

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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*In the Matter of:*

Venice Main Post Office  
Venice, California 90291  
(Mark Rayavec and Venice  
Stakeholders Association,  
Petitioners)

Docket No. A2012-17

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**MOTION OF UNITED STATES POSTAL SERVICE  
TO DISMISS PROCEEDINGS**  
(October 27, 2011)

This matter commenced with a letter received by the Postal Regulatory Commission that purports to invoke its jurisdiction under 39 U.S.C. § 404(d) to consider an appeal of an alleged Postal Service decision to discontinue the Venice Main Post Office.<sup>1</sup> As described in the Postal Service's response to Petitioner's application for suspension,<sup>2</sup> the Postal Service has decided to relocate the Venice Main Post Office; no discontinuance occurred. As the Postal Service has previously determined, the scope of section 404(d)(5) is limited to the discontinuance of a Post Office, and does not apply to the relocation of a Post Office. Because Petitioner's appeal concerns the relocation of a Post Office, an event that falls outside the scope of 39 U.S.C. § 404(d)(5), the Commission lacks subject matter jurisdiction and should dismiss the appeal.

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<sup>1</sup> Petition for Review of Closure and Consolidation of Venice Main Post Office and Application for Suspension of Determination, PRC Docket No. A2012-17(October 17, 2011).

<sup>2</sup> Response of United States Postal Service to Petitioner's Application for Suspension of Determination for the Venice Main Post Office, Venice, California 90291, PRC Docket No. A2012-17 (October 27, 2011) (the "Petition").

## PROCEDURAL HISTORY

By means of Order No. 918 (October 20, 2011), the Postal Regulatory Commission (Commission) docketed correspondence from customer Mark Ryavec and Venice Stakeholders Association, assigning PRC Docket No. A2012-17 as an appeal pursuant to 39 U.S.C. § 404(d). Petitioner filed an application to suspend the relocation of the Venice Main Post Office (the “Application”)<sup>3</sup> on October 17, 2011. The Commission also received correspondence in this matter from Greta Cobar, Sue Kapla, Lydia Matkovich, Jethro Pauker, Johnathan Kaplan, James R. Smith, and City of Los Angeles 11<sup>th</sup> District Councilmember Bill Rosendahl. On October 27, 2011, the Postal Service filed its response to the Application, explaining that Petitioner’s appeal involved a relocation, and not a discontinuance, of the Venice Main Post Office.

## FACTUAL BACKGROUND

Venice is a community located in the City and County of Los Angeles, in the state of California. On September 23, 2011, David E. Williams, Vice President of Network Operation of the Postal Service, sent John A. Henning, attorney for petitioners, Venice Stakeholders Association, a final decision letter stating that the Postal Service was relocating the Venice Main Post Office, located at 1601 Main St., to the Venice Carrier Annex, located at 313 Grand Blvd. See Exhibit 1. In this decision, Mr. Williams recognized that the Venice Main Post Office was eligible for a listing in the National Register of Historic Places. Mr. Williams further advised that the Postal Service would follow the

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<sup>3</sup> Petition for Review of Decision to Close Venice Main Post Office and Application for Suspension of Closure Decision Pending Outcome of Appeal PRC Docket No. A2012-17 (October 17, 2011).

statutes contained in the National Historic Preservation Act when it came to reusing or disposing of the property, and preserving the mural painted by artist Edward Biberman, located inside the lobby. See *Id.* Mr. Williams explained that: (i) customers of the Venice Main Post Office may obtain postal services at the Venice Carrier Annex, which is located within 400 feet of the Venice Main Post Office, (ii) the Carrier Annex can accommodate retail counters and Post Office boxes without expanding the building, and (iii) there will be sufficient customer parking at the Carrier Annex. Finally, Mr. Williams explained that in light of the financial situation facing the Postal Service, the relocation would result in cost savings, while maintaining the same level of service for customers within the Venice community. See *Id.*

Additionally, customers of the Venice Main Post Office can obtain services through <http://www.USPS.com/> and other alternate access options, including six stamp consignment sites located within one mile of the Venice Main Post Office. See Exhibit 2 (printout from [USPS.com](http://www.USPS.com/)).<sup>4</sup>

#### ARGUMENT

The Postal Regulatory Commission does not have jurisdiction to consider an appeal of a Post Office relocation under 39 USC § 404(d). As this Commission has previously held, section 404(d) does not apply to a relocation of operations at postal retail operations within the same community. See PRC Order No. 804, Order Dismissing Appeal, PRC Docket A2011-21 (August 15, 2011) (ruling that transfer of retail operations to a carrier annex one mile away

