

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

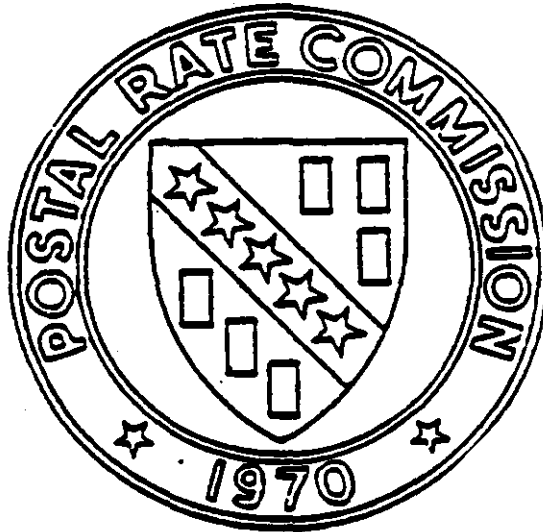
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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

Before

Chairman Gleiman, Vice Chairman LeBlanc  
Commissioners Haley, Quick and Schley

In the Matter of:

Green Mountain, Iowa 50637 : Docket No. A94-9  
(Tim Odle, et al., Petitioners) :



COMMISSION OPINION AFFIRMING DECISION  
UNDER 39 USC § 404(b)

DISSENTING OPINION OF VICE CHAIRMAN LEBLANC

Washington, D.C. 20268-0001  
(August 16, 1994)

## **I. Introduction and Summary**

This opinion is issued pursuant to section 404(b) of the Postal Reorganization Act [39 USC § 404(b)]. We affirm the Postal Service's decision to consolidate the Green Mountain, Iowa, post office and establish a community post office there. As explained in greater detail below, we hold, after considering section 404(b) of the Act and the applicable regulations, that the Postal Service's decision in this proceeding is in accordance with the law and is supported by substantial evidence on the record.

Green Mountain is a small community in central Iowa. The town has an elementary school, a church, a Lions Club and a fire department. Businesses include Producer's Savings Bank, Producer's Insurance Agency, G & M Mill, R.W. Thomas & Sons, Conrad Coop, McCubbin-Cheeseman Seed Co., Country Squire Log Homes, Ken Smith Repair, Gulf Central Pipeline, Warden's Garage, Miller Repair and Merri K. Ceramics.

Procedural history of appeal. On April 18, 1994, the Commission received an appeal letter from Green Mountain's Mayor, Tim Odle, opposing the Postal Service's decision to consolidate the Green Mountain, Iowa, post office and convert it into a contractor-operated Community Post Office. Mayor Odle attached a petition signed by 38 customers. The Commission established Docket No. A94-9 for review of the Postal Service's record. The Postal Service filed its "Comments" on June 14, 1994, with a motion asking for acceptance of the document filed one day late. We are granting the Postal Service's motion.

## **II. Commission Review**

### **A. Summary of the Postal Service's Determination**

The Postal Service has decided to consolidate the Green Mountain post office and substitute a contractor-operated Community Post Office under the administrative control of the Garwin post office, located seven miles away. The Postal Service promises that the Community Post Office will provide at least the same number of hours of service as the current office. Final Determination at 2.

At this time, 71 post office boxes at the Green Mountain office are rented, an increase from the 66 rented when the Postal Service first started its review of the office. Record Items Nos. 71, 1. The Green Mountain post office is open 34½ hours per week. On an average day, the Green Mountain post office receives 318 pieces of mail and dispatches 165. During its survey, the Postal Service counted seven transactions per day. Receipts for fiscal 1993 were \$23,269. The Postal Service uses \$27,911 as the annual cost of operating the Green Mountain post office after appointing a new postmaster. The annual cost for the Community Post Office is estimated to be \$8,000. The nearest alternative post office is at Garwin. About sixty post office boxes are available for rent there.

