

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

In the matter of
Glenoaks Station Post Office
Burbank, California 91504

Docket No. A2013-5

RESPONSE TO POSTAL SERVICE REPLY TO THE
PETITIONER'S MOTION FOR RECONSIDERATION

(November 12, 2013)

On November 7, 2013, the Postal Service submitted a Reply to the Petitioner's Motion for Reconsideration of Commission Order No. 1866 affirming the Final Determination to close the Glenoaks Station in Burbank, California.¹ The Postal Service presents three arguments for rejecting the Motion for Reconsideration: (1) The Commission has in the past declined to reconsider Post Office discontinuance appeals. (2) The statutory 120-day procedural schedule has expired. (3) The request for reconsideration does not provide any factual or legal grounds that require the Commission to amend its Order. The following comments will respond directly to these three arguments, but before getting into the details, it is important to clarify why it became necessary to file a Motion for Reconsideration in the first place.

¹ Reply of the United States Postal Service to Dr. Hutkins's Motion For Reconsideration ("Reply to Motion"), PRC Docket No. A2013-5 (November 7, 2013); Petitioner Motion for Reconsideration of Order Affirming Final Determination ("Motion for Reconsideration"), PRC Docket No. A2013-5 (October 31, 2013); Order No. 1866, Order Affirming Determination ("Order"), Postal Regulatory Commission, PRC Docket No. A2013-5 (October 31, 2013).

The problem with the *Glenoaks* Order is not that the Commission decided to affirm the Final Determination to close the post office, and the purpose for requesting a reconsideration is not to seek a different outcome, although that would obviously be a happy result. The problem is that the Commission completely ignored its own Procedural Schedule and consequently deprived the Petitioner of the right to due process. If the procedures had been properly followed, the Commission would have ruled on the Postal Service's Motion to Dismiss in a timely manner, sometime back in August, shortly after the parties had weighed in with arguments for and against the Motion. Assuming that the Commission had denied the Motion, we would have proceeded to the next stage in the proceedings — a responsive pleading from the Postal Service about how it had followed the discontinuance requirements, initial comments from the Petitioner in support of the appeal, an answering brief from the Postal Service, a reply from the Petitioner, and so on. The process would have permitted a thorough back-and-forth dialogue about the issues presented by the Administrative Record.

What happened instead was very unusual. The Commission did not respond to the Motion to Dismiss at all and essentially did nothing for 120 days except to issue an order adjusting the procedural schedule (due to the government shutdown) so that it could have a couple of more weeks before issuing a final decision. After waiting until mid-August for a ruling on the Motion to Dismiss, the Public Representative decided she would wait no longer and submitted comments on the merits, reviewing how the Postal Service had

complied with 404(d). The Petitioner responded with detailed comments pointing to the many flaws in the Administrative Record and the arguments presented by the Public Representative. The Postal Service did nothing.

That the Postal Service would choose not to file comments on the merits was not necessarily surprising. One assumed that the Postal Service was simply waiting to hear about the outcome of the Motion to Dismiss before proceeding, and in fact the Postal Service now explains that this is exactly what it was doing. Unfortunately, by not filing any comments about the Administrative Record and its many problems, the Postal Service has been permitted to skate by unchallenged. By not issuing an order on the Motion to Dismiss, the Commission has unfortunately not done much better.

In reviewing the Administrative Record in its Order affirming the Final Determination, the Commission mechanically checks the boxes — yes, the Postal Service considered effects on community; yes, the Postal Service considered effects on employees; yes, the Postal Service considered economic savings, and so on — but there is no real effort to examine the substance of the case itself. The many problems in the record are summarized in the Order, but they are not really addressed in a serious way. In the same way, the Order acknowledges that a Motion to Dismiss had been filed, but it evades responding to it with a ruling.

The Postal Service argues that the 120 days for deciding appeals have elapsed and the Commission has no authority to go beyond it. If the Commission takes that view, it will unfortunately open itself to criticism that it simply ran out

the clock. Instead of issuing an order on the Motion to Dismiss and allowing the process to move forward, it effectively silenced the debate and prevented a healthy airing of the case. This is why it is important for the Commission not to close the docket on Glenoaks and to grant the Motion for Reconsideration.

PROCEDURAL HISTORY

The Postal Service has summarized the procedural history of Docket No. A2013-5 in its Reply, so there is no need to repeat the details. While its chronology of events is correct with respect to when documents were filed with the Commission, three statements in the History should be noted; they will be discussed later in this Reply.