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<sup>4</sup> Exhibit 1 uses the term “Post Office” for retail units staffed by postal employees, thus including stations, branches and Post Offices.

from the main post office was a relocation of retail services, and 39 U.S.C. § 404(d) did not apply); PRC Order No. 448, Order Dismissing Appeal, PRC Docket No. A2010-2, *Steamboat Springs, Colorado* (April 27, 2010) (ruling that the transfer of retail operations to a facility within the same community constituted a relocation or rearrangement of facilities, and 39 U.S.C. § 404(d) did not apply); PRC Order No. 696, PRC Docket No. A86-13, *Wellfleet, Massachusetts 02667* (June 10, 1986) (same where new location was 1.2 miles away from the former location); Order No. 436, PRC Docket No. A82-10, *Oceana Station* (June 25, 1982) (same where new location was four miles away from the former location). Section 404(d) provides that an appeal under that section must concern a closing or consolidation. See 39 U.S.C. § 404(d).

In previous cases, the Commission has concluded that a particular action affecting a postal retail facility constitutes relocation exempt from 39 U.S.C. § 404(d) if both the current site and the proposed future site of the retail facility reside in the same community. For instance, in 1982, the Commission upheld a Postal Service determination to close the Oceana Station in Virginia Beach as part of an overall plan to rearrange postal retail and delivery operations within the Virginia Beach community. The plan included the future establishment of a new retail facility within Virginia Beach and four miles away from the site of Oceana Station.<sup>5</sup> Residents served by Oceana Station claimed that the change in retail operations qualified as a discontinuance under 39 U.S.C. § 404(d). In rejecting their claim, the Commission opined that in enacting Section 404(d), “Congress

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<sup>5</sup> The City of Virginia Beach is relatively large at 307 square miles. See [http://www.vbgov.com/file\\_source/dept/comit/Document/vb\\_facts\\_and\\_figures.pdf](http://www.vbgov.com/file_source/dept/comit/Document/vb_facts_and_figures.pdf).

intended to permit the Postal Service to rely on less formal decision-making, and correspondingly, to give the Commission no jurisdiction to hear appeals of such decisions, when considering where retail facilities are to be located within the community.” Order No. 436, PRC Docket No. A82-10, *Oceana Station*, at 7 (June 25, 1982).

Following its decision in *Oceana Station*, the Commission provided further guidance when dismissing an appeal of the relocation of the Post Office in Wellfleet, Massachusetts. In that proceeding, the Postal Service had decided to move the Wellfleet Post Office from the center of the village of Wellfleet to a shopping center development approximately 1.2 miles away. The petitioners contended that the new location was actually within the neighboring village of South Wellfleet.<sup>6</sup> The Commission upheld the Postal Service position and characterized the Postal Service’s action as a relocation outside the scope of Section 404(d). The Commission explained:

If our record shows that the Postal Service is only relocating a [P]ost [O]ffice within a community, section 404([d]) does not apply and we must dismiss the appeal, since we have no jurisdiction. Section 404([d]) sets up a formal public decision[-]making process for only two types of actions concerning [P]ost [O]ffices – closing or consolidation. The meaning of “closing a [P]ost [O]ffice” as used in the statute is the elimination of a [P]ost [O]ffice from a community. The Postal Service has the authority to relocate a [P]ost [O]ffice within a community without following the formal section 404([d]) proceedings.

PRC Order No. 696, PRC Docket No. A86-13, *Wellfleet, Massachusetts 02667* (June 10, 1986) at 7 (internal citations omitted).

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<sup>6</sup> Wellfleet and South Wellfleet are both villages within the Town of Wellfleet, Massachusetts. Given that village boundaries were unclear, the Commission held that Wellfleet involved a relocation rather than a discontinuance.

Importantly, in a recent case, the Commission reiterated its position that a relocation to a postal service location within the community was not a discontinuance when it dismissed an appeal of a relocation of a post office in Ukiah, California. In this proceeding, the Postal Service decided to move the Ukiah Main Post Office to the Ukiah Carrier Annex; the two locations were one mile from each other. The Commission found that after retail services were transferred to the Ukiah Carrier Annex, and in light of the one-mile distance between the locations, that customers would “continue to have the same level of access to retail services in the community.” As such, the Commission determined that the Postal Service’s action was a relocation, and not a discontinuance, and consequently, was not subject to an appeal under section 404(d). PRC Order No. 804, Order Dismissing Appeal, PRC Docket A2011-21 (August 15, 2011).

