

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;  
Thomas G. Day, Vice Chairman;  
Ann C. Fisher;  
Ashley E. Poling; and  
Robert G. Taub

Sherwood Carrier Annex, Topeka, KS 66614

Docket No. A2023-2

ORDER DISMISSING APPEAL ON JURISDICTIONAL GROUNDS

(Issued November 15, 2023)

I. INTRODUCTION

On August 25, 2023 and on September 21, 2023, the Postal Service filed a motion to dismiss followed by a supplemental motion to dismiss the appeal of its determination to close the Sherwood Carrier Annex.<sup>1</sup> On September 13, 2023 and on October 11, 2023, the Commission determined that additional facts were required to resolve the pending motions and ordered the Postal Service to submit material regarding whether the Sherwood Carrier Annex was a retail facility.<sup>2</sup> On October 23,

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<sup>1</sup> United States Postal Service Motion to Dismiss Proceedings, August 25, 2023 (Motion to Dismiss); United States Postal Service Supplemental Motion to Dismiss, September 21, 2023 (Supplemental Motion to Dismiss).

<sup>2</sup> Order on Motion to Dismiss, September 13, 2023 (Order No. 6681); Order on Supplemental Motion to Dismiss, October 11, 2023 (Order No. 6732).

2023, the Postal Service filed the requisite material.<sup>3</sup> Based on a review of the material and as discussed below, the Commission grants the Postal Service's motions and dismisses the appeal with prejudice for lack of jurisdiction.

## II. BACKGROUND

### A. The Petition and Initial Commission Action

On August 18, 2023, the Commission posted to its website the petition filed by Catherine Hackett-Brown (Petitioner), which appealed the Postal Service's determination to close the Sherwood Carrier Annex located in Topeka, KS 66614.<sup>4</sup> On August 22, 2023, the Commission established the instant docket to consider the appeal, designated a Public Representative, and established a procedural schedule for further submissions.<sup>5</sup> On that same day and as required by 39 C.F.R. § 3021.40, the Secretary of the Commission sent the Petitioner a letter transmitting Commission Form 61 with an enclosure of Order No. 6636.<sup>6</sup>

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<sup>3</sup> United States Postal Service Response to Order No. 6681 on Motion to Dismiss and Order No. 6732 on Supplemental Motion to Dismiss, October 23, 2023 (Response to Order Nos. 6681 and 6732). On the same day, the Postal Service filed under seal: (1) site-specific financial and mail volume information and forward-looking financial information and (2) employment-related notices to the Sherwood Carrier Annex employees, accompanied by a Notice and Application for Non-Public Treatment. The United States Postal Service's Notice of Filing Non-Public Materials and Application for Non-Public Treatment, October 23, 2023 (Notice).

<sup>4</sup> Petition for Review Received from Catherine Hackett-Brown Regarding the Sherwood, KS Post Office, August 18, 2023 (Petition). The Petition was filed on August 16, 2023, and posted to the Commission's website on August 18, 2023. See Petition at 1. As part of the Petition, the Petitioner submitted an initial Participant Statement, August 18, 2023, a copy of the Postal Service's public notice announcing the closing of the Sherwood Post Office, and three supporting documents, which are filed under seal: (1) an email chain exchange with the Topeka, KS Postmaster; (2) a grievance; and (3) a list of customer signatures with their addresses. See *generally* Petition.

<sup>5</sup> Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 22, 2023 (Order No. 6636).

<sup>6</sup> Secretary's Letter Transmitting Postal Regulatory Commission Form 61 Participant Statement to Catherine Hackett-Brown, August 22, 2023.

