

To:
From: Jed Pauker <jed@jed.net>
Subject: Fwd: Re: USPS response to motion to compel
Cc:
Bcc:
Attached:

From: Amanda Seward
To: "USPO Task force" <VMPO@venicenc.org>
Subject: Re: USPS response to motion to compel
Date: Wed, 14 Dec 2011 16:16:33 -0800

To help people wade through this, I just wanted to explain a few points.

The USPS response to the Motion to Compel, which was filed December 14 does not address the arguments raised in the Venice Stakeholders Association brief filed by Gibson, Dunn & Crutcher December 9, which was kindly sent out by Mark. The USPS response to the Motion to Compel responds only to a Motion to Compel filed by Venice Stakeholders Association December 7. Basically, in this USPS response to the Motion to Compel, the USPS says that since this is a relocation and not discontinuance of service, the Postal Service is not obligated to file an administrative record and that the Postal Regulatory Commission has enough information to decide the pending Postal Service's Motion to Dismiss the appeals.

It further states that the Commission lacks jurisdiction to consider the merits of the appeals because it cannot decide about relocations, only the discontinuance of service and so the Commission should reject the Motion to Compel the Postal Service to provide the appellants with additional information and that the Commission should rule directly on its Motion to Dismiss and grant the Motion to Dismiss on the basis that the Postal Regulatory Commission lacks jurisdiction to consider the pluses and minuses of a relocation.

The Postal Service's Motion to Dismiss the appeals was filed October 27, 2011, prior to the brief being filed by Gibson, Dunn & Crutcher. I don't think that the postal service will be so arrogant as to just let a decision be made on the basis of its October 27 filing and will want to respond to the Gibson, Dunn & Crutcher brief filed December 9. Mark, can you send a copy of the October 27 Motion to Dismiss filed by the Postal Service?

In its December 9 brief, Gibson, Dunn & Crutcher argue on behalf of Venice Stakeholders that

1. The Commission should consider this a closure and not a relocation because: a) the Postal Service is underestimating the expense and time of making the necessary renovations to the annex to expand to provide for retail services - the Postal Service currently estimates a build-out cost of \$375,000, when it would be more like \$435,000 - \$675,000 and a complete structural upgrade to meet seismic codes could cost an additional \$340,000; b) the Postal Service is underestimating the parking needs required to expand the annex - the annex parking is currently maxed out and the addition of retail services will result in a parking shortage; c) the window service proposed at the annex will not be enough to provide comparable service as is currently available at the historic post office; d) by the time they figure out all of the complications, the Postal Service would have sold the historic post office and

would either be delayed in opening the renovated annex such that the Venice community would have no service for an extended period or even worst, the Postal Service would decide not to complete the renovations and then there would be an effective closure under anyone's definition and we would have lost this opportunity to have the closure considered under applicable regulations.

2. The second main argument in the brief filed by Gibson, Dunn & Crutcher is that if the Commission agrees that this is effectively a closure it is undisputed that the Postal Service did not comply with the requirements for a closure of a post office under relevant regulations. These include among other things certain posting requirements, consideration of the effect of the closing on the community, consideration of the economic savings to the Postal Service resulting from the closing, preparation of a document for community input analyzing and justifying in detail the decision; etc.

We await the Postal Service's response. So far, the only hint of it is in the Motion to Compel, which states the Postal Service does not plan to discontinue the Venice Post Office and that "A Post Office is not a building; rather, it consists of the postal services provided to the public in a given community. The Venice Post Office is moving across the street, from one place to another; this is the dictionary definition of 'relocate.'"

Again I have not reviewed the original Motion to Dismiss, which was filed October 27 and I look forward to it. I don't think it could have contemplated the arguments raised by Gibson, Dunn and Crutcher in its December 9 brief. Mark, we trust you will send the Postal Services response to the December 9 brief.

Amanda