The Postal Service’s transfer of retail operations from the Venice Main Post Office is analogous to the relocation actions described above. Here, the Postal Service is relocating operations within the same community, and the former and future sites reside a mere 400 feet apart. See Postal Service Response to the Application, Exhibit 1. Furthermore, the Venice Carrier Annex, unlike the Venice Main Post Office, has space to accommodate both retail services and delivery operations and has adequate space for customer parking and the move will reduce costs for the Postal Service while still providing customers with the same level of service.<sup>7</sup> See Exhibit 1.

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<sup>7</sup> Granting a suspension of the relocation will frustrate the Postal Service’s efforts to immediately reduce costs, in light of its critical financial situation.

Petitioner argues that the Postal Service should have followed the procedural requirements of 39 U.S.C. § 404(d) and 39 C.F.R. § 241.3 as part of its decision to relocate the Venice Main Post Office. Petition at ¶ 2(b) – (l). But the procedures for a relocation are governed by 39 C.F.R. § 241.4, not 39 C.F.R. § 241.3.

In sum, this appeal concerns the relocation of a Post Office. Thus, 39 U.S.C. § 404(d) and 39 C.F.R. § 241.3 do not apply, and the Commission lacks jurisdiction. Accordingly, the Commission should dismiss the appeal.

#### CONCLUSION

For the reasons stated, the United States Postal Service respectfully requests that the Postal Regulatory Commission dismiss this appeal for lack of jurisdiction.

Respectfully submitted,

UNITED STATES POSTAL SERVICE  
By its attorneys:

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October 27, 2011

# EXHIBIT 1



DAVID E. WILLIAMS  
VICE PRESIDENT, NETWORK OPERATIONS



September 23, 2011

John A. Henning, Jr., Esq.  
125 N. Sweetzer Avenue  
Los Angeles, CA 90048

Dear Mr. Henning,

Thank you for your August 31, 2011 request for review of the decision to relocate retail services currently located at 1601 Main Street, Venice, California. Please find enclosed the final decision of the Postal Service regarding the requests for review relating to that facility.

I was designated as the decision maker in this matter because the Vice President, Facilities, had already concurred in the original decision. The attachment explains our position in more detail and we believe we have addressed all of the concerns expressed by our customers. As I have explained, I will not set aside the original decision.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Williams", with a long horizontal flourish extending to the right.

David E. Williams

Enclosure

cc: Tom A. Samra

## **Final Decision Regarding Relocation of Retail Services in Venice, California**

In accordance with the procedures set forth at 39 C.F.R. § 241.4(c)(6), this is the final decision of the Postal Service with respect to the relocation of retail services from the Venice, California Main Post Office at 1601 Main Street to the Venice Carrier Annex at 313 Grand Boulevard. The Postal Service announced its decision to relocate retail services on July 18, 2011 and subsequently received requests for review from several postal customers. I have carefully considered all the concerns expressed by our customers in each of the requests for review and other correspondence along with the complete project file relating to the relocation proposal. While I am sympathetic to some of the concerns raised, for the reasons set forth below, I will not set aside the Postal Service's prior decision.

Postal customers raised concerns about impacts the Postal Service's decision to relocate retail services might have on (1) historic resources and (2) the surrounding environment, specifically traffic and parking impacts within a coastal zone and in the residential neighborhood around the Venice Carrier Annex. Each of these issues is addressed below.

### **I. Historic Resources**

The Venice Main Post Office was constructed in 1939 and is eligible for listing in the National Register of Historic Places. An oil-on-canvas mural entitled "Story of Venice" by artist Edward Biberman is currently on display in the lobby. Several customers expressed concern that the building and/or mural would not be preserved.

Section 106 of National Historic Preservation Act ("NHPA") requires federal agencies to take into account the effects of their proposed undertakings on historic properties, and when such effects are possible, to initiate and complete the Section 106 consultation process. Section 106 review ensures that federal agencies consider historic properties, along with other factors such as cost and agency mission, in the planning process of proposed undertakings. However, the preservation of every historic property is not the goal of Section 106, nor does Section 106 require a business to continue to operate in a historic property even if doing so causes the business to become unprofitable.

