

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

Cardwell Post Office  
Cardwell, Montana

Docket No. A2012-101

ORDER AFFIRMING DETERMINATION

(Issued April 5, 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 December 22, 2011, Harriet Afton Fell (Petitioner Fell) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Cardwell, Montana post office (Cardwell post office).<sup>2</sup> Additional petitions for review were received from Misty Hammerbacker (Petitioner Hammerbacker) and a business, Clays in Calico (Petitioner Clays in Calico).<sup>3</sup> The Final Determination to close the Cardwell post office is affirmed.<sup>4</sup>

## II. PROCEDURAL HISTORY

On January 5, 2012, the Commission established Docket No. A2012-101 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 Harriet Afton Fell regarding the Cardwell, Montana post office 59721, December 22, 2011 (Fell Petition).

<sup>3</sup> Petition for Review received from Misty Hammerbacker regarding the Cardwell, Montana post office 59721, December 22, 2011 (Hammerbacker Petition); Petition for Review received from Clays in Calico regarding the Cardwell, Montana post office 59721, December 22, 2011 (Clays in Calico 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. 1102, Notice and Order Accepting Appeal and Establishing Procedural Schedule, January 5, 2012.

On January 6, 2012, 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>

Petitioners filed participant statements supporting their Petitions.<sup>8</sup> On March 2, 2011, the Public Representative filed reply comments.<sup>9</sup>

### III. BACKGROUND

The Cardwell post office provides retail postal services and service to 55 post office box customers. Final Determination at 2. One-hundred-twenty-seven (127) delivery customers are served through this post office. The Cardwell post office, an EAS-11 level facility, provides retail service from 8:30 a.m. to 1:00 p.m. and 2:00 p.m. to 4:45 p.m., Monday through Friday, and is closed on Saturday. The lobby access hours are 24 hours a day, Monday through Saturday. *Id.*

The postmaster position became vacant on March 31, 2009, when the Cardwell postmaster retired. *Id.* A non-career officer-in-charge (OIC) was installed to operate the post office. Retail transactions average 14 transactions daily (17 minutes of retail workload). Post office receipts for the last 3 years were \$23,297 in FY 2008; \$21,101 in FY 2009; and \$23,255 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$48,413 annually. *Id.* at 10.

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<sup>6</sup> The Administrative Record is attached to the United States Postal Service Notice of Filing, January 6, 2012 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Cardwell, MT Post Office and Extend Service by Rural Route Service (Final Determination).

<sup>7</sup> United States Postal Service Comments Regarding Appeal, February 15, 2012 (Postal Service Comments).

<sup>8</sup> Participant Statement received from Harriet Afton Fell, January 31, 2012 (Fell Participant Statement); Participant Statement received from Misty Hammerbacker and Clays in Calico, January 31, 2012 (Hammerbacker/Clays in Calico Participant Statement).

<sup>9</sup> Public Representative Reply Comments Supporting Remand, March 2, 2012 (PR Reply Comments).

After the closure, retail services will be provided by the Whitehall post office located approximately 7 miles away.<sup>10</sup> *Id.* at 2. Delivery service will be provided to cluster box units (CBUs) by rural carrier through the Whitehall post office. The Whitehall post office is an EAS-16 level post office, with retail hours of 8:30 a.m. to 5:00 p.m., Monday through Friday, and is closed on Saturday. Forty-six (46) post office boxes are available. *Id.* The Postal Service will continue to use the Cardwell name and ZIP Code. *Id.* at 9-10, Concern No. 2.