B. The Postal Service's Motion to Dismiss

On August 25, 2023, the Postal Service filed a motion asserting two bases for dismissal of the appeal: (1) lack of subject matter jurisdiction and (2) lack of standing. Motion to Dismiss at 8. The Postal Service states that the Commission lacks subject matter jurisdiction over the Postal Service's decision regarding the Sherwood Carrier Annex because it was not a Post Office within the scope of 39 U.S.C. § 404(d)(5). *Id.* at 3. Rather, the Postal Service asserts that the Sherwood Carrier Annex was a postal sorting and delivery facility that provided only one customer-facing service as a pick-up point for undeliverable packages. *Id.* at 2, 3. The Postal Service adds that the appeal should be dismissed for lack of standing because the Petitioner is not a person served by the Sherwood Carrier Annex as required by section 404(d)(5). *Id.* at 1.

C. The Public Representative's Opposition to the Motion to Dismiss

On September 5, 2023, the Public Representative filed a response in opposition to the Postal Service's Motion to Dismiss.<sup>7</sup> The Public Representative states that there is a dispute of material fact underlying the question of whether the Annex is merely a sortation and delivery facility or if it should be properly considered a Post Office subject to the 39 U.S.C. § 404 safeguards. PR Response at 2. He asserts that the Commission would benefit from reviewing the Administrative Record containing "all evidence considered by the Postal Service in making its determination" to close the Annex as well as further factual discovery related to its status as a facility. *Id.* at 4.

D. Order No. 6681

On September 13, 2023, the Commission issued Order No. 6681 regarding the Postal Service's Motion to Dismiss. The Commission ordered that within 7 days from the issuance of the Order, if the Petitioner was served by the Sherwood Carrier Annex,

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<sup>7</sup> Public Representative's Response in Opposition to the United States Postal Service Motion to Dismiss, September 5, 2023 (PR Response).

she could supplement her filings by filing: (1) a statement indicating she was a patron served by the Sherwood Carrier Annex and (2) a motion for late acceptance. Order No. 6681 at 12. Additionally, the Commission stated that within 7 days from the issuance of the Order, any patron served by the Sherwood Carrier Annex could seek to substitute in Petitioner's place by filing: (1) a statement indicating that they were a patron served by the Sherwood Carrier Annex and (2) a signed declaration stating that the Postal Service has not met its notice obligations or has interfered with their ability to file a timely appeal. *Id.* The Commission instructed the Postal Service that if the Petitioner or another patron filed such items, then within 10 days of such filings being posted to the Commission's website, the Postal Service must file: (1) the Administrative Record and (2) a declaration from a local United States Postal Service employee with personal knowledge of the facts concerning the closure of the Sherwood Carrier Annex located in Topeka, Kansas, 66614 signed in conformance with 28 U.S.C. § 1746 addressing (at a minimum) each of the following four matters:

- Describe in detail the nature and extent of all retail services offered at the Sherwood Carrier Annex prior to the August 26, 2023, closing. This description should detail the type of services, the timeframe, and the daily volume of these retail services.
- Refer to the listing of the Sherwood Carrier Annex available at United States Postal Service, Find USPS Locations, USPS.com, <https://tools.usps.com/find-location.htm?location=1381515>, (accessed August 30, 2023). Describe in detail the nature and extent of all collection, lobby, and PO Box access, Call Referral, Pickup Accountable Mail, and Pickup Hold Mail services offered at the Sherwood Carrier Annex prior to the August 26, 2023, closing. This description should detail the type of services, the timeframe, and the daily volume of these retail services.
- Explain whether the Postal Service relocated any retail services from another Postal Service facility to the Sherwood Carrier Annex prior to the August 26,

2023, closing. If such relocation occurred, describe in detail the circumstances (for instance; was it a temporary addition, emergency relocation, provisional relocation in connection with a lease issue, was it within the same development or site following redevelopment) and the timeframe for the relocation.

- For any retail services identified above, identify where and how patrons can access those retail services now.

*Id.* at 10-11, 13.

