



April 28, 2011

The Honorable Ruth Goldway  
Chairman  
Postal Regulatory Commission  
901 New York Avenue, Suite 200  
Washington, D.C. 20268-0001

Dear Chairman Goldway:

This purpose of this letter is to convey to the Commission the views of the National League of Postmasters and the National Association of Postmasters of the United States on the proposed Postal Services regulations seeking to amend Part 241 of Title 39 of the CFR, released by the Postal Service on March 31, 2011 at 76 Fed Reg. 17794. That Part contains the Postal Service's regulations on Post Office organization and administration, including the establishment, classification, and discontinuance of post offices.

First, we believe that the proposed Postal Service regulations are fundamentally inconsistent not only with the spirit, but also with the actual language of the underlying statute. We base our view on the attached opinion letter from Harold Hughes, of the law firm of Ford & Huff. Mr. Hughes is a former General Counsel of the Postal Service, and served by direct appointment to six Postmasters Generals. His opinion letter concludes that "the Proposed Rules are in significant conflict with applicable law."

Second, in addition to the illegality of the proposed regulations, we believe that the proposal fundamentally contradicts Congress' concern with the impact that the closing or consolidating of post offices has on the affected communities, particularly in small towns and rural areas. Importantly, Congress was not only concerned about how Post Office closures reduce postal services, but Congress also expressed deep concern about the non-postal consequences of closures and consolidations. In fact, the Commission recognized the possibility of such adverse results, when it recently retained the Urban Institute to evaluate how closures influence community dynamics and the economic sustainability of the affected locality.

The Congressional intent of those statutes was not to give notice of a decision that had been made by the Postal Service, but to give notice that the Postal Service was thinking of making a decision, so that the local citizenry would be informed and thus could intelligently discuss with the Postal Service how their communities would be affected. This would allow the Postal Service to make an informed decision, based on

data obtained from the community. The Postal Service was to act in the public interest – not its sole interest – in these matters, taking into account all the interests of the community. *In the matter of Bill, Wyoming*, PRC Docket No. A 79-22 (October 18, 1979) at 9.

Senatorial concern with the nonpostal effects of closings and consolidations was broad and bipartisan. This anxiety was expressed during the 1976 floor debate about whether the now-statutory post office closing provisions should be added to the bill that was before the Senate. These provisions were adopted and the bill passed the Senate, ultimately becoming the 1976 amendments to the Postal Reorganization Act of 1970.

The 1976 floor debate in support of the Randolph amendments was definitive, bipartisan, and broad. For instance, Senator Randolph (D-WV), the architect of the post office closing provisions said:

. . . I look on those offices . . . as representative of the Federal Government from the standpoint of actual day-by-day service, not just for the patrons of the offices, but also for the people of those communities who are helped by the postmaster.

These postmasters--men and women--are, in a sense, counselors to so many people. They help, in many ways with the filling out of forms and reports, and they represent what I believe is the human side of the Government . . . They strive daily to help citizens generally across a broad front.

122 Cong. Rec. 27092 (August 23, 1976). Likewise, Senator Ted Stevens (R-AK), who helped craft the 1970 Postal Reorganization Act, said:

We are aware that the U.S. Postal Service and its local post offices perform many functions which in reality have nothing to do with delivering the mail. No other Federal agency touches the lives of every American every day like the U.S. Postal Service does. For millions of Americans, the U.S. Postal Service is the only Federal agency with which they come in contact. The USPS to them is a government symbol and an important part of the Federal Government. In rural America there are hundreds and thousands, indeed GAO maintains there are 12,000, of post offices which in fact do not need to exist in order for the U.S. Postal Service to carry out its function of delivering the mail. On the other hand, they are needed for economic, social, and cultural benefits of rural America . . . Post offices provide a public service which I do not feel should be eliminated. These examples point up the need to maintain post offices even when mail can be delivered through another method.

Id. at 27128.