First, the Postal Service states that “the Commission established Docket No. A2013-5 to review the *alleged discontinuance* of the Glenoaks Station, Burbank, California” (italics added). Reply to Motion at 1. Second, the Postal Service states that it filed a Motion to Dismiss the appeal “on grounds that the Commission lacked jurisdiction to hear the appeal because the administrative action pertaining to the Glenoaks Station was not a discontinuance under section 404(d) but rather a rearrangement of retail services in the Burbank community.” Reply to Motion at 2. Third, the Postal Service characterizes the Public Representative’s response to the Motion to Dismiss in the same way: “In her response, the Public Representative recommended that since the actions affecting Glenoaks Station constituted a rearrangement of retail services in the Burbank community the Commission should dismiss the appeal for lack of

jurisdiction.” Reply to Motion at 2. These statements have a significant bearing on the Motion for Reconsideration, as discussed below.

ARGUMENT

In response to the Postal Service’s three arguments for denying the Motion for Reconsideration, the Petitioner offers the following three replies.

1. The Commission has in fact considered a Motion for Reconsideration in a discontinuance appeal in the past — from the Postal Service itself.

The Postal Service’s first argument for rejecting the Motion for Reconsideration is that “the Commission has in the past declined to reconsider Post Office discontinuance appeals.” The Postal Service cites as its only example *Climax, Georgia*, in which “the Secretary of the Commission advised that there are no measures in place for Petitioners to seek reconsideration of final orders in such proceedings.”² Reply to Motion at 3.

The Secretary’s letter in *Climax* does not demonstrate that the Commission does not reconsider discontinuance appeals. In *Climax*, the Commission had not issued an order affirming or remanding a final determination. The Commission dismissed the appeal on the grounds that it was premature since the post office had closed for an emergency suspension and no final determination had been issued. Perhaps more important, the petitioner submitted a letter to the Commission, not a formal motion for reconsideration, and the Commission never

² Letter from Shoshana M. Grove, Secretary, Postal Regulatory Commission to Karen Toole, Clerk, City of Climax, Docket No. A2013-3 (July 10, 2013).

issued an order responding to a request for reconsideration. The docket does not even contain the petitioner's letter, and a letter from the Secretary is not the same as an order by the Commission. As the Public Representative has pointed out in connection with a similar letter from the Secretary, this one informing a petitioner that the appeal had been filed too late to consider, "This letter cannot be afforded the same weight as a Commission order, because it does not reflect a decision by the Commission."³

A more apropos analogy for the present situation with *Glenoaks* can be found in *Roanoke, West Virginia*.⁴ In that case, the Commission issued Order No. 1296 denying the Postal Service's Motion to Dismiss the appeal. A week later, the Postal Service submitted a Motion for Reconsideration of the order. The Postal Service explained that it had submitted a Statement of Explanation relevant to the appeal on the same day the Commission had issued its order on the Motion to Dismiss, so the Commission did not have a chance to review the additional information. The Motion for Reconsideration proceeds to find several faults with the Commission's order on *Roanoke*: "[T]he Commission fails to explain why the notice was not adequate; how it concluded that there was insufficient notice by the Postal Service regarding the post office closing; or how

³ See Docket No. A2011-41, Letter to Petitioner Closing the Appeal, August 16, 2011, and Docket No. A2013-8, *Freistatt, Missouri*, Public Representative's Opposition to United States Postal Service Motion to Dismiss and Response in Support of Petitioner's Request to Extend Time for Filing (August 12, 2013), at 5.

⁴ See Docket No. A2000-1, *Roanoke, West Virginia*: United States Postal Service Motion to Dismiss Proceedings (May 16, 2000); Commission Order No. 1296, (June 16), USPS Motion for Reconsideration of Order No. 1296 (June 23, 2000); Commission Opinion Remanding Decision Under 39 U.S.C. 404(b) ("Commission Opinion") (August 1, 2000).

it can reach the merits when it lacks jurisdiction.” Motion for Reconsideration (Roanoke) at 2.

On August 1, 2000, the Commission issued an order remanding the final determination to close the post office in Roanoke. In its summary of the procedural history, the Commission states, “In view of the findings set forth below in this opinion, the Postal Service’s motion for reconsideration of Commission Order No. 1296 is denied.” Commission Opinion at 3. The Commission’s ruling has nothing to say about whether its rules of practice or precedents prohibit a party from submitting a motion for reconsideration in a discontinuance case.