E. The Petitioner and Substitute Petitioner's Filings in Response to Order No. 6681

On September 18, 2023, the Petitioner filed an amended Participant Statement on the Commission's public website, along with filing three items under seal: (1) a declaration from Catherine Crawford concerning the work she performed at the Sherwood Carrier Annex; (2) a list of signatures to a petition entitled "Save the Post Office" for the Sherwood Carrier Annex; and (3) an email chain concerning efforts to hold a community meeting.<sup>8</sup> Additionally on September 18, 2023, Nelson Nolan (Substitute Petitioner) filed a signed declaration on the Commission's public website, along with filing two items under seal: (1) the statement of Nelson Nolan; and (2) an email from a person concerning their former pickup of packages at the Sherwood Carrier Annex.<sup>9</sup>

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<sup>8</sup> Amended Participant Statement Received from Catherine Hackett-Brown, September 18, 2023 (Amended Participant Statement).

<sup>9</sup> Statement and Declaration of Substitute Petitioner, September 18, 2023 (Substitute Petitioner Statement).

F. The Postal Service's Supplemental Motion to Dismiss and Motion to Stay

On September 21, 2023, the Postal Service filed the Supplemental Motion to Dismiss challenging the eligibility of Petitioner to institute the appeal as well as the eligibility of Nelson Nolan and Catherine Crawford to serve as Substitute Petitioner. Supplemental Motion to Dismiss at 3-6. The Postal Service also filed a motion to stay on the same day, seeking that the Commission stay the portion of Order No. 6681 requiring that the Postal Service submit the Administrative Record and signed declaration by September 28, 2023, until 10 days after the Commission ruled on the Postal Service's Supplemental Motion to Dismiss.<sup>10</sup>

G. Order No. 6705

On September 26, 2023, the Commission issued Order No. 6705.<sup>11</sup> The Commission ordered that responses to the Supplemental Motion to Dismiss would be due on October 2, 2023, if the Petitioner or another patron wished to submit additional information for the Commission to consider supporting their standing. Order No. 6705 at 3. The Commission granted the Motion to Stay insofar as the requirement that the Postal Service submit the Administrative Record and the signed declaration was stayed until further order of the Commission. *Id.*

H. The Public Representative's Opposition to the Supplemental Motion to Dismiss

Also on September 26, 2023, the Public Representative filed his response in opposition to the Postal Service's Supplemental Motion to Dismiss.<sup>12</sup> The Public Representative recommends that the Commission deny the Supplemental Motion to

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<sup>10</sup> United States Postal Service Motion to Stay, September 21, 2023, at 3 (Motion to Stay).

<sup>11</sup> Order Granting Motion to Stay, September 26, 2023 (Order No. 6705).

<sup>12</sup> Public Representative's Response in Opposition to the United States Postal Service Supplemental Motion to Dismiss, September 26, 2023 (PR Response to Supplemental Motion).

Dismiss, because Substitute Petitioner Nelson Nolan has made assertions that meet the conditions set in Order No. 6681 and this, along with the facts as currently presented to the Commission, renders Nelson Nolan's appeal timely. PR Response to Supplemental Motion to Dismiss at 5-6.

I. Order Nos. 6732 and 6737

On October 11, 2023, the Commission issued Order No. 6732.<sup>13</sup> The Commission found Mr. Nolan satisfied the first condition in Order No. 6681, by stating that he was a patron served by the Sherwood Carrier Annex and providing his address. Order No. 6732 at 7. With regard to the second condition in Order No. 6681, the Commission determined that the timeliness of Mr. Nolan's appeal was intertwined with the pending factual question of whether the Sherwood Carrier Annex was a retail facility or not.<sup>14</sup> The Commission stated that "[i]f the Sherwood Carrier Annex was a retail facility, then, based on the facts currently before the Commission, the Postal Service can be construed to have failed to meet its notice obligations, *including posting notice of a final determination pursuant to 39 U.S.C. § 404(d)(3)*. Order No. 6732 at 8-9 (internal footnote and citations omitted). Additionally, the Commission found that "[i]f the Sherwood Carrier Annex was not a retail facility, then the Commission lacks jurisdiction to hear an appeal of the Postal Service's determination to close it, and the appeal would be dismissed with prejudice." *Id.* at 10. Accordingly, the Commission determined it could not rule on the Supplemental Motion to Dismiss as to Mr. Nolan's appeal without additional facts regarding whether the Sherwood Carrier Annex was a retail facility or not. *Id.* The Commission ordered the Postal Service to file the Administrative Record and a declaration signed by a local Postal Service employee as specified in Order No.

