

Before The  
Postal Rate Commission  
Washington, DC 20268-001

In the Matter of: )  
United States Postal Service )  
Motion To Dismiss Reporting )  
(United States Postal Services, Respondent ) Docket Number. A-2006-1

The petitioner has information that the United States Postal Service Motion To Dismiss should be dismissed and Petitioners Petition should be allowed to continue with the Postal Rate Commission and others. The Postal Service must substantiate any proposal to change or eliminate completely Observatory and the rational behind closing a profitable, viable, well-attended mail center.

The petitioner is Observatory Hill, Inc. and is a community improvement organization interested in improving the quality of life for all residents through the preservation or restoration of homes and buildings and conservation of community resources.

The Petitioner was not aware of the fact that the process of appeal included filing with the Postal Rate Commission. The Petitioner Observatory Hill Inc, sought help from the Internet because not hearing any word from the Postal service either lower or upper for months. The petitioner decided on its own to search the internet and so found that it could and was allowed to file with the Postal Rate Commission yet this only occurred after postal service posted notice to close. This is also how come the Petition for review was sent was sent to three separate addresses of the Postal Rate Commission and not electronically June 2006. The community did not enjoy support from or directions from the postal service unless we just became persistent in our requests by phone and letter.

The Observatory Station was profitable revenue generating facility-providing patrons with effective and convenient customer service. The Observatory station was at least seventy years young and had never operated at a deficit. The post office received good walk-in traffic from seniors, families, four churches, fourteen community businesses in the immediate area. Nancy Glass, a pharmacy technician at the Medicine Shoppe, which is down the street states: We mail over 100 packages a month. The closing represents a terrible hardship,” or Carolyn Hatcher, a walking senior states; seniors need this post office. Its good to get out and It’s good for morale. Sometimes after going to the post office, I keep walking to Riverview Park. The post office had a “home-town hello” feel to it. People were known by name. People had the post office as part of their route when walking. The post office was a viable community asset, and a contributing reason people came to Observatory to do their postal business and live here. The shorten hours on either end of the workday, prevented people from using it. ([Http://www.post-gazette.com/pg/06168/699023-53.stm](http://www.post-gazette.com/pg/06168/699023-53.stm)).

Mr. Pipitone who lives in a home located on Riverview Avenue and owns a business called Pipitone group in the business district one block from Observatory Station says:

In addition, my home is located in this section of Pittsburgh, so I have a very real concern about the results of this closing on my neighborhood. Since this is a “walking community,” our residents and business owners rely on our services being close at hand. With-in a two block radius, we have a convenience store, two banks, drug store, pizza shop, restaurant, tavern, bakery, chiropractor, three beauty shops, barber shop, day care center, notary, thrift store, personal car detail & wash, church, fire station, Perry Traditional Academy high school, and our Post Office”

We find that the Observatory Station did not deserve to be eliminated and permanently closed. The closing was not justified and should not have been sought and the proposal to close should have been rejected. Its acceptance demonstrates the inconsistent belief by the Postmaster that Observatory Station was the lowest revenue generating station in Pittsburgh and should be closed because people in Observatory do not use the post office any longer (Richard Sekinger Postmaster June 12, 2006).

Philip Bohr was Observatory’s Clerk for fourteen years and the office was open from 8am until 5pm with a noon lunch break. He said the post office brought in an average of \$150,000 a year for fourteen years. The postmaster asks how the community had received such information as to revenue amounts before the post office closed and after...and he said.... Philip Bohr’s name and was silent. Yet he as postmaster said: “ only post offices that are no longer used by the community are closed” There were additional revenues Observatory made above and beyond the yearly average during full time status that were not accounted for:

Revenue units are unavailable due to the fact that the entire city of Pittsburgh station and branches all were under the same finance number (proposal to close the observatory finance station page 1).

“The Postal Service shall provide a maximum degree of effective and regular postal service to rural areas, 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 Congress that effective postal services be insured to residents of both urban and rural communities”. Section 101(b) of Title 39 of the U.S. Code; Knapp v United States Postal Services, 449 F.Supp.158 (E.D.Mich 1978)

We find that the decision to close Observatory permanently was thoughtless, insensitive, disrespectful and acted upon within a short period of time without adequate community participation in 2002 and in 20026. This is reason to dismiss the postal services motion to dismiss and the whole process to close Observatory should be start anew and Observatory post office and facility should be continued immediately.