#### IV. PARTICIPANT PLEADINGS

*Petitioners.* Petitioners oppose the closure of the Cardwell post office. Petitioners argue that rural route service will not provide the Cardwell community with a maximum degree of regular and effective service. Fell Petition at 1; Hammerbacker Petition at 1; Clays in Calico Petition at 1; Fell Participant Statement at 1-2; Hammerbacker/Clay in Calico Participant Statement at 1-2. Petitioners assert that closing the Cardwell post office will have an adverse effect on the Cardwell community identity and local businesses. Petitioners also contend that the estimated cost savings from the closure are inaccurate. *Id.*

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Cardwell 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 Cardwell community; and (3) the economic savings expected to result from discontinuing the Cardwell post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration

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<sup>10</sup> Petitioners allege that the Administrative Record inaccurately states the mileage between the Cardwell and Whitehall post offices. Fell Petition at 1; Hammerbacker Petition at 1; Clay in Calico Petition at 1; Hammerbacker/Clays in Calico Participant Statement at 2. The Postal Service asserts that it gathered information from an electronic search tool. Postal Service Comments at 3 n.8. The tool estimated the distance between Cardwell and Whitehall to be about 7.9 miles. Administrative Record, Item No. 4 at 2. MapQuest estimates the driving distance between the Cardwell and Whitehall post offices to be approximately 8.3 miles or 9.0 miles depending on the route (11 minutes driving time).

and concludes that the determination to discontinue the Cardwell post office should be affirmed. *Id.* at 2, 13-14.

The Postal Service explains that its decision to close the Cardwell 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 carrier 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 Cardwell community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has considered the effect on postal services and on the Cardwell community, economic savings, the effect on postal employees, and other factors. *Id.* at 13.

*Public Representative.* The Public Representative argues that the materials in the Administrative Record, the arguments presented by Petitioners, and the Postal Service's comments indicate that the Postal Service has not followed applicable procedures. PR Reply Comments at 1. He asserts that the Postal Service's decision to close the Cardwell post office is also arbitrary and capricious, and is not supported by substantial evidence. *Id.* He further explains that the Postal Service did not give adequate consideration to effective services or economic savings. *Id.* at 2. Therefore, the Public Representative concludes that the Final Determination to close the Cardwell post office should be remanded for further consideration. *Id.* at 1-3.

## 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 7, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Cardwell post office. Final Determination at 2. A total of 182 questionnaires were distributed to delivery customers of the Cardwell post office. Other questionnaires were made available at the retail counter. A total of 82 questionnaires were returned.

On April 20, 2011, the Postal Service held a community meeting at the Cardwell School to address customer concerns. Thirty-two (32) customers attended. *Id.*

Petitioners Hammerbacker and Clays in Calico suggest that the discontinuance of the Cardwell post office was predetermined. Hammerbacker/Clay in Calico Participant Statement at 1. The Postal Service notes that local field personnel could not predetermine the outcome because the Final Determination was approved at headquarters upon review of the information compiled in the Administrative Record. Postal Service Comments at 4 n.9.

The Postal Service posted the proposal to close the Cardwell post office with an invitation for comments at the Cardwell and Whitehall post offices from June 27, 2011 through August 28, 2011. Final Determination at 2. The Final Determination was posted at the Cardwell post office from November 16, 2011 through December 18, 2011, and at the Whitehall post office from November 16, 2011 through December 19, 2011. Administrative Record, Item No. 49.

The Public Representative states that the Postal Service posted its Proposal to Close the Cardwell post office and Invitation to comment at the administrative post office (Whitehall, MT) more than 3 months after it posted the Proposal and Invitation at Cardwell. PR Reply Comments at 1. He explains that the Final Determination to close the Cardwell post office was posted at the Cardwell and Whitehall post offices 3 weeks before the comment period on the Proposal was due to end at the Whitehall post office. He argues that it does not appear that Whitehall customers had an adequate opportunity to comment on the Proposal to Close the Cardwell post office. *Id.*

The Postal Service's new rules amending 39 CFR part 241 to improve the administration of the Post Office closing and consolidation process effective July 14, 2011 do not apply to this case. The proposal to close the Cardwell post office was initiated prior to the post office closing procedures now in effect. Because those regulations do not apply retroactively, there was no requirement to provide the same notice to Whitehall customers that Cardwell customers received.