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<sup>13</sup> Order on Supplemental Motion to Dismiss, October 11, 2023 (Order No. 6732).

<sup>14</sup> *Id.* at 10. The Commission explained that "if the Sherwood Carrier Annex was a retail facility, then Substitute Petitioner's declaration that '[a]ccording to title 39 C.F.R. The USPS did not meet its notice obligation' would be sufficient to render his appeal not time barred." *Id.* at 9 (quoting Substitute Petitioner Statement).

6681 by October 23, 2023. *Id.* at 10-11. The Commission observed that neither original Petitioner Catherine Hackett-Brown nor Declarant Catherine Crawford asserted that they have standing to file this appeal. *Id.* at 11. On October 17, 2023, the Commission issued Order No. 6737 to designate a substitute Public Representative.<sup>15</sup>

III. The Postal Service's Response to Order Nos. 6681 and 6732

On October 23, 2023, the Postal Service filed its Response to Order Nos. 6681 and 6732, amplifying its prior motions to dismiss. *See generally* Response to Order Nos. 6681 and 6732.

The Postal Service included a declaration from Guy M. Moeckel, the Manager of Post Office Operations (MPOO) for the MPOO J area in the Kansas-Missouri District (covering North-East Kansas and including Topeka, Kansas).<sup>16</sup> Declarant Moeckel avers that “[f]rom the beginning, the Sherwood facility was only used to house mail carrier routes.” Moeckel Decl. ¶ 6. Declarant Moeckel explains that all mail carriers formerly assigned to the Sherwood Carrier Annex “have the same responsibilities as they had before, but report to a different facility” (the new Topeka S&DC). *Id.* ¶ 20.

Declarant Moeckel states that “[r]etail services were never provided and were never intended to be provided as the facility had no retail counter line nor Post Office box section for customers.” *Id.* ¶ 6. Declarant Moeckel adds that “[t]he facility did not have a retail counter nor Post Office boxes for customers. No retail services were relocated from another Postal Service facility to Sherwood prior to August 26, 2023.” *Id.* ¶ 9. Declarant Moeckel admits that the USPS.com listing of Post Office Box Access Hours “appears to have been included by mistake” and confirms that “there were never any Post Office Boxes located at Sherwood . . . .” *Id.* ¶ 17. According to Declarant

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<sup>15</sup> Notice and Order Designating Substitute Public Representative, October 17, 2023 (Order No. 6737).

<sup>16</sup> *Id.* Attachment A, Moeckel Decl. ¶ 2 (Moeckel Decl.).



Moeckel, retail services are provided at a contract postal unit located in a supermarket across the street from the Sherwood Carrier Annex. *Id.* ¶ 7.

Declarant Moeckel explains that the Sherwood Carrier Annex offered “‘Dutch-door’ service where customers, after ringing a doorbell, could drop-off postage-paid mail and packages or pick-up held mail or undeliverable accountable mail.” *Id.* ¶ 10. Declarant Moeckel continues that “[w]hen required, the employee answering the doorbell could also collect postage due on items being picked-up. Customers could also call the facility to request delivery of held mail and re-delivery of previously attempted accountable mail.” *Id.* Further, Declarant Moeckel observes that a “blue box” is located outside the building and a mail slot in the Dutch-door lobby allows customers to drop off postage-paid letters for delivery. *Id.* ¶ 11. Declarant Moeckel asserts that the USPS.com listing of “Lobby Hours” refers to the hours when the facility lobby was open to allow access to the Dutch-door services and the collection slot; that the “Last Collection Hours” listing refers to the last time that postage paid letters dropped in lobby collection slot and outdoor Blue Box are collected; and that the “Pickup Accountable Mail and Pickup Hold Mail” listing refers to the Dutch-door service allowing customers to pick up undeliverable accountable mail and held mail. *Id.* ¶¶ 15-16, 18. Declarant Moeckel explains that the USPS.com listing of “Call Referral service” refers to the ability of customers to telephone the Sherwood Carrier Annex to request delivery of Hold Mail or redelivery of Accountable Mail. *Id.* ¶ 19. Declarant Moeckel explains that packages or mail that were previously available for pickup at the Sherwood Carrier Annex are now available for pickup at the Gage Post Office, a full retail unit located approximately 4 miles away. *Id.* ¶ 21. Similarly, Declarant Moeckel explains that “Call Referral service is now handled out of the Gage Post Office.” *Id.* Declarant Moeckel states “that the Blue Box [located outside the building] will remain at Sherwood for collection of postage-paid mail.” *Id.* ¶ 22.

