

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268

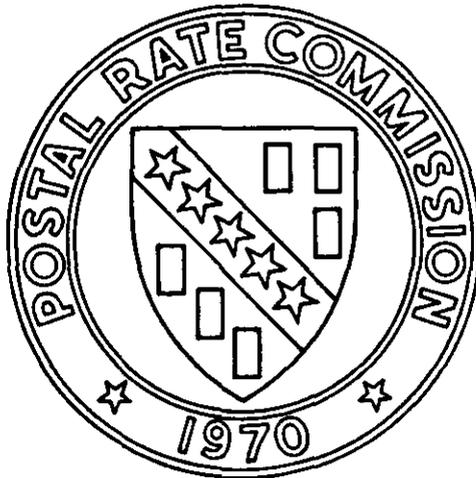
Before
Chairman Steiger, Vice-Chairman Folsom,
Commissioners Bright, Crutcher and Duffy

In the Matter of:

Reed, Oklahoma 73563

(Mrs. Lola Allen, et al., Petitioners)

) Docket No. A83-13



COMMISSION OPINION AFFIRMING DETERMINATION
UNDER 39 U.S.C. § 404(b)(5)

Washington, D.C. 20268

March 15, 1983

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction and Summary.....	1
II. Commission Review.....	1
A. Summary of Postal Service Determination.....	1
B. Procedural Requirements 39 U.S.C. § 404(b).....	2
C. Substantive Criteria to be Considered by Postal Service Before Closing or Consolidating a Post Office 39 U.S.C. § 404(b)(2).....	3
1. Effect on Community.....	3
2. Effect on Employees.....	4
3. Requirement of the Act that the Postal Service Shall Provide a Maximum Degree of Effective and Regular Postal Service.....	5
4. The Economic Savings.....	7
D. Conclusion.....	8

Concurring Opinion of Commissioner Bright

APPENDIX--Appearances

I. Introduction and Summary

This opinion under section 404(b) of the Postal Reorganization Act affirms the Determination of the United States Postal Service (hereinafter Postal Service or Service) to consolidate the post office at Reed, Oklahoma. As explained more fully below, we believe that the Postal Service acted in compliance with section 404(b) in making its Determination.

II. Commission Review and Affirmance of Appeal

A. Summary of Postal Service Determination

The Postal Service determined to consolidate the Reed, Oklahoma post office with that of Mangum, Oklahoma and to establish a Reed Community Post Office (CPO).

The Reed post office serves twenty-three families, four businesses¹ and one church through post office boxes and general delivery. It provides window services four hours per day, Monday through Saturday. The post office receives 57 pieces² of mail daily and dispatches 22 daily.

¹ There is some dispute as to whether there are four or five businesses in Reed. See, e.g., Final Determination at 4.

² Two patrons and one Petitioner challenge the 57 count claiming that some Reed mail is routed through the Mangum and Vinson post offices. Comments of Lola Allen and Wanda Lee Jones; Petition of Mrs. Georgie McAlister.

Form 4920 does not list any Reed customers on a rural route. The Final Determination does say that it mailed additional pre-Proposal questionnaires to Reed customers on the rural route. We surmise from the record and Petitioner's comments, that these customers may receive some services from the Reed post office but that their mail is received from routes emanating from Mangum or Vinson.

It is proper for the Postal Service to consider only that mail which is processed at the Reed post office and Petitioners do not advance any reasons to believe that the Postal Service's conclusions would be different had it counted other pieces as well as those processed at Reed.

B. Procedural Requirements: 39 U.S.C. § 404(b)

The Postal Reorganization Act requires that the Postal Service provide adequate notice of its intention to close or consolidate a post office at least 60 days prior to the proposed date of such closing or consolidation to insure that the patrons will have an opportunity to present their views. After the Final Determination is made, it must be available in writing to persons served by the post office for 60 days before the Service takes any action to close or consolidate.

The Postal Service has implemented the statutory requirements governing the procedures for closing or consolidating a post office by providing in its regulations for the following: 60 days public notice of the Proposal to Close or Consolidate to enable persons served to evaluate and respond to the Proposal, the posting of a copy of the Proposal and a signed Invitation for Comments in each affected post office, and the availability of the complete record at each post office during normal office hours for a period of 30 days. Domestic Mail Manual (DMM) § 113.2.

In this case it is clear that the Proposal was posted for the required 60 days: from March 2, 1982 to May 3, 1982. It is not clear when the Final Determination was posted. However, several appeal letters were received by the Commission³ and it therefore appears that the Final Determination was properly posted. Along with the Proposal was posted an Invitation for Comments. Twenty-three comments were received in response to that Invitation.⁴ The Postal Service also conducted a pre-Proposal questionnaire survey. However, this survey dealt largely with a proposal to close, rather than consolidate the

³ Subsequent to the letter of Mrs. Lola Allen, the Commission received Petitions from Mrs. Georgie McAlister, Mrs. W.K. Culpepper and Jan Pippin. These Petitions are being consolidated with that of Mrs. Allen.

