

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

Fostoria Post Office  
Fostoria, Iowa

Docket No. A2012-91

ORDER AFFIRMING DETERMINATION

(Issued March 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.”<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 30, 2011, Linda Birchard (Petitioner Birchard) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Fostoria, Iowa post office (Fostoria post office).<sup>2</sup> Additional petitions for review were received from Marlin Voss (Petitioner Voss), Gale Jacobson, Kathleen Shatto, and Jody Shatto.<sup>3</sup> The Final Determination to close the Fostoria post office is affirmed.<sup>4</sup>

## II. PROCEDURAL HISTORY

On December 21, 2011, the Commission established Docket No. A2012-91 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>

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<sup>2</sup> Petition for Review received from Linda Birchard regarding the Fostoria, Iowa post office 51340, November 30, 2011 (Birchard Petition).

<sup>3</sup> Petitions for Review received from Marlin Voss, December 9, 2011 (Voss Petition); Gale E. Jacobson, December 9, 2011 (Jacobson Petition); Kathleen Shatto, December 9, 2011 (K. Shatto Petition); Jody Shatto, December 9, 2011 (J. Shatto 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. 1064, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 21, 2011.

On December 15, 2011, the Postal Service filed the 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>

On February 6, 2012, the Public Representative filed comments.<sup>8</sup>

### III. BACKGROUND

The Fostoria post office provides retail postal services and service to 98 post office box or general delivery customers. Final Determination at 2. No delivery customers are served through this post office. The Fostoria post office, an EAS-11 level facility, provides retail service from 7:15 a.m. to 11:15 a.m. and 12:45 p.m. to 4:15 p.m., Monday through Friday, and 8:15 a.m. to 9:45 a.m. on Saturday. Lobby access hours are 7:15 a.m. to 4:45 p.m., Monday through Friday, and 8:15 a.m. to 10:15 a.m. on Saturday. *Id.*

The postmaster position became vacant on July 2, 2010 when the Fostoria postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 2, 8. Retail transactions average 16 transactions daily (17 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$47,061 in FY 2008; \$42,628 in FY 2009; and \$41,223 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$36,936 annually. *Id.* at 8.

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<sup>6</sup> The Administrative Record is attached to the United States Postal Service Notice of Supplemental Filing, January 24, 2012 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Fostoria, Iowa Post Office and Extend Service by Rural Route Service (Final Determination). The Postal Service originally filed its Notice of Filing Administrative Record on December 15, 2011, but filed a “replacement copy of the Administrative Record,” because the original was missing several item numbers, including Item No. 47. All citations refer to the replacement Administrative Record.

<sup>7</sup> United States Postal Service Comments Regarding Appeal, January 24, 2012 (Postal Service Comments).

<sup>8</sup> Public Representative Comments, February 6, 2012 (PR Comments).

After the closure, retail services will be provided by the Spencer post office located approximately 7 miles away.<sup>9</sup> *Id.* at 2. Delivery service will be provided by rural route service through the Spencer post office. The Spencer post office is an EAS-20 level post office, with retail hours of 8:30 a.m. to 5:00 p.m., Monday through Friday, and 8:30 a.m. to 11:30 a.m. on Saturday. Five-hundred-sixty (560) post office boxes are available. *Id.*

Retail services will also be provided by the Milford post office, located approximately 7 miles away.<sup>10</sup> *Id.* The Milford post office is an EAS-18 level post office, with retail hours of 8:30 a.m. to 4:30 p.m., Monday through Friday, and 8:30 a.m. to 9:30 a.m. on Saturday. Nine (9) post office boxes are available. *Id.* The Postal Service will continue to use the Fostoria name and ZIP Code. *Id.* at 6, Concern No. 28.

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners oppose the closure of the Fostoria post office. Petitioners contend that it will be an inconvenience to retrieve their mail from outdoor cluster box units (CBUs) in winter weather. *See, e.g.,* Jacobson Petition at 1; K. Shatto Petition at 1; J. Shatto Petition at 1. Petitioner Voss asserts that closure will adversely impact the community's elderly residents who rely on the post office. Voss Petition at 1. Petitioners contend that the Fostoria business community will suffer if residents are forced to travel elsewhere to obtain postal services, as they will conduct the rest of their business out of town. Voss Petition at 1; Birchard Petition at 1.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Fostoria 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 Fostoria community; and (3) the economic savings

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<sup>9</sup> MapQuest estimates the driving distance between the Fostoria and Spencer post offices to be approximately 6.32 miles (9 minutes driving time).