Declarant Moeckel states that “[s]tamps were not sold directly to customers from Sherwood inventory.” *Id.* ¶ 12. Declarant Moeckel explains that the Sherwood Carrier Annex had “a small amount of stamp stock assigned to it” to support the ability of rural

mail carriers who operated routes out of the facility to sell an allotment of stamps on their route. *Id.* This process involves “the carrier buy[ing] the customer-ordered stamps from the facility's allotment and then deliver[ing] them to the customer and collect[ing] payment.” *Id.* After the closure of the Sherwood Carrier Annex, Declarant Moeckel observes that “customers can still purchase postage stamps from their rural mail carriers, who can also collect postage-paid letters and packages.” *Id.* ¶ 20.

Declarant Moeckel addresses each of the 10 duties described by Declarant Catherine Crawford while working at the Sherwood Carrier Annex. *Id.* ¶ 23.

First, with respect to Sherwood Carrier Annex employees operating a cash drawer at the Sherwood Carrier Annex, Declarant Moeckel explained that the Sherwood Carrier Annex “was assigned a cash drawer for the purpose of reporting income from postage due collections as well as possible stamp sales to our rural carriers to be provided to their customers.” *Id.* ¶ 23.a. Relatedly, with respect to Sherwood Carrier Annex employees manually using Postal Service Form 1412,<sup>17</sup> Declarant Moeckel explained that the Sherwood Carrier Annex “had an established 1412 process that tracked any change of hands-on money at the facility.” Moeckel Decl. ¶ 13. When “short paid postage/postage due on mail on accountable packages or held mail picked-up at the Dutch-door or that that the carrier would have collected at point of delivery” were discovered, “an attempt to collect postage was made by the delivering carrier from the customer and those funds would then be brought back at the end of the day and assigned as postage due funds collected.” *Id.* Such items, along with stamp orders filled by delivering rural carriers, were tracked and entered into the daily finance worksheet known as Form 1412. *Id.* ¶¶ 13, 23.a.

Second, with respect to Sherwood Carrier Annex employees selling stamps by fax orders, Declarant Moeckel clarified that “any stamps by fax orders that were

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<sup>17</sup> The Daily Financial Report appearing on the manual version of Postal Service Form 1412 “provides a running record of receipt controls of all retail and philatelic sales, money order transactions, stamp accountability, and cash retained.” United States Postal Service, Field Accounting Procedures, Handbook F-101, September 2022, at 31, available at [https://www.nalc.org/workplace-issues/body/f101\\_2022.pdf](https://www.nalc.org/workplace-issues/body/f101_2022.pdf).

received at the [Sherwood Carrier Annex] facility were sent to the Topeka Main office to be filled and then mailed to customers for delivery by their mail carriers. Stamp by fax orders were not filled out of the Sherwood Dutch-door.” *Id.* ¶ 23.b.

Third, with respect to Sherwood Carrier Annex employees collecting postage due, Declarant Moeckel explained that “postage due was collected, when necessary, on accountable packages and held mail picked-up at the Sherwood [Carrier Annex] Dutch-door.” *Id.* ¶ 23.c.