**B. Procedural Requirements: 39 USC § 404(b)**

The procedural requirements for providing adequate notice of the Postal Service's intention to consolidate a post office and an opportunity for public comment are found at section 404(b) of the Act as well as Postal Operations Manual Sections 211 and 212. The Postal Service began its decisionmaking process on May 11, 1992, by sending questionnaires to the customers of the Green Mountain post office. Forty-four were returned. Seventeen responses were favorable, 12 unfavorable and 15 expressed no opinion on the proposed alternative. Final Determination at 2. On May 19, 1992, the Postal Service held a community meeting. Twenty-seven customers attended. The Postal Service posted a Proposal on October 15, 1992. Two comments were received. The Postal Service posted a revised Proposal on March 1, 1993. The modifications in the revised Proposal included acknowledging the recently reduced hours of the office and changing the post office to be responsible for the Green Mountain Community Post Office. No comments were received. The petitioners have made no complaint concerning the procedural steps followed in the decisionmaking process.

**C. Substantive Criteria to be Considered by the Postal Service before Consolidating a Post Office: 39 USC § 404(b)**

When making a decision to consolidate a post office, the Postal Service must follow the procedure which affords patrons the opportunity to present their opinions. Additionally, the Postal Service must consider four specific factors (as well as any others deemed necessary): effect on community, effect on employees, whether a maximum degree of effective and regular postal services will be provided, and economic savings. In our review, we examine the Postal Service's consideration of each statutory criterion and determine whether the Postal Service made the required findings concerning each factor, and whether those findings are supported by substantial evidence in the record and are otherwise in accordance with the requirements of the Act.

**D. Possible Closing of the Community Post Office**

From the beginning of the Postal Service's decisionmaking, Mayor Odle expressed his concern and that of his constituents that the Community Post Office could be closed at a later date. In a letter sent to Senator Harkin and other members of the Iowa delegation on November 27, 1992, Mayor Odle emphasized his concern that the contract for a Community Post Office might be cancelled, leaving the community with nothing but rural carrier service. Mayor Odle believes that rural carrier service would be inadequate for the Green Mountain community. Record Item No. 45C. Iowa Congressman Jim Lightfoot also contacted the Postal Service about the inadequacy of rural carrier service for Green Mountain in a letter dated December 15, 1992. Record Item No. 40B.

The residents of Green Mountain do not appear to quarrel with the Postal Service's statement that the Community Post Office might be closed because of circumstances beyond the Service's control. See Comments at 5. Indeed, it is exactly because the Community Post Office might be closed for reasons

beyond the Postal Service's control that causes the residents such concern.

In its Final Determination at 3, the Postal Service response to the community regarding a future closure of the Community Post Office is to state that the Community Post Office would not be closed without proper justification and approval of Headquarters in Washington, D.C., specifically the Senior Vice President, Customer Services and Sales. The Postal Service considers its response as likely to reassure residents that Community Post Offices are not closed without justification.

However, for residents to assess the true impact of a consolidation of an independent post office into a Community Post Office, they need to understand the status of the proposed Community Post Office. When residents seek information about the future of the Community Post Office, it would seem that the Postal Service should be able to inform the residents about: 1) what policy statements, regulations and other guidelines are used to determine whether or not a Community Post Office will be closed; 2) the number and percentage of Community Post Offices closed each year; and 3) what justifications are accepted by Headquarters when it approves closings of Community Post Offices.

It could be that Postal Service practices would reassure the community that a Community Post Office will adequately serve its needs. Conversely, the community may find that the future of a Community Post Office is so tenuous that the community must actively oppose the proposed consolidation. What is clear is that it would be helpful for communities to have more information about Community Post Office closures than was provided by the Postal Service in response to questions raised by Major Odle and his constituents.

Notice in Future Proceedings. The closure of a Community Post Office and residents' interests and rights when a Community Post Office is closed have been an area of concern at the Rate Commission since the Knob Fork, WV, appeal in 1983 (PRC

Op. A83-30). The Rate Commission believes that both the procedural safeguards and the appeal rights granted by section 404(b) of the Reorganization Act extend to closures of Community Post Offices.

This issue has been addressed in the last three consolidation cases, Waka, TX (PRC Op. A94-1), Inavale, NE (PRC Op. A94-3), and Benedict, MN (PRC Op. A94-8). The dissenting opinions of Commissioners LeBlanc and Schley and the concurring opinions of Commissioner Quick in the Waka and Inavale cases and the Commission's opinion in Benedict show the importance the Commission places on this issue.

It is the view of the Commission that Congress expected the section 404(b) procedures to apply not only to independent post offices, as defined by the Postal Service, but also Community Post Offices when they are the sole source of postal services to a community. The Postal Service's consistent position is that the service of a Community Post Office is equivalent to that of an independent post office it seeks to consolidate. Therefore, the most reasonable reading of section 404(b) and Congressional intent is that 404(b) must apply whenever there is a proposed closure or consolidation of a community's sole retail postal facility, including a Community Post Office.

