



POSTAL REGULATORY COMMISSION

[Docket No. A2012-101; Order No. 1102]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Cardwell, Montana post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES:

January 26, 2012, 4:30 p.m., Eastern Time: Deadline for Petitioner's Form 61;

February 15, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. See the Procedural Schedule in the

SUPPLEMENTARY INFORMATION section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the "Filing Online" link in the banner at the top of the Commission's Web site (<http://www.prc.gov>) or by directly accessing the Commission's Filing Online system at <https://www.prc.gov/prc-pages/filing-online/login.aspx>. Commenters who cannot submit their views electronically should contact the person identified in the FOR FURTHER INFORMATION CONTACT section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202-789-6820 (case-related information) or DocketAdmins@prc.gov (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received three petitions for review of the Postal Service's determination to close the Cardwell post office in Cardwell, Montana. The first petition for review received December 22, 2011, was filed by Afton Fell. The second petition for review received December 22, 2011, was filed by Misty Hammerbacker. The third petition for review received December 22, 2011, was filed by the Clays of Calico. The earliest postmark date is December 10, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012-101 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 26, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it "will delay the closing or consolidation of any Post Office until May 15, 2012".¹ The Postal Service further indicated that it "will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

of December 12, 2011, including all pending appeals.” Id. It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” Id. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” Id.

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider the effect of the closing on the community (see 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (see 39 U.S.C. 404(d)(2)(A)(iii)); (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (see 39 U.S.C. 404(d)(2)(A)(iv)); and (4) there are factual errors contained in the Final Determination.

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service’s determination disposes of one or more of those issues. The deadline for the Postal Service to

file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. See 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at <http://www.prc.gov>. Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at 202-789-6873 or via electronic mail at prc-webmaster@prc.gov.

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at prc-dockets@prc.gov or via telephone at 202-789-6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, <http://www.prc.gov>, unless a waiver is obtained. See 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site,

<http://www.prc.gov>, or by contacting the Commission's docket section at prc-dockets@prc.gov or via telephone at 202-789-6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. See 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 30, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, <http://www.prc.gov>, unless a waiver is obtained for hardcopy filing. See 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. See 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. See 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Emmett Rand Costich is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the Federal Register.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 22, 2011.....	Filing of Appeal.
January 6, 2012.....	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 6, 2012.....	Deadline for the Postal Service to file any responsive pleading.
January 30, 2012.....	Deadline for notices to intervene (<u>see</u> 39 CFR 3001.111(b)).
January 26, 2012.....	Deadline for Petitioners' Form 61 or initial brief in support of petition (<u>see</u> 39 CFR 3001.115(a) and (b)).
February 15, 2012.....	Deadline for answering brief in support of the Postal Service (<u>see</u> 39 CFR 3001.115(c)).
March 1, 2012.....	Deadline for reply briefs in response to answering briefs (<u>see</u> 39 CFR 3001.115(d)).
March 8, 2012.....	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (<u>see</u> 39 CFR 3001.116).
April 6, 2012.....	Expiration of the Commission's 120-day decisional schedule (<u>see</u> 39 U.S.C. 404(d)(5)).

[FR Doc. 2012-435 Filed 01/11/2012 at 8:45 am; Publication Date: 01/12/2012]