While such motions are common in other Commission proceedings, they are admittedly very rare in appeals on post office closings. The only other case besides *Roanoke* that we have discovered in the Commission’s Library involved *Pimmit Branch*.⁵ In that case, the petitioner submitted a motion for reconsideration of an order denying her Application for Suspension pending review of the appeal. In *Pimmit*, the Postal Service did not question the Commission’s authority to consider a motion of reconsideration, and this was not an issue in the Commission’s subsequent orders on the case.

Returning to *Glenoaks*, then, the Postal Service’s claim in its Reply that “the Commission has in the past declined to reconsider Post Office discontinuance appeals” does not appear to be accurate. The Commission has in fact reconsidered at least two of its orders in discontinuance cases, and in one

⁵ *Pimmit Branch, Falls Church, Virginia*, Docket No. A2011-90.

of them (*Roanoke*), it did so in response to a motion for reconsideration filed by the Postal Service itself.

2. Extending the decisional period should not interfere with efficient management of postal operations, and there is nothing in the statute or regulations preventing such an extension.

In its second argument for rejecting the Motion for Reconsideration, the Postal Service states the following:

Under 404(d)(5), the Commission “shall make a determination ... no later than 120 days after receiving any [petition to review a Post Office discontinuance].” Adherence to this 120 day decisional period in the event the Commission affirms a final determination serves the public interest in ensuring efficient management of postal operations. The Postal Service must be able to discontinue a facility and make the necessary arrangements to provide replacement services and transfer employees with confidence that the Commission will not cast a cloud over a final determination that has been affirmed after the conclusion of a section 404(d) appeal action. Reply at 4.

While the Commission did extend the procedural schedule on *Glenoaks* for a few days because of the government shutdown, the Commission has adhered to the spirit of 404(d)(5) by issuing an order essentially within the decisional period.

The statute, it should be noted, says nothing about the possibility that the decisional period might be extended or re-opened due to the necessity of considering a Motion for Reconsideration. To put it another way, 404(d)(5) does not preclude the possibility that the Commission might find it appropriate to reconsider an appeal after the 120 days have elapsed.

The Postal Service suggests that a reconsideration of the Commission's order on Glenoaks would interfere with "efficient management of postal operations." Reply at 4. It is hard to see how extending or reopening the decisional period in this particular case will interfere with postal operations. The Postal Service has been working on closing the Glenoaks post office and selling the building since May 2009, when a Facility Optimization study recommended that the Glenoaks Station should be closed, retail operations should be transferred to the Downtown Station, and the building should be sold.⁶ That was over four years ago. Surely the Postal Service can wait a little longer before closing the facility and putting the property on the market.

Moreover, considering that the Postal Service is in the midst of the holiday mailing season, it is very unlikely that it would close the Glenoaks Station over the next few weeks. Indeed, closing the Glenoaks post office at this point in time would not be consistent with the "efficient management of postal operations."⁷ In any case, the Postmaster General recently testified to a Senate committee that he would not close post offices while Congress debated postal reform legislation, so presumably even with the Commission having affirmed the final determination, the Postal Service would not close it anytime soon.⁸

⁶ See Docket No. A2013-5, Glenoaks Station, Burbank, California, Response to Public Representative's Comments (August 19, 2013) at 2, and Administrative Record Item 17 (July 15, 2013).

⁷ In 2011, when the Postal Service was busy closing hundreds of post offices, it temporarily suspended the closures from November 19 through January 2. (The suspension subsequently turned into a moratorium on closures that ran through May 2012.) As Vice President Dean Granholm explained in his letter to postal officials, the purpose of the suspension was "to avoid unnecessary service disruptions."

⁸ See "Tester Secures Major Concession from Top Postal Official," Press Release from Senator Jon Tester, Sept. 9, 2013.

The Postal Service also argues that a reconsideration of the Commission's order on Glenoaks would "cast a cloud" over the final determination. There is little reason to be concerned about that. There is already a cloud over the decision to close the Glenoaks post office.