Fourth, with respect to Sherwood Carrier Annex employees performing duties related to Business Reply Mail accounts, Declarant Moeckel clarified that “Business Reply Mail was also assigned to the Topeka Main Post office to be filled.” *Id.* ¶ 23.d.

Fifth, with respect to Sherwood Carrier Annex employees performing duties related to package drop-off, Declarant Moeckel explained that “items that were presented at the Dutch-door, such as packages, could be accepted as long as postage was affixed to the package since Sherwood did not sell postage.” *Id.* ¶ 23.e.

Sixth, with respect to Sherwood Carrier Annex employees performing duties related to package pickup, Declarant Moeckel explained that “undeliverable accountable mail could be picked-up from the Sherwood Dutch-door.” *Id.* ¶ 23.f.

Seventh and eighth, with respect to Sherwood Carrier Annex employees writing second notices to addressees of undeliverable accountable mail that was not picked up within a specified time period (reminding the addressees that their mail was being held for pickup) and supporting customer pickup of held mail, Declarant Moeckel explained that this duty was performed in connection with supporting the Dutch door service. *Id.* ¶ 23.g.-h.

Ninth, with respect to Sherwood Carrier Annex employees answering telephone inquiries, Declarant Moeckel explained that employees would answer questions, if possible, but could not process address change requests. *Id.* ¶ 23.i.

Tenth, with respect to Sherwood Carrier Annex employees engaging with 50 to 100 customers per day, Declarant Moeckel reviewed the scanning logs of volume for the Dutch-door service. *Id.* ¶ 23.j. He summarized that over a period of 19 business

days in August 2023, there were approximately 960 mailpieces dropped off or picked up at the Sherwood Dutch-door (approximately 50 pieces per day), of which 192 mailpieces were picked up by customers and 768 pieces were dropped off and accepted with prepaid postage. *Id.*

Stating that because the Postal Service's decision regarding the Sherwood Carrier Annex is outside the scope of 39 U.S.C. § 404(d), the Postal Service asserts that it was not obliged to prepare an administrative record. Response to Order Nos. 6681 and 6732 at 6-7. Notwithstanding this assertion, the Postal Service compiled and appended supporting materials including pictures; excerpts from the Dutch-door log; notifications to employees, carriers, elected officials, and the public; an exemplar daily financial report (Form 1412); exemplar stamp stock transaction and daily recap (Form 3959) and Stamp Invoice Report.<sup>18</sup>

#### IV. COMMISSION ANALYSIS

- A. The Commission's jurisdiction under 39 U.S.C. § 404(d) does not extend to Postal Service determinations to close or consolidate activities related to processing and distribution rather than retail services.

The Commission's authority to review Post Office closings is provided by 39 U.S.C. § 404(d)(5).<sup>19</sup> As the Commission has noted in the past, "there is a misunderstanding among the general public of the scope of Commission authority to review Postal Service decisions regarding the operation of its retail facilities."<sup>20</sup> The Commission's authority to review Post Office closings and consolidations is a limited power, prescribed by statute. See 39 U.S.C. § 404(d)(5). The Commission "may not

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<sup>18</sup> Response to Order Nos. 6681 and 6732, Attachment B. The Postal Service filed under seal: (1) site-specific financial and mail volume information and forward-looking financial information and (2) employment-related notices to the Sherwood Carrier Annex employees, accompanied by a Notice and Application for Non-Public Treatment. See Notice.

<sup>19</sup> See Docket No. A2015-1, Order Affirming Determination, June 5, 2015, at 7 (Order No. 2530).

