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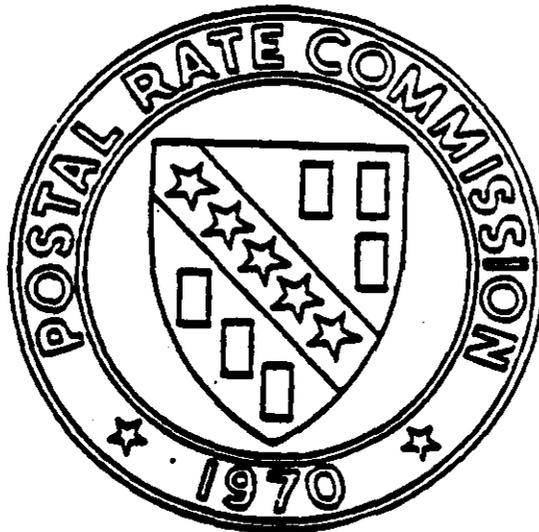
Before

POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

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

In the Matter of:

Strang, Nebraska, 68444 : Docket No. A94-13  
(Ms. Ruth E. Hobbs, Petitioner) :



COMMISSION OPINION REMANDING DECISION  
UNDER 39 U.S.C. § 404(b)

Washington, D.C. 20268-0001  
(October 28, 1994)

## I. Introduction and Summary

This opinion is issued pursuant to section 404(b) of the Postal Reorganization Act [39 U.S.C. § 404(b)]. The Commission remands the Postal Service's decision to consolidate the Strang, Nebraska post office and serve the residents of Strang with a contract post office (CPO). As explained in greater detail below, the Commission finds, after considering section 404(b) of the Act and the applicable regulations, that the Postal Service made public promises about the retention of a CPO (Record Items 32-H,, 33 at 28, 33 at 283) that contradicted its intention as stated in an internal memorandum (Record Item 32-A). As a consequence, the Commission finds that the Postal Service did not act within the statutory guidelines in making its decision.

Procedural History of Appeal: On July 1, 1994, the Commission received an appeal letter from Ms. Ruth E. Hobbs (Petitioner) objecting to the Postal Service's decision to consolidate the Strang, Nebraska post office. Consistent with Commission practice, on July 7, 1994 the Commission established Docket No. A94-13 for review of that decision.

On July 8, 1994 the Commission received a letter dated July 6, 1994 from "Customers of the Strang, NE Post Office." In the letter the customers objected to the proposed consolidation into a CPO because they felt: 1) that the handling of mail by non-postal employees would violate the sanctity of mail, as they claimed it did in the U.S. House of Representatives' contract post office; 2) that the lessee could sub-lease the contract and hire substandard help; 3) that the contract could be terminated by either party for cause, and 4) should that happen, citizens would have no appeal rights under the Postal Reorganization Act. There were 89 signatures attached to the letter.

Also on July 8, 1994 the Commission received individual letters from Lauren Bumgarner and Janet Lentfer. Ms. Bumgarner urged that an independent post office be retained, and Ms. Lentfer objected to the proposed consolidation because 1) the Strang Community Improvement organization (CIP) renovated the present building to meet postal regulations and 2) she feels the Postal Service could afford to retain small, rural post offices if it cut expenses in other areas. She cited spending \$7 million on a new logo as an example. In a letter received by the Commission July 12, 1994, Ms. Joy L. Leshar objected to the consolidation because she felt it would prove less convenient than the independent post office.

All of the above cited letters have been consolidated into this docket. The Postal Service filed its general "Comments" regarding the Strang, NE appeal on August 25, 1994.

## II. Summary of the Postal Service's Determination

### A. Background

Strang, NE, an incorporated community of about 42 persons, is located in Fillmore county in southeastern Nebraska. It is about 40 miles southwest of Lincoln and about 28 miles south of Interstate 80.

A farming community, Strang has a grade school attended by about 20 students from kindergarten through eighth grade. High school students attend the Geneva-Shickley-Brunning regional school (Record Item 2). Strang has no churches. It does have a number of small businesses, including Bumgarner Land & Cattle Co., 4M Farms, Jans' Strang Tavern, Taylor Auto Repair, KKB Grain, Dalmation Farms, Cornhusker Farms, Julies' Country Salon, Majetka Bins & Building, and Husker Swine (Record Item 21, USPS Fact Sheet). Under community organizations, the Fact Sheet lists only the Strang CIP, although the Final Determination indicates a community meeting was held at the Strang 4-H hall (Final Determination at 9).