In April 2013, Congressman Adam Schiff wrote the Postmaster General that the Glenoaks closure was "misguided," and he faulted the Postal Service for not properly following Title 39 requirements for closing or consolidating a post office.⁹ More pointedly, in her Dissenting Opinion on *Glenoaks*, Chairman Goldway states the following:

The Administrative Record presented to us by the Postal Service is woefully incomplete. The many discrepancies within the Administrative Record call into question the Postal Service's good-faith consideration of the community's input. In my judgment, the Postal Service did not satisfy its legal obligation to consult with the community and did not accurately estimate its cost savings.¹⁰

The Chairman's remarks cast a much darker cloud over the *Glenoaks* ruling than any reconsideration of the order might cause. If anything, reconsidering the appeal would provide an opportunity to address problems in the Administrative Record and irregularities in the Commission's proceedings. Should the Commission ultimately reaffirm its order affirming the final determination, reconsidering the appeal would actually help remove the cloud already hanging over the decision to close Glenoaks.

⁹ "Glenoaks post office in Burbank to close, officials confirm," Burbank Leader, June 21, 2013.

¹⁰ Dissenting Opinion of Chairman Goldway (October 31, 2013).

3. The request for reconsideration is based on both factual and legal grounds.

The Postal Service's third argument for rejecting the Motion for Reconsideration begins by addressing the Motion's point that the Postal Service never filed comments on the merit of the appeal. The Postal Service states that Commission rules (39 C.F.R. §3025.42) indicate the due date for filing a response to the appeal, but they do not require the Postal Service to submit comments. The Postal Service goes on to explain that the reason it did not submit comments on the merits of the appeal was that it was waiting until the Commission ruled on the Motion to Dismiss. It defends this decision to postpone its response by noting that "waiting for a resolution of a dispositive motion is the expected practice in similar proceedings," and it cites the Commission's Rules for Complaints and the Federal Rules of Civil Procedure to substantiate this observation.

It should be noted that the Petitioner's Motion for Reconsideration did not argue that the Postal Service *was required* to file comments on the merit of the case. The Motion argued, rather, that it was *customary* for the Postal Service to do so, and that by filing such comments, the Postal Service gives the petitioner an opportunity to respond directly to the Postal Service's case. In *Glenoaks*, however, the Postal Service chose not to file comments, so the petitioner did not have an opportunity to respond. This may be the first time that the Commission issued an order affirming a final determination without receiving any comments on the merits from the Postal Service. It is not a good precedent.

Moreover, as the Postal Service's remarks suggest, the Postal Service postponed submitting comments not because it thought the case was so strong comments were unnecessary, not because it believed that the Administrative Record spoke for itself, and not because the Public Representative had done such a good job making the Postal Service's case. Rather, the Postal Service chose not to file comments simply because the time was not right since the Commission had not yet ruled on the Motion to Dismiss.

The Postal Service states that it is not required to submit comments on the merits, and it "has suffered no prejudice if the Commission affirms a Final Determination." The Postal Service would probably have taken quite a different view if the Commission had issued an order remanding the final determination. If that had happened, the Postal Service would have undoubtedly complained that it had been waiting for the Commission to rule on the Motion to Dismiss, so it was unfair for the Commission to issue a final order without having given the Postal Service an opportunity to file comments on the merits.

The Postal Service may not object to the way the Commission has handled the appeal, but the Commission's decision not to issue an order responding to the Motion to Dismiss is one of the key problems in how the proceedings were conducted. As the Postal Service points out, it is "expected practice" in such proceedings to wait for a ruling on such motions, but no ruling was ever issued. As a result, the Commission has evaded its responsibility to consider and rule on the arguments presented by the Postal Service, the Public Representative, and the Petitioner about whether or not the appeal should be dismissed.

A search of the Commission's Library has been unable to find a case in which the Commission did not issue an order responding to a motion to dismiss filed by the Postal Service. Since 2000, the Postal Service appears to have filed twenty-three motions to dismiss appeals on closing. The Commission granted seventeen of them and essentially one other as well (*Freistatt, Missouri*, in which the motion for late acceptance of the appeal was denied).¹¹ The Commission denied the motion to dismiss in three cases.¹² It is worth noting that in two of them — *Observatory Finance* and *Hacker Valley* — the Commission did not initially respond to the motion to dismiss and instead included its responding order in the final order at the end of the 120-day decisional period, but these final orders explicitly state that the motion to dismiss was denied and they explain why.¹³ One of the twenty-three cases is still pending before the Commission (*Atlantic Street Station, Stamford, Connecticut*). This means that the only case where the Postal Service filed a motion to dismiss and the Commission did not

¹¹ See *Birmingham Green, Alabama* (A2003-1); *Ecorse, Michigan* (A2007-1); *Elko, Nevada* (A2010-3); *Crescent Lake, Oregon* (A2010-4); *Ida, Arkansas* (A2011-11); *Nooksack, Washington* (A2011-17); *Ukiah, California* (A2011-21); *Still Pond, Maryland* (A2011-33); *Venice, California* (A2012-17); *Little America, Wyoming* (A2012-64); *Alplaus, New York* (A2012-88); *Kirksey, Kentucky* (A2012-126); *Tyner, Indiana* (A2012-127); *Santa Monica, California* (A2013-1); *Climax, Georgia* (A2013-3); *Bronx, New York* (A2013-6); *Freistatt, Missouri* (A2013-8); and *Berkeley, California* (A2013-9).