The Administrative Record reflects active participation by customers as evidenced by the filing of questionnaires, attendance at the community meeting, and the filing of comments on the proposal. The Administrative Record demonstrates that customers of the Cardwell post office were afforded adequate notice that the Postal Service was reviewing it for closure.

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.* Cardwell, Montana is an unincorporated community located in Jefferson County, Montana. Final Determination at 9. The community is administered politically by Jefferson County. Police protection is provided by the Whitehall Police Department and Jefferson County Sheriff. Administrative Record, Item No. 16. Fire protection is provided by the Whitehall Fire Department. Final Determination at 9. The community is comprised of ranchers 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. Final Determination at 9; 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 Cardwell community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Cardwell 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 9-10.

Petitioners Hammerbacker and Clays in Calico assert that closing the Cardwell post office will have an adverse effect on Cardwell local businesses. Hammerbacker Petition at 1; Clays in Calico Petition at 1; Hammerbacker/Clays in Calico Participant Statement at 1-2. The Postal Service responds that businesses generally require regular and effective services, and these will continue to be provided to the Cardwell community. Postal Service Comments at 9. It explains that there is no indication that the business community will be adversely affected; in fact, the Postal Service notes that questionnaire responses reveal that customers will continue to use local businesses if the post office is discontinued. *Id.* at 9-10.

Petitioner Fell is concerned about the loss of community identity. Fell Petition at 1; Fell Participant Statement at 1. The Postal Service responds that it has considered this issue and asserts the community identity will be preserved by continuing the use of the Cardwell name and ZIP Code in addresses. Postal Service Comments at 10.

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 Cardwell postmaster retired on March 31, 2009 and that an OIC has operated the Cardwell post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC will either be transferred or separated and that no other Postal Service employee will be adversely affected. *Id.* at 10-11.

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 Cardwell 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 Cardwell customers. Postal Service Comments at 5. It asserts that customers of the closed Cardwell post

office may obtain retail services at the Whitehall post office located 7 miles away. Final Determination at 2. Delivery service will be provided to CBUs by rural carrier through the Whitehall post office. *Id.* Cardwell post office box customers may obtain Post Office Box service at the Whitehall post office, which has 46 boxes available. *Id.*

Petitioners Hammerbacker and Clays in Calico allege that surveys were strategically conducted in February which is the lowest retail month of the year for any business. Hammerbacker/Clays in Calico Participant Statement at 1. The Postal Service responds that volume surveys were scheduled to be conducted from February 26, 2011 to March 11, 2011 at the Cardwell post office. Postal Service Comments at 2 n.6. It explains that the survey was just a snapshot at a point in time that will sometimes reflect normal activity, and at other times it may reflect conditions that affect business traffic. It asserts that the daily number of transactions is not the sole factor informing this final determination; it is merely one of many facts considered. *Id.* at 2-3 n.6.

Petitioners raise concerns about traveling to another post office for services. Fell Petition at 1; Hammerbacker Petition at 1; Clays in Calico Petition at 1; Fell Participant Statement at 1-2; Hammerbacker/Clays in Calico Participant Statement at 1-2. For customers choosing not to travel to the Whitehall 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 Hammerbacker and Clays in Calico assert that many customers do not have a computer or internet access, therefore, they are unable to take advantage of services offered by the Postal Service online. Hammerbacker/Clays in Calico Participant Statement at 2. The Postal Service responds that services are available for customers who do not have computers. Postal Service Comments at 8. It asserts that Stamps by Mail and Money Order Application forms are available for customer convenience; stamps are also available at many stores and gas stations, or by calling 1-800-STAMP-24. *Id.* at 6, 8. It further asserts that carriers can also provide special

services, such as certified, registered, or Express mail, and package delivery and pickup. *Id.* at 8. The Public Representative replies that there are no “Approved Postal Providers” within 20 miles of Cardwell. PR Reply Comments at 2. The Public Representative further argues that the conveniences noted by the Postal Service have always been available to the Cardwell community and at least 55 members of the community (post office box customers) prefer going to the post office over the convenience of carrier delivery. *Id.*

The Postal Service notes that as explained in the Administrative Record, customer convenience may be enhanced upon implementation of the Final Determination because most retail services provided at the post office are available from the carrier. The provision of rural carrier service will alleviate the need for customers to travel to their post office to obtain services and will provide them with 24-hour access to their mail. Postal Service Comments at 6.

