, which is estimated at \$9,985.5, was not deducted from the total annual cost. *Id.*, Item No. 17 at 2. If the cost of the alternative service, as estimated by the Postal Service, is taken into account the economic savings would be \$37,395.5 instead of \$47,379.

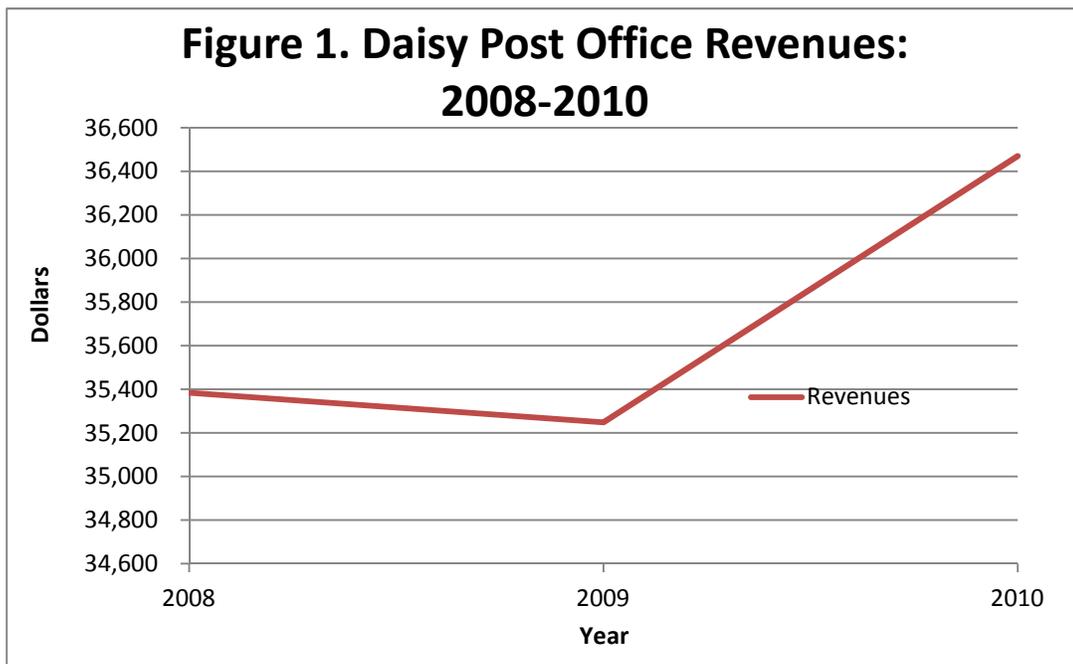
- Second, the current lease for the post office building expires on March 31, 2016, and does not have a 30-day termination clause. AR, Item No. 15 at 1. The Postal Service did not take into account in its Final Determination that the economic savings from the lease will not be realized until after March 2016. The economic savings should be reduced by the lease cost of \$3,100 annually until April 2016.
- Third, the Public Representative believes that the cost of the replacement service, which is provided in the Administrative Record in Item No. 17 at 2, appears to be underestimated for the following reasons.
 - The Postal Service uses 129 additional boxes to be added to the rural route in estimating the cost for alternative replacement service. AR, Item No. 17 at 2. According to the evidence in AR, Item No. 17 at 2, the Postal Service is not planning to use centralized boxes. The Administrative Record provides 179 post office box customers at Daisy Post Office. What would be the justification for using 129 instead of 179 additional boxes to be added to the rural route? The Public Representative cannot determine with certainty that only 129 boxes will be added to the rural route.
 - The Postal Service applied a rural cost per hour rate of \$24.10 (which it claims that the rate was obtained from the national payroll summary

⁸ The Postal Service provides annual savings of \$37,393 after deducting the cost of replacement service in the proposal checklist part of the Administrative Record (Item No. 29 at 2), but not in the Final Determination part or any other parts of the Administrative Record.

report – rural carrier consolidated). *Id.* Based on information from FY2010 National Payroll Summary Report, the average hourly rate (including benefits) for basic full time rural career employee should be about \$33:00 instead of \$24.10.⁹

Low Office Receipts and Workload

The Postal Service cites declining office receipts over the last three years, and minimal workload as additional reasons for closing the Daisy Post Office. AR, Item No. 47 at 2. Contrary to Postal Service’s assertion, office receipts, although slightly decreased in 2009, which may be a result of the economic recession, rebounded in 2010. See figure 1 below.



Source: AR, Item No. 49 at 15.

⁹ USPS, National Payroll Summary Report, pay period 20, FY 2010, page 48.

In addition, the Public Representative didn't find adequate evidence in the Administrative Record that supports Postal Service's assertion of minimal workload at Daisy Post Office. *Id.*, at 2. The Administrative Record provides results of a two-week survey of window transaction, incoming mail, and dispatched mail conducted from March 12 to March 25, 2011; and an assessment of workload service credit (WSC) as of March 28, 2011. *Id.*, Item No. 9 to 12. The Public Representative questions the timing and duration of the study. Why and how did the Postal Service decide to conduct the workload study during this specific two-week period? Based on such limited information, the Public Representative could not determine whether or not workload has been minimal or declining for an extended period of time.

Very Little Recent Growth in the Area

The Postal Service cites very little growth in the area as another additional justification for its decision to close Daisy Post Office. Postal Service Comments at 5. The Postal Service cites "AR, Item No. 16, Community Survey Sheet, at 1" as evidence to support its claim of very little recent growth in the area. Contrary to Postal Service's claim, the community survey sheet does not show very little growth in the area. Also, there is no evidence in the record that supports the Postal Service's view of very little growth in the area.

VI. CONCLUSION

The Public Representative concludes that the decision to close the Daisy Post Office is not supported by substantial evidence in the Administrative Record. First, the Postal Service did not adequately consider the economic savings from closing the Daisy Post Office as required by 39 U.S.C. § 404(d)(2)(A)(iv). Second, limited availability of post office boxes at the alternative post office (Claxton Post Office) suggests that the Postal Service has not adequately considered the concern of Daisy customers regarding the provision of "a maximum degree of effective and regular postal

services” as required by 39 U.S.C. § 404(d)(2)(A)(iii). Third, the Administrative Record does not provide adequate evidence supporting Postal Service’s assertion that office revenue has been consistently low, and that workload has been minimal. Due to the reasons set forth above, the Commission should remand the Final Determination to close the Daisy Post Office.

Respectfully Submitted,

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