¹² See *Roanoke, West Virginia* (A2000-1); *Observatory Finance Station Pittsburgh, Pennsylvania* (A2006-1); and *Hacker Valley, West Virginia* (A2009-1).

¹³ The motion to dismiss the Hacker Valley appeal was rejected because the Commission was not convinced the lease issue that led to the closure was an emergency and the suspension was "prejudicial to a fair closing process." The motion to dismiss the Observatory Finance appeal was denied because the Commission did not accept the Postal Service's argument that the closure of a station is outside its jurisdiction. It is interesting to note that in *Observatory Finance*, the Postal Service went through most of the procedural steps for a discontinuance, but in its motion to dismiss it says that local postal officials did so "incorrectly" and by "mistake." As in *Glenoaks*, customers were also "incorrectly" informed of their right to appeal the closure, which the Postal Service described as "most significant drawback of misapplying the procedures." (Motion to Dismiss, *Observatory Finance*, July 26, 2006 at 2).

rule on it is *Glenoaks*. This too is not a good precedent, and it has left unanswered a central question in the case.

As noted above under “Procedural History,” the Postal Service describes the planned closure of the Glenoaks post office as an “alleged discontinuance.” The Postal Service refuses to acknowledge that what it has planned for Glenoaks is a “discontinuance,” even though the Administrative Record makes it clear that a discontinuance study was conducted. The Postal Service argues that even though it did a discontinuance study, the closure is not really a discontinuance covered by 404(d) and 241.3 because it involves a “rearrangement” of retail services. The Postal Service explains things this way:

The Postal Service has the authority, as a matter of policy, to extend discontinuance study procedures to circumstances, such as the discontinuance of stations and branches or rearrangement of services in a community, to which it submits section 404(d) does not apply. In the Postal Service’s view, this authority to extend discontinuance procedures does not include the authority to broaden the scope of the Postal Regulatory Commission’s (“Commission”) appeal jurisdiction under section 404(d).¹⁴

In other words, the Postal Service may have done a discontinuance study but the closure is still not a discontinuance under 404(d) because it involves a “rearrangement of retail services.”

In its Order, the Commission acknowledges the “sharp disagreement regarding the Commission’s precedent and the scope of section 404(d),” but it then defers consideration of the “rearrangement” issue for a separate proceeding, one that will be combined with another deferred issue — the definition of the term “relocation.” That, as indicated in a footnote, is a reference

¹⁴ Surreply of the United States Postal Service to Dr. Hutkins’s Reply (August 5, 2013) at 1.

to the Commission's order changing the rules on post office appeals.¹⁵ Among many other changes to the rules, this order inserted a sentence into the regulations stating that the "relocation" of a post office within a community is not a closing or consolidation, hence not available for appeal, but due to disagreements among the stakeholders, the Commission deferred defining "relocation." The Commission thus determined that it would not hear appeals on relocations without defining what a relocation was.

Order No. 1171 changing the rules on appeals was issued on January 25, 2012. Twenty-one months have passed, and the Commission has done nothing to address the definition issue. Instead, during this time period, it has issued orders dismissing appeals on several cases involving such relocations, including *Santa Monica*, *Berkeley*, and the *Bronx*. The even thornier problems associated with the related terminology of "realignment" and "rearrangement" of retail services came to the fore even before January 2012, in the *Venice* and *Pimmit* cases. It has been twenty-one months since the Commission issued its order dismissing the Pimmit appeal, and during this time period, "realignment" and "rearrangement" and the so-called precedents associated with them — "Oceana and its progeny" — have been invoked by the Postal Service, the Public Representative, and the Commission in a number of comments, motions, and orders, including *Santa Monica*, *Fernandina Beach*, *Berkeley*, *the Bronx*, *South Valley Station (Yerington, Nevada)*, and now *Glenoaks*.