Whether the post office is a Independent post office, or classified as a postal facility situated in a rural community or suburban community or in up state New York, or situated in the fictional town of May Berry PA. The fact is that the post office should and ought not have closed. The post office should not have been put in a position where residents were not heard and basing the decision on 8 community residents was extremely inadequate to say the least. The community should be allowed to participation in a process that works from beginning to end and not be allowed to dangle and hand out to dry for months on end. The intent was to make sure post offices residents can be heard and actively participate in any postal closing. The Observatory station has the following wording displayed on the outside of the post office: The United States Post Office Observatory Station. The Observatory Station was viewed by residents and all others as a post office. We find further that Senator Randolph would have expressed his displeasure at the indiscriminate way the Observatory Station was closed.

“Now the Postal Service has embarked on a new project. It has far reaching implications for rural America. Congress does not want the indiscriminate closing of our rural and small town post offices. The decision has been made to create branches out of many post offices close to large cities. This would transfer a community-orientated post office into one administered through the instructions and directives of large city postmasters with little or no community involvement. This plan will erode the identity so important to people who wish to maintain a heritage of mutual interest”. 122 Cong.Rec 6314 (march 11, 1976).

Thus the amendment sponsor did not intend for his use of independent post office to prevent, or stop a profitable, well-used postal facility from providing crucial documentation and testimony because of how post office is being applied. This was not the tone of his compassionate speech on the floor of congress. . He would not have allowed the community to remain silent while residents community post office or postal facility was dismantled and eliminated completely (emphasis added. 122 Cong. Rec 6314 (March 11, 1976).

There was a time when the Observatory station did not reside in the city limits of Pittsburgh and enjoyed the status of being a rural post office in a small town having an independent postmaster and was immediately supervised by a postmaster that received registered and other mail received or dispatched without passing through the main post office. (39 CFR 241.2 (a)(3).

The postal facility should not have been closed. What happen to common courtesy? The postal facility had served the community for seventy years and a whole lot of seniors and families still used it. ....65 customers per day or 16.5 customers per hour. This is a strong number. (Most customers would agree that a wait time at any post office is more than 2 minutes Richard J. Sestric letter to Honorable Rick Santorum August 16, 2005) The Observatory Hill has many second-generation businesses. These kids took over the family business like Schorr bakery, Inc, and Collette’s hair salon.

To close or not to close Observatory Station what was the rush? What was the reason for not adequately including the community? What was the reason for providing a weak and unacceptable Proposal To Close The Observatory Finance Station and Continue To Provide City Delivery Service to begin with? Based upon its merits the proposal to close submitted by the Postal Service should be dismissed and the United States Motion to close should be dismissed. We find that the postal service management should have withdrawn their plan to close since July 2002. We have shown that Observatory was revenue generating postal facility. The economic savings were invalid and the revenues are \$56,000 in 2004 even though the hours of operation from 10am to 2pm were seriously inadequate for walk-in traffic.

III. Re: Economic Savings- Postal Service: ...Your estimate of annual savings of \$37,085.00. The first two items are connected to the "clerks salary" and "fringe benefits". Is it not true that, if this facility is to be closed, that the clerk will be employed at some other facility? If so, there are no savings. Your true savings are only from rental costs and utilities. Thus, your figure of annual savings seems to be invalid Dr. William Ferianc to Richard L. Sekinger Postmaster, Pittsburgh).

The Observatory Station closed because the post office did not make as much money as Postal management wanted and decided early on to close the office over time. Postal management has shown no documentation to prove or provide sound reason to close the Observatory post office yet they do put forth " A review of business activities of the Observatory Finance revealed that the office workload has declined, and that the office qualifies for service only four hours per day. Accordingly, the service hours were changed effective July 15, 2002, to 10:00am to 2:00pm, Monday through Friday." (The Proposal To Close page one).

The first action that precipitated the closing of the Observatory Post Office in 2006 occurred we contend happen when Postal service management decided to reduce the hours of operation from 40 hours a week to twenty hours a week. Secondly action that gave reason to close was scheduling hours of operation from 10am to 2pm, virtually splitting the day in half and providing an undue hardship upon those who were consistently providing good steady revenues to Observatory. The third item was that postal magement did not include the population in any community public forum in the community ever. People felt they had no voice. People felt and would say...things have already been decided upon yet the post office continues to make a profit and revenues surpassed expenses. We find that Postal Service Management actions were arbitrary, capricious, indiscreet, or otherwise not in accordance with the law, and spirit of the law without observance of procedures required by law, and unsupported by substantial evidence on the record.

