

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

Plover Post Office
Plover, Iowa

Docket No. A2012-92

ORDER AFFIRMING DETERMINATION

(Issued March 12, 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 November 30, 2011, Darla Johnson (Petitioner Johnson) and Alan and Karen Minkler (Petitioners Minkler) filed petitions with the Commission seeking review of the Postal Service’s Final Determination to close the Plover, Iowa post office (Plover post office).² Additional petitions for review were received from Eugene Van Deest (Petitioner Van Deest), and the Citizens of Plover.³ The Final Determination to close the Plover post office is affirmed.⁴

II. PROCEDURAL HISTORY

On December 29, 2011, the Commission established Docket No. A2012-92 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

² Petition for Review received from Darla Johnson regarding the Plover, Iowa post office 50573, November 30, 2011 (Johnson Petition); Petition for Review received from Allan and Karen Minkler regarding the Plover, Iowa post office 50573, November 30, 2011 (Minkler Petition).

³ Petition for Review received from Eugene B. Van Deest regarding the Plover, Iowa post office 50573, December 2, 2011 (Van Deest Petition); Petition for Review received from the Citizens of Plover regarding the Plover, Iowa post office 50573, December 6, 2011 (Citizens Petition).

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

⁵ Order No. 1080, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 29, 2011.

On December 15, 2011, the Postal Service filed the Administrative Record with the Commission.⁶ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁷

Petitioners Johnson and Minkler filed participant statements supporting their Petitions.⁸ On February 7, 2012, the Public Representative filed comments.⁹

III. BACKGROUND

The Plover post office provides retail postal services and service to 34 post office box customers. Final Determination at 2. No delivery customers are served through this post office. The Plover post office, an EAS-53 level facility, provides retail service from 9:00 a.m. to 11:30 a.m., Monday through Friday, and 9:00 a.m. to 11:00 a.m. on Saturday. Lobby access hours are the same as retail access hours. *Id.*

The postmaster position became vacant on March 29, 1997 when the Plover postmaster was promoted. A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 2, 8. Retail transactions average five transactions daily (six minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$20,278 in FY 2008; \$18,900 in FY 2009; and \$18,224 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$11,734 annually. *Id.* at 8.

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing, December 15, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Plover, Iowa Post Office and Establish Service by Rural Route Service (Final Determination).

⁷ United States Postal Service Comments Regarding Appeal, January 24, 2012 (Postal Service Comments).

⁸ Participant Statement received from Allan and Karen Minkler, January 25, 2012 (Minkler Participant Statement); Participant Statement received from Darla Johnson, January 25, 2012 (Participant Statement).

⁹ Public Representative Comments, February 7, 2012 (PR Comments).

After the closure, retail services will be provided by the Pocahontas post office located approximately 13 miles away.¹⁰ *Id.* at 2. Delivery service will be provided to cluster box units (CBUs) by rural route service through the Pocahontas post office. The Pocahontas post office is an EAS-18 level post office, with retail hours of 8:00 a.m. to 4:30 p.m., Monday through Friday. One-hundred-twenty-five (125) post office boxes are available. *Id.*

Retail services will also be provided by the Havelock post office located approximately 7 miles away.¹¹ *Id.* The Havelock post office is an EAS-11 level post office, with retail hours of 7:30 a.m. to 11:30 a.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday, and 7:45 a.m. to 9:45 a.m. on Saturday. One hundred (100) post office boxes are available. *Id.* The Postal Service will continue to use the Plover name and ZIP Code. *Id.* at 7, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Plover post office. Petitioners assert that the post office plays a vital role in Plover community life. Johnson Petition at 1; Minkler Petition at 3-4; Van Deest Petition at 1. Petitioners contend that rural route service will not provide Plover residents with the required maximum degree of regular and effective postal services. *See, e.g.,* Citizens Petition at 1. Petitioner Van Deest notes that the closest post office would be a 26-mile round trip, an inconvenience for Plover residents. Van Deest Petition at 1. Petitioners contend that the Plover post office has been selected for closure solely because it does not have a postmaster. Johnson Participant Statement at 2; Minkler Participant Statement at 1.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Plover post office. Postal Service Comments at 2. The

¹⁰ MapQuest estimates the driving distance between the Plover and Pocahontas post offices to be approximately 13.22 miles (20 minutes driving time).

¹¹ MapQuest estimates the driving distance between the Plover and Havelock post offices to be approximately 7.53 miles (13 minutes driving time).

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

The Postal Service explains that its decision to close the Plover 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 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Plover 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, the effect on the Plover community, economic savings, and the effect on postal employees. *Id.* at 16.