Senator Ernest Hollings (D-SC) strongly supported Senator Randolph:

I say to the Senator from Alaska that you only have to see a State of that kind to appreciate what the Senator from West Virginia [Sen. Randolph] is trying to get to. They are all out there, little fishing villages hither and yon, and the central gathering point is our little post office. That jells them together into a community. I think that is valuable to America . . . .

Id. at 27107. Senator Robert Packwood (R-OR) echoed that sentiment:

I believe that small post offices serve a necessary social function. They are a hub of small communities, and are often the only Federal agency in town to give needed information on taxes, social security, civil service, and other public service materials. These rural post offices are necessary services.

122 Cong. Rec. 27427 (August 24, 1976). Senator Gale McGee (D-WY) Chairman of the Senate Post Office and Civil Service Committee and an author of the Postal Reorganization Act of 1970, confirmed his view of “the importance of rural post offices everywhere in America, as a symbol much larger than just postal services.” 122 Cong Rec. at 27092 (August 23, 1976)

In essence, Congress determined that the post office closing laws protect a public interest much broader than the provision of postal services. The Commission has recognized this protection in its case law, most clearly articulated and incorporated into its jurisprudence in the seminal *Lone Grove* case:

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There is nothing inherent in the broad term “effect” which would limit its application to consequences directly connected with a change in postal Service patterns. . . . If Congress had intended to limit the consideration of community effects to those caused by changes in mail service patterns, it could have omitted § 404(b)(2)(A) altogether and rested on the provision just quoted. . . . We think that the structure of § 404(b) as a whole thus supports the view that § 404(b)(2)(A) was intended to encompass effects on the community other than those causally linked with the change in postal service patterns. . . . In view of this legislative history, it seems to us incontestable that the Service was intended to consider community effects not connected with the rendering of postal Services.

*In the Matter of Lone Grove*, Docket A79-1, May 7, 1979 at 10, 13, 16. See also *In the Matter of Woolsey, Georgia*:

In *Lone Grove* . . . the Commission concluded that the Postal Service is required, as a matter of law, to make an independent inquiry into nonpostal effects of closings or consolidations and its determination to effect such a closing or consolidation must demonstrate that such an inquiry was made. We specifically pointed to several examples involving business, economic and social effects which we believed were necessary areas for Postal Service inquiry.”)

*In the Matter of Woolsey, Georgia*, Docket A82-1, May 14, 1982 at 7.

Finally, the point Senator Stevens made back in 1976 about the importance of post offices and postmasters being the visible face of the government and of government services, is still with us today, as the testimony of both NAPUS and the League have shown over the last several years. There is a video in the Commission’s files that was submitted during the Commission’s USO proceeding that visually documents a current example of this very phenomena in Horatio, South Carolina. The video is entitled Post Roads, and it may also be found at:

<https://www.postmasters.org/legislation/rural%20post%20offices.wmv> .

Some may argue that the provision of other broad services to small rural communities has no place in a modern Postal Service. That, however, is not what the

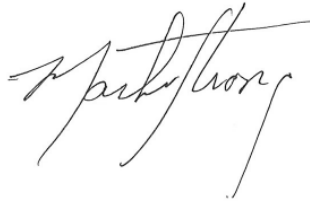
legislative history of the post office discontinuance statute demonstrates. Congress fully understood that, unlike urban areas, governmental assistance in rural areas is only available through the local Postal Service and its postmasters. Consequently, it is up to Congress, and not the Postal Service, to decide that the Postal Service should abandon these critical roles. While the Postal Service may feel that spending 7/10s of one percent of its budget to serve small towns and rural America is too great a price to pay, that is not its call to make. Unless and until those provisions are removed, and this country's postal policy changed, the Postal Service must comply with the existing law.

Should you have any questions or need any further information, please contact either or both of us. Thank you for considering our views.

Sincerely,



Robert Rapoza  
President  
National Association of Postmasters of the  
United States



Mark Strong  
President  
National League of Postmasters

Enclosure

cc: Vice Chairman Acton  
Commissioner Blair  
Commissioner Langley  
Commissioner Hammond