Strang is administered politically by a mayor and community board form of government (Final Determination at 1); police protection is provided by the Fillmore County Sheriff's Department, and fire protection is provided by the Geneva Volunteer Fire Department (Final Determination at 8). Strang is in Nebraska's 3rd Congressional district.

Pursuant to Postal Service policy the Postal Service authorized a study of service needs in Strang on December 29, 1992, six months after the June 19, 1992 promotion of the community's postmaster. During the service study a noncareer clerk has managed the post office as the temporary officer-in-charge (Final Determination at 1).

The post office is housed in a small building owned by the community and "diligently" up-graded and renovated to Postal Service standards by the Strang Community Improvement organization "a few years ago" (Record Item 17-19-C; Lentfer Appeal July 5, 1994). The building does not have access for the handicapped (Record Item 3). Whether the building would continue as the headquarters of the CPO would depend on the CPO contract, though the Service represented there are not suitable alternate accommodations for a post office in the community (Record Item 21).

The current workload at the Strang Post Office is at the EAS-E level. The Post Office is open 36 hours per week: Monday through Friday from 7:15 a.m. to noon and from 1:15 to 3:15 p.m., and on Saturday from 7:15 a.m. to 9:30 a.m. (Record Item 21). There are about 8 retail window transactions daily, and the Postal Service reports that the actual time needed to process these transactions, excluding general delivery, is nine minutes per day (Record Item 6). Also daily about 353 pieces of mail are received and 51 pieces dispatched (Record Items 4 and 5).

The Post Office serves a total of 68 customers: 28 box holders, two general delivery customers, and 38 residents who receive intermediate rural route service (Final Determination at 1). The Post Office sells stamps, stamped paper, and money

orders and handles registered, certified, insured, COD, and Express Mail. There are no meter customers and only one permit mailer, the Cornhusker Farms. Cornhusker Farms has not used its permit in more than two years (Record Item 37). Under regulations in the Domestic Mail Manual (DMM § P040.1.6), permits may be revoked after 12 months of non-use, but the Record indicates that the permit mailer would transfer to the Bruning Post Office (Comments on Appeal at 2; Final Determination at 1).

Receipts for the Strang Post Office in Fiscal Year 1992 totaled \$10,716; in FY 1991, \$13,169, and in FY 1990 \$13,737 (Record Item 22). The annual costs to the Postal Service to keep the Post Office open and employ a postmaster total \$23,918: \$16,928 in salary, \$5,670 in fringe benefits, and \$1,320 in rent (Record Item 21). The Postal Service estimates it can provide replacement service with a contract post office (CPO) for about \$12,000 annually, saving \$11,918 a year (Final Determination at 9).

The CPO service would be supplemented by independent post offices located in Geneva, NE (six miles away), and Bruning, NE (seven miles away). Geneva is an EAS-18 office and Bruning is an EAS-13 office. Both have numerous post office boxes for rent. Bruning, whose postmaster was promoted from Strang and knows the community, would administer the Strang CPO (Record Item 32-A). The Strang name and zip code would be retained (Final Determination at 9).

#### **B. Postal Service Procedures**

The procedural requirements for providing adequate notice of the Postal Service's intention to close or consolidate a post office and provide an opportunity for public comment are found at section 404(b) of the Act, as well as 39 Code of Federal Regulations § 241.3. The Postal Service begins its decision-making procedure by sending the affected customers a letter and questionnaire.

By letters dated March, 1993 the Postal Service explained its proposed change of service to its Strang Post Office customers (Record Item 8). In April, 1993, the Postal Service sent questionnaires to its Strang customers (Record Item 16). Of the 49 questionnaires returned, the Postal Service concluded that 17 approved the change of service, 21 opposed it, and 11 expressed no opinion (Record Item 10).

In addition, a citizen-initiated petition voicing dissatisfaction with the proposal to consolidate the Post Office was signed by 89 persons and sent on August 16, 1993 to both Nebraska Senator James Exon (Record Item 33H, F) and to the Postal Service (Record Items 32C and 28-8). Senator Exon inquired about the matter in a letter to the Postal Service dated September 9, 1993; the Postal Service responded to the Senator on September 12, 1993 (Record Item 33H).