More than appeal rights are at issue. When the Postal Service closes or consolidates a post office, it must follow the 404(b) provisions that provide notice, allow for community comment, and require the Postal Service to weigh the impact of factors such as effect on service and the community. These procedures are more important to affected customers than appeal rights. Therefore, not applying 404(b) to Community Post Office closures is a procedural as well as appellate disadvantage.

We are aware that the Postal Service believes that it is not required to undertake a 404(b) analysis in order to close a Community Post Office. We observe that customers' concerns that a proposed consolidation is a step toward complete closure would

be eliminated if their 404(b) rights were preserved. At the very least, the Postal Service should provide answers to reasonable questions about Community Post Office closures raised in any future consolidation proceeding. This is so even if the Service does not adopt the Commission viewpoint that Community Post Offices should not be closed permanently without a 404(b) review.

In its Comments in this case, the Postal Service writes that in response to the Commission's decisions in Waka and Inavale, the Service, in the future, will notify customers affected by consolidations that a disadvantage of a Community Post Office is "the loss of uncontested appeal rights." Comments at 5, fn. 2. This response apparently is intended to meet Commission concerns expressed in the Waka and Inavale decisions. We recognize that the Postal Service is aware of our concern, but we consider this initial reaction inadequate. The Service should do more than describe legal rights, it should provide enough information to inform its customers of the extent that existing policies recognize an obligation to consider customer needs before a community's only office is closed.

When customers fear that a consolidation is merely a prelude to the loss of all retail facilities in the town, assurance that a new administrative procedure is required would give the affected customers confidence that the Community Post Office would be maintained. The customers could then focus on the proposal to change the status of their post office, without worrying about the acceptability of alternative service if the facility is closed.


We do not contest the Postal Service's assertion of its unequivocal intention to establish and maintain a Community Post Office when it consolidates a post office through a section 404(b) proceeding. The Postal Service also acknowledges that circumstances beyond its control can require the closing of a Community Post Office. Comments at 5. The promise of no permanent closing without a new evaluation considering the 404(b)

factors would reconcile the Postal Service's present unequivocal commitment to the Community Post Office with the realistic recognition that unforeseen future changes could require a closing. The Commission does not believe that the statute intends for the Postal Service to retain a Community Post Office which is no longer serving any useful purpose. Nor does it allow a contractor to force the Service to pay exorbitant fees to maintain a Community Post Office. However, before deciding whether the facility should be closed, the Postal Service should once again afford affected customers an opportunity to present their views.

### III. Conclusion

For the reasons described above, we find that the determination to consolidate the Green Mountain, Iowa, post office meets the standards of 39 USC § 404(b), and it is therefore affirmed.

By the Commission.  
(S E A L)

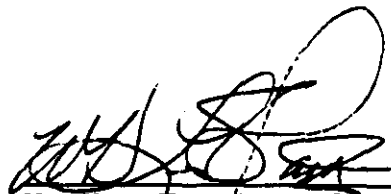


Cyril J. Pittack  
Acting Secretary



DISSENTING OPINION OF  
VICE CHAIRMAN W. H. "TREY" LEBLANC, III

The opening, closing, moving and consolidation of postal facilities is a normal and expected activity of the Postal Service as it accommodates to the ever changing postal environment. With modest constraints mandated by the Congress, the Postal Service has unquestioned authority to make these changes. The Postal Rate Commission provides the citizen a means to appeal certain decisions of the Postal Service concerning the closing and perhaps consolidation of post offices. It is not my purpose to define the obligations of the Postal Service to respond to these appeals. What I am concerned about is what we all should be concerned about: that every citizen, within reason, have the opportunity to have his voice heard. It is easy for those of us who live and work in major urban communities to forget how important mail and the Postal Service is to those Americans who live in small, rural communities. We must be responsive to these interests and concerns. I believe that we, the Postal Rate Commission and the Postal Service should go the extra mile in permitting these citizens to express their concerns about closings and consolidations of post offices. I urge that the Postal Service review its procedures to ensure that citizens of small communities are not denied these modest rights.



W. H. "Trey" LeBlanc III  
Vice Chairman