The decision to close permanently May 16, 2006 a postal facility that continued to turn a profit, draw a good number of walk-in customers from Observatory and was located in an area that had a critical mass of retail, teachers, seniors, single families and State representatives office on the left, with magistrates office on the right made no sense. Especially considering the fact that Perry Traditional Academy is directly across that street from the Observatory Post Office. The postmaster was ask from June 2005 to May 2006 to come to several community meetings. No reply until June 12, 2006 he meets with the community's representative from Observatory Hill. Where in he states that reason for not attending any community meeting in the community of Observatory Hill. "Because we do not have access". The postal service told the community what the process was October 2005 in a letter to Observatory Hill. The Postal Service is mandated to follow 39 USC 404(b), while the implementing regulations appear in Title 39, Code, Federal Regulations, Part 241.3. Also, while the community and its representative waited for a final written determination from upper level Postal management in Washington DC.

The postal service took no action from October 2005 up to mid-point of May 2006. They did not rely any information to the community even though the community was asking to meet. Then Observatory Hills President was forced to ask Congressman Doyle's office to find out what the up date was....again we are waiting since October for a written response and the communities turn to participate in an open forum and no such opens. Then the community is told: there is no appeal process when closing a station. May 16, 2006 the notice: At the Close of Business FRIDAY-JUNE 16,2006 THIS POST OFFICE WILL PERMENATELY CLOSE.

We find that the whole process should be sent back to the postal service and they need to start all over again and their decision to not respond to this petition and also provide law would have only added more reason to allow the Observatory Station to continue on with they Postal Rate Commission.

What does is matter if a postal service provides more postal services but cannot be used by seniors and families who depend upon public transportation? What about those who pride themselves in being able to get out and about by foot and these are some of the very individuals who help to make the Observatory post office profitable. Now the people...the ones who lieterally walk-in the postal profits for the most part. These are the people being forced to feeling the bit of not continuing to have their once effective postal service and be forced to go four miles away to another post office.

Seniors and families in our area tend not to go out at night and you find them to be in the house right after work for the most part so 24 hour open post office or a myriad of postal services become a hardship. Like one senior said: Where are you going to get \$1,800 to but a computer? I have enough trouble with a 39-cent stamp (Michael McCarthy who held a sign up that read, "Post Office Keep Open!")

We find that we are thankful in our situation the Commission's consistent practice to send a form letter in response to an attempt to appeal the closing of a station or branch, advising the petitioner of the Commission's lack of jurisdiction in this matter did not occur because this situation is extremely unique and exceptional to say the least. We are further thankful that the Commission did not follow that procedure in this matter of Observatory closing because we get to be heard and our rights are not trembled upon. If it were not for the appeal process. We would not have realized we had any rights. The postal service never ever step forward to even mention at any point that there was an appeal process. Folks simply did not know. Therefore the Motion to by the United States Postal Service should be dismissed and the decision to close Observatory Finance Station should be returned, sent back so the postal service. This is their opportunity to get it right and re-open/ continue a well used, effective postal facility that can and will get better if people's input like is used like: The community's Petition For Review that states clearly what 3000 residents want in order for the post office to be even more effective (fit their postal needs) and be profitable.

The appeals process brings to light the actions of the Postal Service management and ensure they follow not only the letter of the law but also the spirit of the law, as well. We had hope that once this issue can to light with the lower levels of postal management and then upper levels of postal management that minds would change and they would with draw their decision to close Observatory and continue retail postal service. Therefore again the motion by the United States Postal Service should be dismissed.

We want the following there fore to occur:

...The postal service shares the concern, expressed in the comments on the posed regulations, that subordinate facilities should be closed for arbitrary or unsatisfactory reasons. Consistent with this view, the proposed regulations have been revised by the addition of 113.41 and 113.42 to require that afiled Division General Manager/Postmaster who determines that it is necessary to discontinue the operation of a classified station or branch operated by the Postal service employee, or a contractor operated community post office must provide notice of the reasons for that proposed action...the postal service believes that establishing this separate procedure for the review of stations, branch, and community post office closing by senior level Headquarters mangementwill provide adequate safeguards against the unjustified closing of subordinate faculties, while preserving essential management flexibility

(Domestic mail Manual, which is incorporated by reference Code of Federal Regulations. See 39CFR 111.1 (113.41 and 113.42 as well)). 41302 Federal Register/ Vol. 51, No. 220.

Based upon the foregoing, petitioner respectfully request that the motion by the United States Postal Service be dismissed and the Petitioners Petition be allowed to continue or be sent back to the postal agency to get it right in the closing of Observatory Station because the closure was and is unjustified. We firmly believe that acceptance of petitioners Petition would ensure that adequate safeguards against the unjustified closings of subordinate facilities in this matter would not occur in the future and if so post offices will continue to remain open while the postal service and community work together to close only postal facilities and that need to be closed. Observatory needs to be re-opened immediately.

Respectfully submitted,

Observatory Hill Incorporated,  
Petitioner's Motion

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