Petitioner Clays in Calico expresses concern about mailing packages. Clays in Calico Petition at 1. The Postal Service explains that rural carriers will accept letters and packages for mailing. Postal Service Comments at 10. The carrier will estimate the cost and provide a receipt for any money received. On the following delivery day, the carrier will provide change or a bill for the amount over the estimate. Such services will be conveniently available because the rural carrier will offer both retail and delivery services in the community. *Id.*

The Public Representative argues that the Postal Service has not properly considered whether it can meet customer demand for Post Office Box service at the Whitehall post office because the Cardwell post office serves 55 box customers and the Whitehall post office only has 46 boxes available. PR Reply Comments at 2. He notes that there are other post offices in the area and that one, Willow Creek, is on the Postal Service’s Retail Access Optimization Initiative list. The Administrative Record does not indicate how many post office boxes are available at those offices. The Postal Service does not discuss the fact that the 46 available post office boxes at the Whitehall post office are less than the 55 post office boxes rented to customers at the Cardwell post

office. Given the plan to provide delivery service through CBUs to those customers, the small shortfall of available post office boxes at the Whitehall post office does not appear significant. If the Willow Creek post office discontinuance proposal subsequently proceeds, patrons would have the same appeal process available to them to review the Postal Service's compliance with the required statutory factors. And, if the Willow Creek post office ultimately closes, the Postal Service should ensure that an adequate number of post office boxes will be available at nearby post offices to meet demand.<sup>11</sup>

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 \$48,413. Final Determination at 10. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$6,500), minus the cost of replacement service (\$2,366). *Id.*

Petitioners contend that the estimated cost savings from the closure are inaccurate. Fell Petition at 1; Hammerbacker Petition at 1; Fell Participant Statement at 2; Hammerbacker/Clays in Calico Participant Statement at 2. Petitioners specifically question the labor costs used in the economic savings calculation and argue that the current OIC receives no benefits; thus, the cost savings are inflated. *Id.* The Postal Service responds that if the Cardwell post office closes, one career slot will be eliminated, whereas if the post office is not discontinued, that slot 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 11. Therefore, it argues the Postal Service will save the salary and benefits of a career postmaster position. *Id.*

The Cardwell post office postmaster retired on March 31, 2009. Final Determination at 2. The post office has since been staffed by a non-career OIC who,

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<sup>11</sup> See, e.g., Docket No. A2012-73, Order No. 1269, Order Affirming Determination, March 2, 2012 at 10; Docket No. A2012-51, Order No. 1226, Order Affirming Determination, February 14, 2012 at 9; Docket No. A2012-2, Order No. 1167, Order Affirming Determination, January 24, 2012 at 9-10; Docket No. A2011-98, Order No. 1137, Order Affirming Determination, January 17, 2012 at 10.

upon discontinuance of the post office, 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 Cardwell post office has been staffed by an OIC for approximately 3 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).

Petitioners also suggest strategies that might reduce costs for the Cardwell post office and the Postal Service in general. Fell Petition at 1; Hammerbacker Petition at 1; Fell Participant Statement at 2; Hammerbacker/Clays in Calico Participant Statement at 2. The Postal Service contends the focus of this administrative action concerns whether service can be provided effectively and efficiently to the Cardwell community. Postal Service Comments at 11-12. It explains that in this case, the Postal Service has determined that rural route service to CBUs, coupled with service at the nearby Whitehall post office, is a more cost-effective solution than maintaining the Cardwell postal facility and career position. *Id.* at 12. It asserts that the Postal Service's estimates are supported by record evidence, in accordance with the Postal Service's statutory obligations. *Id.*