⁴ Five of these were duplicative comments received in letter form as well as on the comment form.

post office. The Service also held two meetings between Reed patrons and Postal Service representatives.

Upon review, it appears that the Service's actions were consistent with the requirements of the Act and with its own regulations regarding public notices and the opportunity for comment.

C. Substantive Criteria to be Considered by Postal Service Before Closing or Consolidating a Post Office:
39 U.S.C. § 404(b)(2)

The Act lists the five considerations the Postal Service must address in deciding to close or consolidate a post office. In our review, we decide the sufficiency of the Postal Service's treatment of each statutory consideration; that is, whether the Postal Service made, on the record, the findings it is required to make and whether those findings are supported by substantial evidence on the record.

1. Effect on Community

a. Postal Service's Findings

The Postal Service stated that patrons will be able to continue to use the name Reed, Oklahoma and the ZIP Code in their addresses. It also said that the CPO would be operated by a local resident. The Postal Service addressed numerous comments in response to both the pre-Proposal questionnaire and the Invitation for Comments. We will discuss several of these below.

b. Commission Review

While the pre-Proposal questionnaire comments were a response to a proposed closing, we believe several of them are relevant to the discussion of the effect of the consolidation on the community.

For example, one commenter stated that his business is located next door to the post office and that if it were closed, his business would be financially hurt. Another commenter also stated he would be forced to close his business. The Service responded by stating:

With the establishment of the CPO, the mailing address, central location and services will continue to be provided to the community by the CPO. There should be no effect on any other businesses nor on community growth or development.

Final Determination at 1.

The Service responded further to contentions that there is growth in the community. It stated that the CPO can adequately handle this situation.

In response to comments that the postmaster assists the elderly, the Service responded that the contractor can provide similar services.

The Service also addressed the comments in response to the Proposal. For instance, several customers stated that there are no alternative sites for a post office and that building and buying lockboxes would be costly. The Service responded that there are alternate sites and that several customers had shown an interest in bidding for the contract. Final Determination at 3. In response to complaints that the Proposal would adversely affect the community, the Service stated that the CPO would provide all non-postal services presently provided. Id.

The Service discussed virtually all the comments made by patrons in both the pre-Proposal questionnaire and the Invitation for Comments. Taking into account the amount of information the Postal Service gathered in its decisionmaking process, we find that the Postal Service has made the required findings supported by substantial evidence on the record.

2. Effect on Employees

The Act requires the Postal Service to consider the effects of the closing or consolidation on the postal employees in that office.⁵ The Postal Service's regulations in this regard appear adequately reflective of the statute and provide as follows:

Effect on Employees. The written proposal must include a summary of the contemplated effect of the the proposed change on the postmaster and any supervisors and other employees of the post office proposed

⁵ 39 U.S.C. § 404(b)(2)(c).

for discontinuance. (The sectional center manger must suggest measures to comply with personnel regulations related to the discontinuance and consolidation of post offices.)

DMM § 113.234c.

a. Postal Service's Findings

The Postal Service states that the postmaster's position at Reed is vacant and that the post office is presently operated by an Officer-In-Charge (OIC) who is a career postal clerk normally assigned to the Mangum post office. The Service states that he will return to his normal assignment when the CPO is established.

b. Commission Review

While no complaints were received regarding the OIC⁶ a number of patrons, including the Petitioners, were adamant about the need for a local postmaster. The Postal Service responded by saying that the CPO would most likely be run by a local resident.

There were also two comments about the credibility of the contractor. The Service notes that there was one such comment but does not provide any additional discussion on the matter. We believe the Service could have made additional findings on this issue. However, the Service has previously stated:⁷ "[T]he parent office would demand the same standards of service from this contractor as is expected from Postal employees." While the Service could have reiterated this policy statement in the present case, we will not reverse on this issue.

3. Requirement of the Act that the Postal Service Shall Provide a Maximum Degree of Effective and Regular Postal Service

a. Applicable Law

⁶ One patron commented that a closing would "put one more person on the unemployment list." Comments of J.E. Thompson. However, as noted above, the OIC would return to Mangum.

⁷ Tomnolen, Mississippi, Docket No. A82-16, Proposal at 4.

The governing statute⁸ provides that the Postal Service, in making its determination whether to close or consolidate a post office, shall consider:

[W]hether such closing or consolidation is consistent with the policy of the Government, as stated in § 101(b) of the title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining.⁹

The Postal Service's regulations implementing these provisions provide, in part, as follows:

Responsiveness to Community Postal Needs. The proposal must take into account the policy of the Government, as established by law, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining. The proposal should contrast the services available before and after the proposed change, should describe how the changes respond to the postal needs of the persons served by the post office; and should highlight any particular aspects of service that might be less

⁸ 39 U.S.C. § 404(b)(2)(C).

