



U.S. POSTAL REGULATORY COMMISSION  
Washington, DC 20268-0001

Office of the Secretary

October 9, 2012

Alan L. Burkholder  
17880 Main Street  
Tyner, IN 46572

Re: Docket No. A2012-127—Tyner Post Office, Tyner, IN

Dear Mr. Burkholder:

Enclosed please find a Motion of the United States Postal Service to Dismiss the appeal of the Tyner Post Office. Pursuant to rule 39 CFR 3025.2(c), responses are due 10 days after any such motion is filed. The due date for such response is October 11, 2012.

I apologize for the delay in getting this to you. It is my understanding, however, that the Public Representative in this proceeding contacted you concerning the filing of the Postal Service's Motion and to inform you of the due date for any response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shoshana M. Grove".

Shoshana M. Grove  
Secretary

Enclosure

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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*In the Matter of:*  
Tyner Post Office  
Tyner, Indiana 46572

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Docket No. A2012-127

**MOTION OF UNITED STATES POSTAL SERVICE  
TO DISMISS PROCEEDINGS**  
(October 1, 2012)

By means of Order No. 1473 (September 21, 2012), the Postal Regulatory Commission (Commission) docketed correspondence from Alan Burkholder (Petitioner) as an appeal, assigning PRC Docket No. A2012-127, pursuant to 39 U.S.C § 404(d). The correspondence purported to invoke the Commission's jurisdiction to consider an appeal concerning the Tyner, Indiana Post Office. The correspondence, which was postmarked September 12, 2012, and received September 18, 2012, led to the issuance of Order No. 1473; that Order established October 1, 2012, as the date by which "[t]he Postal Service shall file the administrative record regarding this appeal, "or file "any responsive pleading." This pleading responds to that directive. At least one proposal regarding discontinuance of the Tyner Post Office has been posted, but no final determination has ever been posted such that it remains in a status of suspended operation.

### Factual Background

As background, Tyner Post Office is a candidate facility within the Retail Access Optimization Initiative (RAOI).<sup>1</sup> On June 17, 2011 the postmaster at Tyner Post Office resigned and the Postal Service initiated a discontinuance feasibility study.<sup>2</sup> On June 18, 2011, the Post Office was emergency suspended due to: (1) the resignation of the postmaster on June 17, 2011 (2) minimal workload, and (3) national decline in mail volume. The discontinuance study continued its usual early steps, including a Dear Customer letter explaining the commencement of the study and requesting that questionnaires be completed and returned.<sup>3</sup> Thereafter, a formal proposal was formally posted.<sup>4</sup>

The Postal Service has yet to make available to any person served by the Tyner, Indiana Post Office a written Final Determination of the Postal Service to close the Tyner, Indiana Post Office. Discontinuance of the Tyner Post Office was thereafter encompassed by the moratorium on the closing of Post Offices from December 15, 2011 to May 15, 2012. Now that the moratorium has ended, the Postal Service is in the process of re-evaluating the status of respective facilities that were being studied for closure. After these offices are re-evaluated the Postal Service will proceed in accordance with Handbook PO-101 and 39 U.S.C § 404(d) policies and regulations. So while it may appear that the Postal Service suspended operations and then failed to follow through with

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<sup>1</sup> See PRC Docket No. N2011-1, USPS-LR-N2011-1-2 - Retail Access Optimization Discontinuance Candidate Facility List , July 27, 2011. Tyner, Indiana Post Office also appears on the updated Candidate facility list in the same docket. See USPS-LR-N2011-1/11 - RAO Initiative Candidate Facility Status Update, September 21, 2011.

<sup>2</sup> See Attachment 1, Authorization to conduct discontinuance study.

<sup>3</sup> See Attachment 2, Dear Customer letter.

<sup>4</sup> See Attachment 3, round date stamped cover page of a proposal posted at the Plymouth Post Office.

discontinuance or reopening of a facility, discontinuance of the Tyner Post Office instead became entangled with events happening on the national scale, ones with which the Commission is well familiar. Should the Postal Service elect to continue with discontinuance, it will do so in the not too distant future with the posting of a final determination to that effect.

#### Argument

Pursuant to 39 U.S.C. § 404(d)(5), “[a] determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Regulatory Commission within 30 days after such determination is made available to such person.” In this case, no such determination has been issued by the Postal Service or been made publically available to customers of the Tyner Post Office.

Because the petition for review filed by the Petitioner, which was received by the Commission on September 18, 2012, was filed prior to the conclusion of a discontinuance study embodied in the Postal Service issuance of a written Final Determination, the Commission should dismiss the appeal on grounds that it is premature.

In these circumstances, dismissal is the appropriate remedy. See Docket No. A2011-11 (dismissing an appeal for lack of jurisdiction).<sup>5</sup> The Commission’s jurisdiction need not be invoked because the Postal Service has not yet determined whether to discontinue the Tyner, Indiana Post Office.

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<sup>5</sup> Order No. 712, -Order Dismissing Docket No. A2011-11 Ida, Arkansas, PRC Docket No. A2011-11, April 8, 2011.