<sup>20</sup> See Docket No. A2023-1, Order Granting Motion to Dismiss, September 21, 2023, at 6 (Order No. 6696) (collecting cases).

modify the determination of the Postal Service.” *Id.* § 404(d)(5)(C). The only authority of the Commission—if a petitioner is successful—is the power to “order that the entire matter be returned for further consideration.” *Id.*

In this case, as will be discussed further below, the Commission is not ruling on a motion to dismiss the appeal of a traditional Post Office or a retail facility but rather on a motion to dismiss the appeal of a mail sorting and delivery facility, the Sherwood Carrier Annex. 39 U.S.C. § 404 distinguishes between Post Offices, which are subject to specified administrative procedures and appeal, and other postal facilities, which are not. Generally, the Commission’s jurisdiction under 39 U.S.C. § 404(d) does not extend to Postal Service determinations to close or consolidate activities related to processing and distribution rather than retail services. Order No. 6681 at 9 (collecting cases). This limitation to the Commission’s jurisdiction to hear the appeal of a sorting and delivery facility does not affect the Commission’s authority to hear the appeals of the closure or consolidation of any of the more than 31,000 Postal Service-operated retail facilities, including Post Offices, stations, and branches that may be located in rural, urban, or suburban areas throughout the nation. See Order No. 6696 at 7.

- B. The record supports a finding that the Sherwood Carrier Annex was a sorting and delivery facility rather than a retail facility.

Initially, there was a factual question as to whether the Sherwood Carrier Annex (notwithstanding its official designation as a carrier annex) provided any retail services; for if it did, the Commission would have jurisdiction to hear the appeal. See Order No. 6681 at 10. A carrier annex is defined as “[a] facility generally housing only carrier operations that does not provide retail services such as a Post Office, station, or branch. For drop shipment, a carrier annex is considered a delivery unit.”<sup>21</sup>

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<sup>21</sup> United States Postal Service, Publication 32, Glossary of Terms, available at [http://about.usps.com/publications/pub32/pub32\\_terms.htm](http://about.usps.com/publications/pub32/pub32_terms.htm).

The question of whether the Sherwood Carrier Annex provided retail services and whether the Commission has jurisdiction to hear this appeal has been answered by the information in the Response to Order Nos. 6681 and 6732. The Sherwood Carrier Annex did not provide retail services and therefore does not fall within the scope of section 404(d)(5). Accordingly, the Commission does not have jurisdiction in this appeal.

Based on the record before the Commission, the Sherwood Carrier Annex appears to fall within the established definition of a carrier annex and did not provide retail services. Declarant Moeckel confirms that the Sherwood Carrier Annex did not provide retail services. Moeckel Decl. ¶¶ 6, 9.

The questions regarding the “Dutch-door” and associated services (and the USPS.com listing) have been clarified. Declarant Moeckel confirms that the Sherwood Carrier Annex did not have a retail counter. *Id.* The Sherwood Carrier Annex provided a Dutch-door service allowing customers to ring a doorbell and drop off postage-paid mail and packages. *Id.* ¶ 10. Customers could also pick up held mail or undeliverable accountable mail. *Id.* A Postal employee could collect postage due on items being picked up. *Id.* A customer could also call the facility to request delivery of held mail and re-delivery of previously attempted accountable mail. *Id.* ¶¶ 10, 19. The Sherwood Carrier Annex had a “blue box” outside the building and a mail slot in the Dutch-door lobby for customers to drop off postage-paid letters for delivery. *Id.* ¶ 11. The USPS.com listing, which includes hours for “Last Collection” and “Lobby” and identifies Call Referral, Pickup Accountable Mail, and Pickup Hold Mail as the available services refers to these operations. *Id.* ¶ 15-16, 18-19. Declarant Moeckel’s explanations regarding the operations at the Sherwood Carrier Annex (and specifically the Dutch-door service) and the website listing are also supported by the pictures of the building. Response to Order Nos. 6681 and 6732, Attachment B, Tab 2.

Declarant Moeckel confirms that the Sherwood Carrier Annex did not provide Post Office Boxes for customers. Moeckel Decl. ¶¶ 6, 9, 17. The Commission’s concerns regarding the USPS.com listing of “Post Office Box Access Hours” are

sufficiently addressed by Declarant Moeckel's admission that the website appears to have been mistaken as well as the pictures of the building. *Id.* ¶ 17; Response to Order Nos. 6681 and 6732, Attachment B, Tab 2.