Petitioner Hammerbacker questions the closing of the Cardwell post office and instead recommends reviewing post offices in bigger cities. Hammerbacker Petition at 1. The Postal Service explains that post offices are reviewed on a case-by-case basis; when there is a vacancy in a small post office, it is customary to conduct a study of the business activity and investigate the feasibility of providing service by alternative means. Postal Service Comments at 12. It asserts that in this case, it was determined that the Postal Service could continue to provide a maximum degree of effective and regular postal services to the Cardwell community through rural carrier service. *Id.*

The Public Representative points out the estimate for annual replacement service based on Item No. 17 of the Administrative Record should assume 55 additional

post office boxes rather than four CBUs and that the “rural cost per hour” should be drawn from a different line in the national payroll summary report—rural carrier than the one used by the Postal Service. PR Reply Comments at 2. Revising the cost estimates for alternative replacement service would not significantly reduce the total annual economic cost savings.<sup>12</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).

## 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 Cardwell post office is affirmed.<sup>13</sup>

*It is ordered:*

The Postal Service’s determination to close the Cardwell, Montana post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary

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<sup>12</sup> Adjusting for the 55 additional delivery post office boxes and increasing the rural carrier cost to \$34.42 based on the recent National Payroll Hour Summary Report, ending date of 12-30-2011, rural carrier, consolidated, line 45, would increase the Annual Cost of Replacement Service to \$5,430.68.

<sup>13</sup> See footnote 4, *supra*.

## DISSENTING OPINION OF CHAIRMAN GOLDWAY

I would remand because the Postal Service did not provide adequate notice to affected customers. The Public Representative states that the Postal Service posted its Proposal to Close the Cardwell post office at the Whitehall post office more than 3 months after posting the Proposal and Invitation at Cardwell. Moreover, the Final Determination was posted at the Cardwell and Whitehall post offices 3 weeks before the comment period on the Proposal was due to end at the Whitehall post office. It is contrary to the purpose of public comment for the Postal Service to take decisional action before the conclusion of the comment period.

Further, 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 Cardwell post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on March 31, 2009. 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 3 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 Cardwell. 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.

My colleagues correctly note that the economic analysis identified in the Final Determination does not fully and properly account for the costs of replacement rural or contract delivery service for customers currently provided post office boxes. The Postal Service should put forward accurate economic calculations as it assesses a post office closure.

I am also concerned about the distances between the Cardwell post office and those that are offered as substitutes. Several members of Congress have publicly expressed concern that post offices that are 10 miles apart should be maintained in rural areas. The Postmaster General has expressed interest in finding other ways to serve such distant post offices rather than close them altogether. This closing should be reconsidered within the context of the policies now being developed regarding distant rural post offices.

In addition, the Commission has often expressed a concern—and I have consistently expressed the concern—that the maintenance of adequate service requires providing an adequate number of post office boxes in the receiving facility. As the Public Representative noted in his reply comments, the Cardwell post office provides service to 55 post office box customers, yet the administrative receiving facility in Whitehall has only 46 post office boxes available. Thus, the Administrative Record

does not show that the Postal Service has sufficiently considered the issues raised by customers concerning the provision of effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(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 Cardwell, Montana 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 3 years, since March 2009, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

There is also a discrepancy in the Administrative Record regarding the termination clause for the lease. The current lease expires on January 31, 2015, and Item No. 18 of the Administrative Record indicates there is no termination clause, while Item No. 15 at 1 of the Administrative Record indicates there is a termination clause. The Postal Service should have recognized and resolved this discrepancy in its determination. If there is no termination clause, it should note that any savings from the lease will not be realized for nearly 3 years. 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, the Public Representative states that the Final Determination to close the Cardwell post office was posted at the Whitehall post office 3 weeks before the comment period was due to end at the Whitehall post office. PR Reply Comments at 1. It appears that the Postal Service did not comply with section 342.1 of its Handbook PO-101, August 2004, "a copy of the written proposal and a signed invitation for comments must be prominently posted in each affected Post Office for at least 60 days."

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

Nanci E. Langley