Conclusion

Because the Postal Service has yet to issue a written Final Determination to discontinue the Tyner, Indiana Post Office, the petition for review filed by the Petitioner was prematurely received. Without a final agency decision for the Commission to review, the appeal filed by the Petitioner lacks the ripeness required by 404(d)(5). Therefore, the Postal Service requests that this matter be dismissed.

Respectfully submitted,

UNITED STATES POSTAL SERVICE  
By its attorneys:

Anthony F. Alverno  
Chief Counsel, Global Business &  
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October 1, 2012

# ATTACHMENT 1



*Revised*

08/19/2011

10-11-11

EDWARD SMITH  
DISTRICT MANAGER  
GREATER INDIANA PFC

SUBJECT: Authority to Conduct Investigation

I request your authorization to investigate a possible change in postal services for the office in the 2 congressional district.

Post Office Name: TYNER  
 Zip+4 Code: 46572-9998  
 EAS Level: 55  
 Finance Number: 178833  
 County: MARSHALL  
 Proposed Admin Office: PLYMOUTH ADMIN Miles Away: 8.5  
 Near Office Name: DONALDSON Near Miles Away: 3.9  
 Number of Customers:  
 Post Office Box: 73  
 Total Customers: 73  
 ZIP Code Change: Yes  NO  ZIP Code  
 Maintain Town Name: Yes  NO

The above office became vacant when the postmaster resigned on 06/17/2011.  
(Please check below the rational for this study. You can check more than one box.)

- Emergency Suspension
- Office Workload
- Insufficient Customer Demand
- Reasonable Alternate Access
- Special Circumstances

RANDY STINES  
Manager, Post Office Operations

Approval to Study for Discontinuance:

DISTRICT MANAGER  
GREATER INDIANA PFC

08/19/2011

DATE

cc: Area Manager, Public Affairs and Communication

# ATTACHMENT 2



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08/01/2011

Dear Postal Customer:

The TYNER Postmaster resigned on 06/17/2011. A noncareer clerk from the office has served as the officer-in-charge since that time. minimal workload and that the Postal service feels that with this minimal workload and national decline in mail volume rural or HCR delivery will continue to provide effective and regular service to the community. This office became vacant on 6/17/2011 . Therefore, it was necessary to suspend services at the TYNER at the close of business on 06/18/2011. This change is tentative and will not lead to a formal proposal unless we conclude that it will provide a maximum degree of regular and effective postal services.

While the office is suspended, Retail will be suspended. Walkerton PO will case box mail and open and lock lobby in the evening. Customers presently receiving rural delivery will not experience a change in service, with the possible exceptions of picking up parcels and accountable mail at the WALKERTON that the carrier was unable to deliver. TYNER route customers will continue to use TYNER IN 46572 as their last line of delivery.

Rural delivery is particularly beneficial to senior citizens, people with disabilities, and working people because no one has to pick up the mail from the post office. You will have 24-hour access to your mail. In addition, the rural carrier can provide all the retail services provided at the TYNER. Enclosed is information about some of the services available from the carrier. Most transactions do not require meeting a carrier at the mailbox. Stamps By Mail order envelopes and Money Order Application forms are available for your convenience; or you may place a note in the mailbox, with payment, and the carrier will provide the requested services. When an accountable item requiring a signature, such as a certified letter, cannot be delivered on the first day, the carrier will return the item to the WALKERTON Post Office. You may pick up the article at the WALKERTON Post Office, request redelivery on another day convenient for you, or authorize the carrier to deliver the item to another person.

Customers who wish to obtain Post Office box service may do so at the Walkerton Post Office, located 5.9 miles away. The WALKERTON Post Office has 24-hour lobby access for customer convenience. Window service hours at WALKERTON are 9:00- 4:30 pm Monday through Friday and 10:00- 12:00 pm on Saturday. Post Office box lobby hours at the Walkerton Post Office are 24 hours. Post Office boxes are available at this location at an increased fee.

Retail services are also available at the DONALDSON Post Office, located 3.9 miles away. Window service hours at DONALDSON Post Office are from 7:30-11:30 am & 12:30-4:00 pm, Monday through Friday, and 8:00- 10:00 am on Saturday. Post Office box lobby hours are 24 hours.

If you have any questions or concerns about the services available to you through the rural carrier, please contact the WALKERTON postmaster.

I realize with change there is always concern. No final decision to permanently discontinue the Post Office has been made. A community meeting will be held at or near the WALKERTON Post Office in the coming weeks to explain our plans and solicit your comments concerning possible alternate means of providing postal and other services. In the interim, we are confident that carrier delivery will continue to provide TYNER customers with effective and regular postal services.

Sincerely,

RANDY STINES  
Manager, Post Office Operations

# ATTACHMENT 3

PRC Docket No. A2012-127

Attachment 3

Date of Posting: 09/08/2011



Date of Removal: 11/09/2011



PROPOSAL TO CLOSE  
THE SUSPENDED TYNER, IN POST OFFICE  
AND ESTABLISH  
SERVICE BY RURAL ROUTE SERVICE