<sup>10</sup> MapQuest estimates the driving distance between the Fostoria and Milford post offices to be approximately 6.66 miles (8 minutes driving time).

expected to result from discontinuing the Fostoria 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 Fostoria post office should be affirmed. *Id.*

The Postal Service explains that its decision to close the Fostoria 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 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Fostoria 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 Fostoria community, economic savings, and the effect on postal employees. *Id.* at 15.

*Public Representative.* The Public Representative concludes that the Postal Service has followed all applicable procedures and that the decision to close the Fostoria post office is supported by substantial evidence and is neither arbitrary nor capricious. PR Comments at 2-3.

## 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. 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 April 8, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Fostoria post office. Final Determination at 2. A total of 100 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 65 questionnaires were returned. On April 26, 2011, the Postal Service held a community meeting at the Fostoria City Hall to address customer concerns. Fifty-one (51) customers attended. *Id.*

The Postal Service posted the proposal to close the Fostoria post office with an invitation for comments at the Fostoria, Spencer, and Milford post offices from

July 18, 2011 through September 18, 2011. *Id.* The Final Determination was posted at the same three post offices from November 7, 2011 through December 9, 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.* Fostoria, Iowa is an incorporated community located in Clay County, Iowa. Administrative Record, Item No. 16. The community is administered politically by a Mayor and Council. Police protection is provided by the Clay County Sheriff. Fire protection is provided by the Fostoria Fire Department. The community is comprised of retirees, commuters, and the self-employed. *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 Fostoria community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Fostoria 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 8.

Petitioner Voss contends that closure will adversely affect Fostoria's elderly residents and business community. Voss Petition at 1. The Postal Service responds that carrier service is sufficient to support the needs of the Fostoria business

community, and that returned questionnaires indicate customers will continue to patronize local businesses if the post office closes. Postal Service Comments at 11.

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 Fostoria postmaster retired on July 2, 2010 and that an OIC has operated the Fostoria post office since then. Final Determination at 8. 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 Fostoria 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 Fostoria customers. Postal Service Comments at 5-6. It asserts that customers of the closed Fostoria post office may obtain retail services at the Spencer post office located 7 miles away, or the Milford post office located 7 miles away. Final Determination at 2. Delivery service will be provided to CBUs by rural route service through the Spencer post office. Fostoria post office box customers may obtain Post Office Box service at the Spencer post office, which has 560 post office boxes available, or at the Milford post office, which has 9 post office boxes available. *Id.*

For customers choosing not to travel to the Spencer 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 it will be inconvenient to retrieve their mail from outdoor CBUs in winter weather. See, e.g., Jacobson Petition at 1; K. Shatto Petition at 1. The Postal Service responds that, while inclement weather is a factor in delivering mail to and collecting mail from CBUs, it is also a factor for curbside delivery and post office

box customers. The Postal Service also explained that snow removal is provided by the Postal Service as part of its obligation to maintain CBUs. Postal Service Comments at 6-7.

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 \$36,936. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$2,640), minus the cost of replacement service (\$9,983). *Id.* The Postal Service states that a one-time expense of \$5,110 will be incurred for the movement of this facility. *Id.* at 9.

The Fostoria post office postmaster retired on July 2, 2010. *Id.* at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, will either 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 Fostoria post office has been staffed by an OIC for approximately 2 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).

Petitioner Voss argues that the Fostoria post office should remain open because it is operating at a profit. Voss Petition at 2. The Postal Service responds that the profitability of a post office is not the determining factor in deciding whether it is the most cost-effective way to provide regular and effective service. Postal Service Comments at 13.

Petitioner Voss also asserts that the Postal Service has not properly considered the additional costs of installing and maintaining CBUs. Voss Petition at 4. The Postal Service contends that Administration Record evidence supports the fact that the Postal Service has properly considered the need to maintain CBUs, and that carrier service will

be more cost-effective than maintaining the Fostoria post office and postmaster position. Postal Service Comments at 14.

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 Fostoria post office is affirmed.<sup>11</sup>

*It is ordered:*

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

By the Commission.

Ruth Ann Abrams  
Acting Secretary

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<sup>11</sup> See footnote 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 Fostoria post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on July 2, 2010. 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.

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 Fostoria, 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 since July 2010, 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.

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

Nanci E. Langley