To further address citizens' concerns, the Postal Service announced by a Public Notice dated March 27, 1993 (Record Item 8) that postal representatives would meet with interested persons at the Strang 4-H hall from 7:00 p.m. to 9:00 p.m. on March 31, 1993. There were 27 customers who attended (Record Item 9). Then, from June 18, 1993 until August 20, 1993, the Postal Service, in compliance with its 60-day notice requirement, posted its proposal to consolidate the Strang office.

As expressed on returned questionnaires, on the petition, at the community meeting, from the Congressional inquiry, and in letters to the Commission, the residents of Strang were concerned about service, particularly delivery times; potential economic savings; the location of the CPO; chances for residents to bid on the CPO; closure of the CPO at a later date; community identity; a potential negative impact on future community growth; Postal Service expenditures on other expensive projects while small amounts of money are saved by closing small post offices, and general objections to change (Record Items 17, 28; Final Determination at 2-5).

Comments favorable to the consolidation included an August 16, 1994 letter from Thelma Horton (Record Item 28-7-A), in which she explained that she regretted signing the petition (and assumed others did also), because she misunderstood the nature and service of a CPO, and comments by Glenn Franklin (Record Item 28-10), who wrote: "The only noise is coming from a couple of self-appointed VIPs on rural route and one with a Geneva address. The town welcomes a CPO...". Other favorable comments stated that the current manager "is doing an excellent job" (Record Items 17-28-B and 17-25-B).

On September 17, 1993 the Postal Service certified its proposal and all supporting documents to U.S. Postal Service headquarters in Washington. On April 11, 1994, the Senior Vice President of Customer Service and Sales signed the "Final Determination to Consolidate Strang, Nebraska Post Office and Provide Service Through a Community Post Office." The Commission accepted this appeal on July 7, 1994.

### III. Commission Review

In its Final Determination and in its "Comments Regarding Appeal" the Postal Service addresses all of the concerns brought to its attention through the questionnaires, the community petition, the community meeting, and the letters sent to the Commission on appeal.

In all areas of concern except the potential closure of the CPO, the Commission finds that the Postal Service thoroughly answered and fully explained its reasoning. The Postal Service's responses are summarized as follows:

- 1) **Service**--The Postal Service explained to residents of Strang that the proposed CPO service would be almost identical to the service the community now receives. There would no changes in addresses; all services except permit mailing and postage meter settings would be continued; window service hours would remain the same; citizens would continue to be able to pick their

mail up early at the CPO; senior citizens would continue to receive the current service and special assistance provided; accountable mail and parcels too large for boxes would be available at the CPO; mail delivery times would remain the same; collection and dispatch schedules would remain the same; the CPO contractor would be selected with attention to background and quality, reliability, and integrity of service; customers would not have to travel to another post office for their needs, and philatelic and special issue stamps would remain available (Final Determination at 2-5).

2) **Economic Issues**--The Postal Service thoroughly explained the potential savings to the Service of operating a CPO rather than an independent post office. The Postal Service explained that under the Act and as a business, economic considerations had to be taken into account. The Postal Service explained that ratepayers, not taxpayers, covered costs, and it noted that increased mail volumes in large communities helped to defray increased costs (Final Determination at 5). In addition, in responding to Ms. Lentfer's criticisms of Postal Service management decisions (among them the U.S. House of Representatives post office scandal and expenditures on the new Postal Service logo), the Postal Service noted that such issues do not fall under the review procedures of 39 U.S.C. § 404(b) and are appropriately addressed in another forum (Comments on Appeal at 8).

3) **Community Identity and Future Growth**--Since the CPO would remain in the community, the ZIP code and all addresses would be the same. The Postal Service also explained that it found no indication that new businesses would be discouraged by having a CPO rather than an independent post office. In addition, the minimal growth the community has experienced can easily be accommodated through a CPO.

4) **CPO Bids and Closure**--The Postal Service assured the citizens of Strang that they could bid on the CPO contract and

that if a community member obtained the contract, the CPO also would add revenue to the community.

As for the closure issue, in the Final Determination at page 3 the Postal Service noted that a CPO cannot be closed without proper justification and that approval must be obtained from the Senior Vice President, Customer Service and Sales, at postal headquarters.

