

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

**Public Inquiry Concerning the  
Terms of 39 U.S.C. 404(d)**

**Docket No. PI2016-2**

**Initial Comments of the National Association of Postmasters of the United States  
on the Commission's Ability to Review Postal Service Determinations to Close or  
Consolidate Post Offices**

February 5, 2016

The National Association of Postmasters of the United States (NAPUS) appreciates the opportunity to provide comments in response to Order No. 2862, issued by the Postal Regulatory Commission in Docket No. PI2016-2, an inquiry relating to Commission Jurisdiction Over Postal Service Determinations to Close or Consolidate Post Offices, on December 10, 2015. NAPUS represents active and retired postmasters, the managers-in-charge of United States post offices, and managers of other postal retail facilities. Consequently, NAPUS members have a strong interest in post office closing and consolidation determinations.

Within the context of this docket, NAPUS intends to limit the scope of its comments to one aspect of the inquiry. We desire to provide input as to “what constitutes a relocation or rearrangement of postal services and is thus exempt from Commission review pursuant to section 404(d)...”<sup>1</sup> Specifically, Postmasters and the communities they serve believe that the Commission should retain jurisdiction over certain types of post office “rearrangements” or “consolidations,” as intended by Congress in existing statute<sup>2</sup>, rather than classify such actions as a “rearrangement of postal services.” NAPUS recognizes that, in 2011, the Postal Service modified its own definition of “consolidation”<sup>3</sup>. In its revised regulations, the Postal Service redefined consolidation as the conversion from a

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<sup>1</sup> PI2016-2, page 2

<sup>2</sup> 39 USC §404

<sup>3</sup> 39 CFR Part 241

Postal Service-operated to a contractor-operated facility that reports to a Postal Service operated facility.<sup>4</sup> Prior to the change, the Postal Service defined “consolidation” as the act of subordinating day-to-day overall management of one office with a Postmaster to the administrative personnel of another office. The earlier regulation was consistent with the legislative history of 39 USC §404(d). In addition, the revised regulations served as an antecedent for the implementation of the hour reductions and reclassifications of 13,000 post offices. Preceding final publication of the revised definition, NAPUS raised serious objections to the revisions; these objections were dismissed by the Postal Service.<sup>5</sup> Our comments in this docket relate to prospective actions by the Postal Service.

NAPUS believes that the Commission is not bound by the self-promulgated 2011 Postal Service regulations and their application; we believe that there is a firm statutory basis for the Commission to preserve its jurisdiction over certain rearrangements and consolidations, as intended by Congress. In addition, we are concerned about creating a novel class of Postal Service retail actions, within regulations, “rearrangements,” that the Commission suggests would not necessarily be subject to its jurisdiction or community input.

The substance of this matter is the legislative intent of 39 USC §404, a provision that dates back to 1976, and establishes a process for notice, community input, and a right to appeal to the Commission Postal Service determinations “to close or consolidate a post office.” Congress and the courts have expressed a clear understanding of the act of consolidating a post office. In *Knapp v. United States Postal Service*, 499 F. Supp. 158 (1978), the court identified intent of the author of the provision:

“Senator Randolph, when he proposed the legislation destined to become 39 USC §404(b) [amended to (d)] on the floor of the Senate, made it clear that his interest was to deal with the problem of physical closure of a post office or the physical consolidation of post offices [emphasis added];

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<sup>4</sup> Ibid

<sup>5</sup> 76 FR 207, page 66185

particularly as this relates to postal services in rural areas.... The Senator specifically objected to the ‘indiscriminate closing of rural and small town post offices’ as well as the decision by the Postal Service to ‘create branches out of many post offices close to large cities’ and thus ‘transfer a community-oriented post office into one administered through the instructions and directives of large-city postmasters [emphasis added] with little or no community involvement.’”

Knapp pointed out that Congress intended that the rearrangement or consolidation of postal retail services, which results in one or more post offices coming under the authority of another post office is subject to the jurisdiction of the Commission. While the exact definition of consolidation or rearrangement of services is blurred, it is clear Congress believes that actions that subordinate the administration and management of one post office to another falls under Commission purview as a consolidation. It is important to note that neither the courts, nor Congress has ever redefined the meaning of consolidation in 39 USC §404(d).

In part, Commission Docket No. A82-10 (Oceana) and A2013-5 (Glen Oaks) address the rearrangement of retail facilities within a community [emphasis added]. The Commission offers that both relocation and rearrangement concern re-deployment of postal services, yet only renders a distinction between these two actions, and closings and consolidations. In effect, there is lack of clarity regarding the difference between “relocations” and “rearrangements.” Additionally, the more these actions resemble a consolidation, in harmony with the legislative intent of 39 USC §404(d), the more the actions should be subject to Commission review. It is also worth noting that a rearrangement could very well result in the reduction of postal services to a community and would be non-compliant with providing “a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining.”<sup>6</sup> We are also deeply concerned about the apparent incongruity between the Commission’s historic jurisdiction over the closing and consolidation of stations and branches and its

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<sup>6</sup> 39 USC §101(b)

lack of claimed lack of jurisdiction over retail arrangements. To the extent that closing a branch or station is asserted to be a rearrangement, the Commission's attentiveness to due process for communities served by such facilities will be rendered meaningless. It is for this reason that NAPUS continues to believe that the statutory safeguards provided to post offices are essential and, in fact, need to be enhanced.

Moreover, NAPUS believes that the replacement of a post office with non-Postal Service-operated alternatives should not be considered a rearrangement of services, in order to avoid Commission jurisdiction. NAPUS asks the Commission to clarify rearrangements that cross defined community boundaries will continue to be subject to its jurisdiction because these actions are consolidations, as intended by Congress.

In summary, NAPUS believes that the Commission should not relinquish its jurisdiction over Postal Service actions that would constitute a consolidation within the meaning of 39 USC §404(d). The Commission should not create a class of Postal Service actions immune from Commission jurisdiction as a means of reducing postal retail services, especially service provided to rural America.

Respectfully submitted,

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