The relocation of retail services is not an "undertaking" within the meaning of Section 106. An undertaking is a "project, activity or program" that can result in changes in the character or use of historic properties. The relocation of retail services does not alter the character of the Venice Main Post Office building or the mural. Nor does it change the uses that can be made of the property. There will be no "undertaking" within the meaning of NHPA until the Postal Service adopts a plan for the reuse of the Venice Main Post Office or the transfer of the Post Office building from Postal Service ownership to private ownership. The

Postal Service will initiate the Section 106 consultation process when it develops plans for the reuse or disposal of the property, and the City of Venice will be a consulting party. The Postal Service will include measures to ensure the mural will remain available for public viewing in any plan for reuse or disposal of the Post Office property.

## **II. Traffic and Parking**

The Venice Main Post Office will be relocated 400 feet to the Venice Carrier Annex. The relocation will not result in any negative environmental impacts, nor will it be inconsistent with the policies of the California Coastal Act. The Carrier Annex can accommodate retail counters and Post Office Boxes without expansion of the building. While trips will be 400 feet shorter or longer depending on the direction from which vehicles are traveling, there will be no rerouting of traffic as a result of the relocation. Although several customers expressed concerns about a parking shortage in the area, this situation should not be exacerbated by the relocation of the Venice Main Post Office since the Carrier Annex property includes an on-site parking lot for postal vehicles and will be restriped to accommodate additional parking spaces for our customers.

## **III. Balancing the Impact on the Community and the Best Interests of the Postal Service**

While the Postal Service is not insensitive to the impact of this decision on its customers and the Venice community, the relocation of the Venice Main Post Office is in the best interest of the Postal Service. The Venice Carrier Annex can accommodate the retail counters and Post Office Boxes without expansion of the building. Relocation of the carriers from the Venice Carrier Annex to the Venice Main Post Office was considered, but rejected because the Venice Main Post Office has insufficient parking to accommodate additional operations and insufficient platform space to accommodate tractor/trailer mail delivery. I have also taken into account the comments regarding the physical appearance of the Annex. The Postal Service will realize an annual cost savings of \$135,498 by moving retail services into the Venice Carrier Annex. The annual cost savings takes into consideration the cost of relocation, which is offset by savings from utilities and maintenance labor.

In reaching this decision, I considered all of the public input received but the objections expressed do not outweigh the financial exigencies facing the Postal Service. With current projections for declining mail volume, and the financial condition of the Postal Service, the Postal Service must make any feasible change to reduce costs. As our customers are no doubt aware, the Postal Service is funded by the sales of its services and products. It has an obligation to match its retail and distribution networks to the demand for its services from customers.

Accordingly, I conclude that there is no basis to set aside the decision to relocate the Venice Main Post Office, 1601 Main Street, to the Venice Carrier Annex, 313 Grand Boulevard. This is the final decision of the Postal Service with respect to this matter, and there is no right to further administrative or judicial review of this decision.

A handwritten signature in black ink, appearing to read 'D. Williams', with a long horizontal flourish extending to the right.

David E. Williams  
Vice President, Network Operations

# EXHIBIT 2



# Alternate Locations to Buy Stamps

## Alternate Locations to Buy Stamps in the VENICE, CA area



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|---|--|--------|--|
| 1 | <b>WELLS FARGO BANK</b><br>514 WASHINGTON BLVD<br>MARINA DEL REY, CA<br>90292-5421 | 0.7 mi | <a href="#">Directions</a><br><a href="#">More info</a><br><a href="#">Nearby Businesses</a> |
| 2 | <b>CVS</b><br>255 MAIN ST<br>VENICE, CA 90291-5217                                 | 0.8 mi | <a href="#">Directions</a><br><a href="#">More info</a><br><a href="#">Nearby Businesses</a> |
| 3 | <b>WELLS FARGO BANK</b><br>245 MAIN ST<br>VENICE, CA 90291-2590                    | 0.8 mi | <a href="#">Directions</a><br><a href="#">More info</a><br><a href="#">Nearby Businesses</a> |
| 4 | <b>STAPLES</b><br>1501 LINCOLN BLVD<br>VENICE, CA 90291-3503                       | 0.9 mi | <a href="#">Directions</a><br><a href="#">More info</a><br><a href="#">Nearby Businesses</a> |
| 5 | <b>WELLS FARGO BANK</b><br>170 PIER AVE<br>SANTA MONICA, CA<br>90405-5312          | 0.9 mi | <a href="#">Directions</a><br><a href="#">More info</a><br><a href="#">Nearby Businesses</a> |