¹⁵ Order No. 1171, Docket No. RM2011-13, Order Adopting Final Rules Regarding Appeals of Postal Service Determinations to Close or Consolidate Post Offices (January 25, 2012).

In the *Glenoaks* Order, the Commission promises to initiate a separate proceeding, but it immediately strikes a defensive posture, observing, “The distinctions the Commission has drawn in considering appeals filed under section 404(d) for more than 30 years have worked reasonably well to protect the interests of all stakeholders.” This makes it sound as if the Commission has spent three decades examining the issues involved with realignment, rearrangement, and the scope of 404(d). In fact, we are talking about a small handful of cases spread out over a long period of time. It is only recently that the so-called precedents have mounted to the point that the Postal Service and the Commission are citing them regularly. The Postal Service now uses this terminology and cites these earlier cases to make arguments for dismissing appeals, and the Commission does the same in its orders. Yet neither the Commission nor the Postal Service has acknowledged the significance of the fact that these terms do not appear in the statutes or regulations. Together, the Commission and the Postal Service have created a new category of post office closures — one that has all the characteristics of a discontinuance but that is somehow not covered by the discontinuance statute and regulations.

Regarding the process that was followed in *Glenoaks*, one wonders how the Commission can issue an order affirming a final determination without first ruling on whether the closure should be seen as a discontinuance that is covered by 404(d) or as a “realignment” or “rearrangement” or “relocation” that is not covered by 404(d)? According to past practice, if the Commission determined that the closure was not covered by 404(d), it would dismiss the case. There

would be no need to review how the Postal Service fulfilled the requirements of 404(d), as the Commission has done in the *Glenoaks* Order. If, on the other hand, by issuing an order on the merits, the Commission has tacitly rejected the Motion to Dismiss, it is important to explain why. The Order, by its very nature as a decision affirming the final determination, implies that the arguments for dismissing the appeal that were presented by the Postal Service and Public Representative have been rejected. The Commission should not leave this as merely an implication but address the question explicitly.

The Postal Service states that the Motion for Reconsideration does not provide any factual or legal grounds that require the Commission to amend Order No. 1866. In general practice, the grounds for a motion for reconsideration are errors of law or fact in the judgment. The Motion for Reconsideration identifies several such errors. The Commission did not rule on the Motion to Dismiss before issuing its order on the merits. If not an explicit violation of law, this is certainly not “expected practice” in such proceedings, and it appears to be unprecedented in appeals cases, at least going back to 2000. Moreover, the Commission’s analysis in the Order did not adequately address numerous problems involving the facts in the Administrative Record, including the missing surveys, the flawed economic analysis, and so on. The Order does not explain how and why the Commission came to its conclusions despite key problems in the Record, which is exactly what the Postal Service complained about when it filed a Motion for Reconsideration of the *Roanoke* order.

CONCLUSION

The Commission's attorneys are now before the United States Court of Appeals for the District of Columbia Circuit arguing that the courts have no jurisdiction to review the Commission's orders on post office appeals. Citing 404(d)(5), the attorneys maintain that the Commission has the last word on appeals.¹⁶ If that is true, then it is crucial for the Commission to get it right when it makes decisions on post office closings. With regard to Glenoaks, there are still too many unanswered questions about the Motion to Dismiss and the Administrative Record for the Commission's ruling not to appear arbitrary and capricious and without observance of procedure required by law.

Even at this stage in the proceedings, however, it is not too late to get things right. The Commission needs only to reopen or extend the decisional period for a few more weeks (until after the holiday mailing season), to make a ruling on the Motion to Dismiss, to give the Postal Service an opportunity to file comments, to give the petitioner an opportunity to respond to those comments, and then to issue an order that addresses the case more fully than Order No. 1866.

Granting the Motion for Reconsideration will not set a precedent for future appeals; the Postal Service has already set a precedent showing that such motions are acceptable. It will not interfere with postal operations; the Glenoaks post office would probably remain open for the next few weeks anyway. It will

¹⁶ See *Mittleman v. Postal Regulatory Commission* (Case #12-1095) and *Pabon v. PRC* (Case No. 13-1247).

not cast a cloud over the final determination; it may actually help remove one.

Finally, it will give the Commission an opportunity to rule on the Motion to

Dismiss and to set things right with regard to the conduct of the proceedings. For

the reasons set forth above, the Petitioner respectfully requests that the

Commission grant the Motion for Reconsideration.

Respectfully submitted on behalf of
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s/ Steve Hutkins

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