Public Representative. The Public Representative concludes that the Postal Service has followed applicable procedures and that the Postal Service's decision to close the Plover post office is well supported and is neither arbitrary nor capricious. PR Comments at 2. However, she suggests that the Postal Service give further

consideration to Petitioners' suggestion of keeping the Plover post office open on a less frequent basis. *Id.*

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 24, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Plover post

office. Final Determination at 2. A total of 35 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 15 questionnaires were returned. On June 8, 2011, the Postal Service held a community meeting at the Hope United Methodist Church to address customer concerns. Nineteen (19) customers attended. *Id.*

The Postal Service posted the proposal to close the Plover post office with an invitation for comments at the Plover, Havelock, and Pocahontas post offices from July 29, 2011 through September 29, 2011. Final Determination at 2. The Final Determination was posted at the same three post offices from November 7, 2011 through December 9, 2011. Administrative Record, Item No. 29.

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. Plover, Iowa is an incorporated community located in Pocahontas County, Iowa. Administrative Record, Item No. 16. The community is administered politically by a Mayor and Council. Police protection is provided by the Pocahontas County Sheriff. Fire protection is provided by the Plover Fire Department. The community is comprised of retirees, the self-employed, commuters, and the handicapped. *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 Plover community and solicited input from the

community with questionnaires. In response to the Postal Service's proposal to close the Plover 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 7-8.

Petitioners assert that closing the post office would be detrimental to Plover community life. Johnson Petition at 1; Minkler Petition at 3-4; Van Deest Petition at 1. The Postal Service responds that residents may continue to meet informally at many other locations in town such as churches, residences, and other businesses. Postal Service Comments at 12. The Postal Service notes that the CBUs, to be placed within the community, will provide a location for posting public notices. *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 Plover postmaster was promoted on March 29, 1997 and that an OIC has operated the Plover post office since then. Final Determination 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 Plover 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 Plover customers. Postal Service Comments at 5. It asserts that customers of the closed Plover post office may obtain retail services at the Pocahontas post office located 13 miles away. Final Determination at 2. Delivery service will be provided to CBUs by rural route service through the Pocahontas post office. Plover post office box customers may obtain Post Office Box service at the Pocahontas post office, which has 125 boxes available. *Id.*

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

Comments at 7. 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 rural route service will not provide Plover residents with the same level of regular and effective postal services. *See, e.g.,* Citizens Petition at 1. Travel to another post office would be an inconvenience for Plover residents. Van Deest Petition at 1. The Postal Service responds that rural route service will provide Plover residents with regular and effective postal services. Postal Service Comments at 7.

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 \$11,734. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$12,382) and annual lease costs (\$2,340), minus the cost of replacement service (\$2,988). The Postal Service states that a one-time expense of \$1,500 will be incurred for the movement of this facility. *Id.*

The Plover post office postmaster was promoted on March 29, 1997. Final Determination at 8. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, will be reassigned, or may be separated from the Postal Service. 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 Plover post office has been staffed by an OIC for nearly 15 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 Plover post office is affirmed.¹²

It is ordered:

The Postal Service's determination to close the Plover, Iowa post office is affirmed.

By the Commission.

Ruth Ann Abrams
Acting Secretary

¹² See note 4, *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 Plover post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster was promoted on March 29, 1997. 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.

A non-career OIC has been in place for nearly 15 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 Plover. 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.

The Postal Service has designated the administrative receiving post office for Plover postal customers as Pocahontas, approximately 13.22 driving miles from the Plover post office. The designation of the administrative receiving post office can be significant to local postal customers because that will be the location where undeliverable or accountable items are retrieved, where some parcels must be deposited, or certain other “in-person” business is conducted. The Administrative Record does not address with specificity reasonable customer concerns about the large travel distance to the new administrative retail post office. Without a more complete explanation of how removing the applicable retail facility to such a distant point will affect the community, the Postal Service has not satisfied its obligation to consider the effect of such closing or consolidation on the community served by the post office, as required by 39 U.S.C. § 404(d)(2)(A)(i).

Also, the Havelock post office, specifically designated as a substitute retail service location for the Plover community, is included in the Postal Service’s Retail Access Optimization Initiative and thus is under active consideration for closure. The Postal Service did not address in the Administrative Record the service implications should the Havelock post office be closed, nor what impact the closure would have on the ability of the Postal Service to maintain “effective and regular postal services.” 39 U.S.C. § 404(d)(2)(iii).

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 Plover, Iowa 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 for 15 years, since March 1997, not an EAS-53 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.

In addition, it appears that the Postal Service has not considered the effect on the community and whether access to postal services is sufficient when Saturday service, which is currently offered, will not be available at the proposed administrative post office. In this case, the Administrative Record indicates the proposed administrative post office, the Pocahontas post office, is approximately 13.1 miles away from the Plover post office and is closed on Saturdays. The Plover post office is open on Saturday from 9:00 a.m. to 11:00 a.m., which provides access to postal services on Saturday, especially pick up of packages.

The Administrative Record indicates that retail services are also available from an alternate post office, the Havelock post office, approximately 7 miles away from the Plover post office. Final Determination at 2. The Havelock post office is being considered for discontinuance under the Retail Access Optimization Initiative (RAOI). The Postal Service should include within its discontinuance process a mechanism to ensure that due consideration is given to the impact on the community of the receiving administrative post office immediately being reviewed for discontinuance.

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

Nanci E. Langley