### Post Office™ Locations near VENICE, CA

#### By City

[SANTA MONICA](#)
[MARINA DEL REY](#)
[PLAYA DEL REY](#)
[CULVER CITY](#)
[PACIFIC PALISADES](#)



# Alternate Locations to Buy Stamps

Alternate Locations to Buy Stamps in the VENICE, CA area



6	<b>RALPHS</b> 910 LINCOLN BLVD VENICE, CA 90291-3505	0.9 mi	<a href="#">Directions</a> <a href="#">More info</a> <a href="#">Nearby Businesses</a>
7	<b>WELLS FARGO BANK</b> 225 LINCOLN BLVD VENICE, CA 90291-2809	1.0 mi	<a href="#">Directions</a> <a href="#">More info</a> <a href="#">Nearby Businesses</a>
8	<b>CVS</b> 119 LINCOLN BLVD VENICE, CA 90291-2807	1.0 mi	<a href="#">Directions</a> <a href="#">More info</a> <a href="#">Nearby Businesses</a>
9	<b>ALBERTSON'S</b> 2627 LINCOLN BLVD SANTA MONICA, CA 90405-4619	1.3 mi	<a href="#">Directions</a> <a href="#">More info</a> <a href="#">Nearby Businesses</a>
10	<b>STAPLES</b> 2570 LINCOLN BLVD VENICE, CA 90291-5093	1.3 mi	<a href="#">Directions</a> <a href="#">More info</a> <a href="#">Nearby Businesses</a>

**Post Office™ Locations near VENICE, CA**

**By City**

SANTA MONICA	MARINA DEL REY	PLAYA DEL REY	CULVER CITY	PACIFIC PALISADES
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**By ZIP Code**

90291	90405	90292	90293	90401	90066	90403	90064	90025	90402
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# Post Office™ Locations

[PRINT](#) | [BACK](#)

## Post Office™ Locations in the VENICE, CA area



- |  |   |  |
|--|---|--|
| <p><b>1</b> <b>Post Office™</b><br/><b>Location - VENICE</b><br/>1601 MAIN ST<br/>VENICE, CA 90291-9998<br/>(800) ASK-USPS<br/>(800) 275-8777</p> <p style="border: 1px solid black; padding: 2px; display: inline-block;">0.1 mi</p>                        | <p><b>Business Hours</b><br/>Mon-Fri<br/>8:30am-5:30pm<br/>Sat<br/>9:00am-3:00pm<br/>Sun<br/>Closed</p> | <p><b>Services</b><br/><a href="#">Passport Application Services</a><br/><a href="#">Automated Postal Centers®</a></p> <p><small>Service hours may vary. Please check link for business hours.</small></p> |
| <p><b>2</b> <b>Post Office™</b><br/><b>Location - OCEAN PARK</b><br/>2720 NEILSON WAY<br/>FL 1<br/>SANTA MONICA, CA 90405-9998<br/>(800) ASK-USPS<br/>(800) 275-8777</p> <p style="border: 1px solid black; padding: 2px; display: inline-block;">1.1 mi</p> | <p><b>Business Hours</b><br/>Mon-Fri<br/>9:00am-5:00pm<br/>Sat-Sun<br/>Closed</p>                       |  |
| <p><b>3</b> <b>Post Office™</b><br/><b>Location - MARINA DEL REY</b><br/>4766 ADMIRALTY WAY<br/>MARINA DEL REY, CA 90292-9998<br/>(800) ASK-USPS<br/>(800) 275-8777</p> <p style="border: 1px solid black; padding: 2px; display: inline-block;">1.9 mi</p>  | <p><b>Business Hours</b><br/>Mon-Fri<br/>8:30am-7:00pm<br/>Sat<br/>9:00am-5:00pm<br/>Sun<br/>Closed</p> | <p><b>Services</b><br/><a href="#">Automated Postal Centers®</a></p> <p><small>Service hours may vary. Please check link for business hours.</small></p>   |
| <p><b>4</b> <b>Post Office™</b><br/><b>Location - PLAYA DEL REY</b><br/>215 CULVER BLVD</p>  | <p><b>Business Hours</b><br/>Mon-Fri<br/>9:00am-5:00pm<br/>Sat-Sun</p>                                  |  |