⁹ 39 U.S.C. § 101 reads, in part as follows:

(a) The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people. The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through its personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities. The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.

(b) The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

advantageous to the persons served as well as those that would be more advantageous.

DMM 113.234a.

b. Postal Service's Findings

Under the heading "Responsiveness to Community Postal Needs" in the Final Determination, the Service states that postal services will remain the same. It also states that the CPO will be located in a convenient place and that "[m]ail will be secure." Final Determination at 1.

c. Commission Review

The Postal Service also addressed this issue under the heading "Effect on Community" in its response to patrons' comments. Several commenters, including Petitioners, claimed that service would not be as good with a CPO. The Service stated that it will "continue to provide a maximum degree of regular and effective service." Final Determination at 3. Petitioners and commenters also were concerned that the CPO would be discontinued after a year. The Service assured them that this is not the case.¹⁰ The record gives us no reason not to rely on the Service's assurances. Upon analysis of the record, we conclude that the Postal Service has complied with the Act and the applicable regulations and that its findings are supported by substantial evidence.

4. The Economic Savings

a. Applicable Law

Postal Service regulations implementing the statutory requirement of an analysis of savings associated with the post office closings or consolidations provide:

The proposal must include an analysis of the economic savings to be gained by the Postal Service from the proposed action, including the cost of savings expected from each of the major factors contributing to the overall estimate.

DMM § 113.234d.

¹⁰ Final Determination at 4; Letter from B.L. Humphreys for K.A. McClure, Sectional Center Manager/Postmaster to Lola Allen, April 7, 1982.

b. Postal Service Findings

In the Final Determination, the Postal Service estimates the total savings to be \$5,814.00. This includes savings from the postmaster's salary, fringe benefits, the lease agreement, utilities and the postmaster replacement, for a total of \$9,314.00. The anticipated cost of the CPO is \$3,500.¹¹

c. Commission Review

There were a number of comments which claimed that the patrons pay their share of taxes and that this should make up for the revenue loss. In addition, one comment on the pre-Proposal questionnaire stated that the Postal Service would not save money because someone would have to be hired at another location to take care of the Reed mail. The Service responded to this assertion in the Final Determination, saying that the contractor will handle all Reed mail and that no additional people will be hired. We believe that the Service has given adequate consideration to economic factors.

5. Other Factors.

In the Final Determination the Service does not identify any other factors.

a. Commission Review

Given our conclusion, noted above, that the Service has made a satisfactory inquiry into the effects of the closing, we find the Service has identified the relevant factors under the appropriate subheadings.

D. Conclusion

In summary, we conclude that the Service's Determination to consolidate the Reed post office is supported by substantial evidence as required by law.

¹¹ In the Proposal, the Service notes that there were several comments questioning the estimated cost of \$3,500.00 for the CPO. It also notes, however, that several patrons expressed an interest in the contract. Proposal at 5.

Accordingly, the Determination in Docket No. A83-13 is hereby affirmed.

By the Commission. Commissioner Bright concurring in a separate opinion.

(S E A L)

A handwritten signature in black ink, appearing to read "David F. Harris". The signature is written in a cursive style with a large, prominent initial "D".

David F. Harris
Secretary

Docket No. A83-13

APPENDIX

Lola Allen, et al., Petitioners, pro se

United States Postal Service

Stanley F. Mires, Assistant General Counsel

Concurrence of Commissioner Simeon M. Bright:

The Reed, Oklahoma Post Office consolidation provides this body with another opportunity to assess the problems of communities which have small independent post offices transitioning into contract post offices. While I agree with the decision to affirm the Postal Service's action in Reed, I am concerned with the lack of understanding and acceptance of the Postal Rate Commission's review role if, in fact, a community post office is phased out following the contract period.

Section 404(b) of the Act requires the Postal Service, and, on review, the PRC, to consider the effect on community along with several other criteria in the closing of any post office. The facility in question -- an independent post office, a CPO, or a station or branch, must not hinder the affected community's citizens the opportunity to bring a complaint before this Commission. The Act does not state that our concern for community effects deals only with those lasting for the 12-24 months of the contract period.

I agree with those who call for a clarification of the law insuring citizens the right to petition this Commission again if, in their judgment, the Postal Service is negligently affecting their community by taking action to affect this service by closing a facility other than an "individual post office" (see Gresham, South Carolina, Route #1, Docket A78-1, and Mt. Eden, California, Docket A80-4).

In this instance the immediate action proposed by the Postal Service is correct; however, this question needs to be addressed and resolved, once and for all.