In letters to Senator Exon and Ms. Janet Lentfer, however, the Postal Service made promises about closure that went far beyond the normal review process described in the Final Determination.

In an April 5, 1993 letter to Ms. Lentfer, Douglas O. Emery, Manager, Post Office Operations in Lincoln, NE, said:

"I will again state my strong feelings that we will do nothing to lessen the service to Strang and if we put in a CPO my assurance that we will not be back to look at Rural Service. If we put in a CPO and IF the community can continue to find someone to take on the responsibility, the Postal Service will consider this closed once and for all" (Record Item 32-H).

In a letter dated August 19, 1993, Mr. Emery repeated his commitment to Ms. Lentfer by saying:

"We have made a committment (sic) at the community meeting that we would not come back and propose a different alternate delivery method, as long as the community could provide us with a bidder for the CPO" (Record Item 33 at 28).

Then finally, in one last commitment, Mr. Emery wrote to Senator Exon on September 13, 1993 that:

"My boss, W. Larry Howell, District Manager, Customer Services for the Central Plains District, and myself, have assured Ms. Lentfer and the community in writing that, as long as they can provide someone to manage the CPO, the Postal Service would not attempt any other change in their delivery. We have been open and up front with the community and, we have no desire to completely close the Strang Post Office or CPO" (Record Item 33 at 283).

However, in an August 26, 1993 internal memorandum to Mr. William Brown, the area manager of the Midwest Area Office, Mr. Emery significantly modified his public commitment, writing:

"We have gone beyond what we were obligated to do and have even given them assurances, thanks to Mr. Howell's okay, that we would agree not to come back *in a short time* (emphasis added) and ask them to change to a different form of alternated delivery if they could find someone to staff the CPO" (Record Item 32-A).

Mr. Emery's description of a "short time" commitment undermines the validity of the public promises never to close the CPO so long as a contractor could be found.

The Commission concludes that the internal memo of August 26 casts serious doubts on the validity of the promises made to the Senator and to the public by the Postal Service. Public comments and attitudes formed as a result of these promises can not be viewed as informed, and thus the notice provided by the Postal Service to Strang residents was defective and inadequate.

Meanwhile, the residents of Strang, under the Postal Service's interpretation of the Act, would have no right to appeal a future CPO closure. The Postal Service informs the residents in the Final Determination that one of the disadvantages of a CPO is the Postal Service view that "customers have no right to appeal [a CPO closure] decision to the Commission" (Final Determination at 6). Under the Postal Service's interpretation of the Act, this lack of appeal rights would eliminate any opportunity for the citizens of Strang to argue that they had been promised a CPO so long as they could supply a qualified CPO contractor.

The Commission, as originally stated in the Knob Fork, WV appeal in 1983 (PRC Op. A83-30) and as addressed in the last four consolidation cases [Waka, TX (PRC Op. A94-1), Inavale, NE (PRC Op. A94-3), Benedict, MN (PRC Op. A94-8), and Green Mountain, IA (PRC Op. A94-9)], 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.

While it may seem a legal interpretation of minor importance, the Commission finds that the Strang, NE case demonstrates precisely why residents of small communities must be assured of appeal rights in closures of CPOs. The Strang community has been promised by officials of the Postal Service that the consolidation of their post office into a CPO will guarantee CPO service for the community as long as the community supplies a qualified contractor. Internally, Postal Service officials may conclude that the continuation of the CPO need be only longer than "a short time."

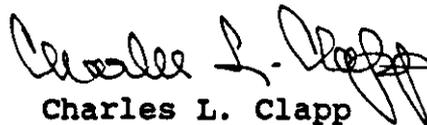
This confusion on the Record would certainly be a question for appeal should the CPO ever be closed. Except for this defect, the Commission recognizes that Postal Service officials, particularly Mr. Emery, demonstrated an extraordinary interest in being fully accessible and responsive to the Strang community.

#### IV. Conclusion

Because the information concerning Postal Service commitments provided to the residents of Strang was misleading, and the misleading information could have direct, adverse consequences, the Commission finds that in this case the Final Determination and the Record as a whole fail to meet the standards of 39 U.S.C. § 404(b). The Postal Service's determination to close the Strang, Nebraska post office is therefore remanded.

By the Commission.

(Seal)

  
Charles L. Clapp  
Secretary