Declarant Moeckel explains that the Sherwood Carrier Annex did not sell stamps directly to customers; rather, the facility had "a small amount of stamp stock assigned to it" to support the ability of rural mail carriers who formerly operated routes out of the facility to sell an allotment of stamps on their route. Moeckel Decl. ¶ 12; *see also* Response to Order Nos. 6681 and 6732, Attachment B, Tab 9 (displaying stamp stock transactions and stamp invoice report). Thus, the carrier provided stamp purchase order forms to customers on their route, bought stamps from the facility's allotment, delivered the stamps to the customer, and collected payment. Moeckel Decl. ¶ 12. The closure of the Sherwood Carrier Annex does not interrupt the ability of customers to purchase stamps from their rural mail carriers. *Id.* ¶ 20.

Declarant Moeckel sufficiently addresses each of the 10 duties described by Declarant Catherine Crawford while working at the Sherwood Carrier Annex. *Compare* Amended Participant Statement, Crawford Decl. ¶¶ 1-10, *with* Moeckel Decl. ¶ 23. The exemplar daily financial report (Form 1412); exemplar stamp stock transaction and daily recap (Form 3959) and Stamp Invoice Report filed by the Postal Service under seal further support his explanations concerning the services rendered. Response to Order Nos. 6681 and 6732, Attachment B, Tabs 7-9.

C. No person is eligible to appeal the closing of the Sherwood Carrier Annex.

The Postal Service challenged the eligibility of the original Petitioner, Catherine Hackett-Brown, to institute this appeal, as well as the eligibility of Nelson Nolan and Catherine Crawford to serve as Substitute Petitioner. *See* Motion to Dismiss at 1; Supplemental Motion to Dismiss at 3-6. The record reflects that neither the original Petitioner Catherine Hackett-Brown nor Declarant Catherine Crawford asserted that they have standing to file this appeal. Order No. 6732 at 11. The Postal Service argued that Nelson Nolan was ineligible to serve as Substitute Petitioner because his

appeal was time-barred. Supplemental Motion to Dismiss at 4-5. The Commission determined that the timeliness of Substitute Petitioner Nelson Nolan's appeal was intertwined with the formerly pending factual question of whether the Sherwood Carrier Annex was a retail facility or not.<sup>22</sup> The Commission found that "[i]f the Sherwood Carrier Annex was not a retail facility, then the Commission lacks jurisdiction to hear an appeal of the Postal Service's determination to close it, and the appeal would be dismissed with prejudice." Order No. 6732 at 10. As discussed above, the Commission resolves this factual question based on the Response to Order Nos. 6681 and 6732. The Commission determines that the Sherwood Carrier Annex was not a retail facility but was instead a sorting and delivery facility. Because the Commission's jurisdiction under 39 U.S.C. § 404(d) does not extend to Postal Service determinations to close or relocate sorting and delivery facilities, no person is eligible to appeal the closing of the Sherwood Carrier Annex.

#### V. ORDERING PARAGRAPHS

*It is ordered:*

1. The United States Postal Service Motion to Dismiss Proceedings, filed on August 25, 2023, and the United States Postal Service Supplemental Motion to Dismiss, filed on September 21, 2023, are granted for lack of jurisdiction.
2. Docket No. A2023-2 is dismissed with prejudice, and the Dockets clerk shall close Docket No. A2023-2.

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<sup>22</sup> Order No. 6732 at 10. The Commission explained that "if the Sherwood Carrier Annex was a retail facility, then Substitute Petitioner's declaration that '[a]ccording to title 39 C.F.R. The USPS did not meet its notice obligation' would be sufficient to render his appeal not time barred." Order No. 6732 at 9.



3. A copy of this Order shall be emailed to the Petitioner and the Substitute Petitioner (at the email addresses used to create their e-filing accounts with the Commission) by Commission staff.

By the Commission.

Erica A. Barker  
Secretary