

Opposition to USPS Motion to Dismiss Appeal - A2015-2

April 1, 2015

Robert G. Taub
Acting Chairman
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, DC 20268-0001

Dear Chairman Taub:

The purpose of this letter is to express my opposition to the USPS motion to dismiss my appeal regarding the closure of the Careywood Post Office. In doing so, I would like to adopt the legal arguments made by Steve Hutkins in his letter of March 30, 2015 as posted to the PRC website (Hutkins-Docket A-2015-2) as part of my opposition. I would also refer you to the Public Representative's objection to the motion to dismiss in the case of the closure of the Alplaus, NY post office (http://www.prc.gov/docs/78/78910/A2012-88_Answer_FINAL.pdf).

The USPS position with regard to the Careywood Post Office has been consistent throughout this entire unfortunate experience. As a "contract postal unit," we're not a "real" post office so the due process that the USPS would normally have to provide doesn't apply to us. Yet, 39 U.S.C. § 404(d) applies to **all** post offices. What exactly constitutes "real" to the US Postal Service? How long we've been in operation? The Careywood Post Office has been in this building since the 1930's - more than 75 years! Didn't we pay the same postal rates as everyone else at our post office? Didn't we send and receive mail there? Maybe the only thing that makes a post office "real" to the US Postal Service is the presence of employees protected by the American Postal Workers Union who would, no doubt, sue the pants off of them if they violated so much as a single letter of their own rules!

As the Public Representative in the Alplaus, NY case pointed out, "...The Commission is again being asked to decide the threshold issue of whether a community post office is a "post office" as that term is used in section 404(d). This issue has been previously decided by the Commission in Docket No. A83-30 (Knob Fork, West Virginia). There, the Commission considered the question of

whether "the procedure must be followed before the Postal Service decides to close a Community Post Office (CPO)." The Commission's opinion in Knob Fork concluded "that section 404(b) does apply," thereby causing the Postal Service's decision to be set aside because it was made "without observance of procedure required by law."

In their motion to dismiss our appeal, the USPS makes the assertion that the PRC has no authority to reverse the USPS decision to close our post office. I'm not sure why they feel the need to state the obvious, but I am well aware of this fact. I'm not asking the PRC to reverse the USPS decision to close our post office. **I'm asking you to make the USPS follow their own rules and give us the same protections that they would have to apply to any other post office they planned to close (please see my Petitioner's Emergency Request for Injunctive Relief and Suspension of Closure Pending Commission Review of this Appeal dated March 27, 2015) and to suspend the closure of the Careywood Post Office until they do!** Perhaps if the USPS was forced to go through the normal evaluation process, they would see what a valuable entity the Careywood Post Office is, and they would reconsider their decision. At the very least, it would give us 90 more days to go over their heads to higher level decision-makers to stop this closure.

The motion to dismiss goes on to say that the Careywood Post Office is not the "sole source" of postal service in our community.

"...The Postal Service argues that the Careywood appeal should be dismissed for the same reason that the Commission dismissed the Alplaus appeal, namely, section 404(d) does not apply under the Knob Fork "sole source" standard. The Postal Service puts it this way: "Additionally, like in Alplaus, NY, the Careywood, ID CPU is not the 'only retail postal facility serving the community.' Here, the Athol Post Office is located within a seven minute drive from the Careywood, ID CPU..."

I don't understand how pointing out that other post offices exist in our area is an argument that the Careywood Post Office is not the "sole source" of postal service **for our community!** That would be like saying that it's fine to close the Sagle Post Office because there's a post office in Sandpoint that postal customers can use instead. Not only is Athol, ID **not** our community, it's not even in the same county! In fact, two of the alternative post offices that the USPS suggests we use - Athol and Bayview - are in Kootenai County while Careywood, ID is in Bonner County. The

Careywood Post Office is the only business currently operating in Careywood. There is no other place to send or receive mail in Careywood, ID. Obviously, the USPS is defining "sole source" to the advantage of their own arguments, but being the only place you can send or receive mail **in our community** sounds like "sole source" to me!

Finally, the Commission may believe that somehow the changing nature of the way **urban** residents receive postal services has some relevance to our appeal, making our post office less important as evidenced by the concurring opinion in Alplaus. However, the postal customers of Careywood, ID do not have any other alternatives as suggested in the concurring opinion. Commissioner Taub pointed out that "in the post-PAEA era alternate access options have grown significantly. In addition to traditional post offices, there are contract postal units, rural and highway carriers, village post offices, automated postal centers, approved shippers, the Internet, and retail establishments that sell stamps on consignment...."

If the Postal Regulatory Commission does not follow the rules and its prior decisions, you will allow the USPS to close our "contract postal unit" so we won't have any options, let alone the options suggested by Commissioner Taub. Those of us on a rural mail route rarely, if ever, see our mail carriers unless he/she has a package to deliver. Are you suggesting we wait around by our mailboxes until the mail carrier shows up each day to buy our stamps? You do realize that due to traffic, weather, etc. that isn't the same time every day and that, even in Careywood, ID, we have better things to do with our time? We have no automated postal centers in our area and the nearest "approved shippers" or "retail establishments that sell stamps" that aren't post offices are in Coeur d'Alene or Sandpoint (20-30 miles away). Finally, the Internet hasn't quite made it all the households in Careywood, ID, and, given that the USPS is losing more and more business to the greater convenience and efficiency of the Internet every day, I'm surprised it is even suggested as an alternative! The fact is that postal customers in rural communities like Careywood have **fewer** options when it comes to postal service than people in more urban areas and, yet, here we have the USPS trying to reduce the one option we have **in our community** to zero!

Again, I ask you to hold to the precedent the Commission established with the Knob Fork decision and direct the US Postal Service to provide the postal customers of the Careywood Post Office with the protection and due process provided for by their own rules and regulations. In addition, I ask you to suspend the closure of the Careywood Post Office until it can be demonstrated that the USPS has, in fact, adhered to the rules.

Sincerely,

A handwritten signature in black ink that reads "M. E. Newsam Banks". The signature is written in a cursive, flowing style.

Marrion E. Newsam Banks
PO Box 360
Careywood, ID 83809