**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

**Public Meeting held June 30, 2011**

**Commissioners Present:**

**Robert F. Powelson, Chairman**

**John F. Coleman, Jr., Vice Chairman**

**Tyrone J. Christy**

**Wayne E. Gardner**

**James H. Cawley**

Application of Bekins A-1 Movers, Inc., A-00108519

t/a Ace Moving and Storage, a corporation of A-2011-2233671

the Commonwealth of Pennsylvania, for the amendment

to its common carrier certificate, which grants the right,

inter alia, to transport by motor vehicle, household goods

in use; SO AS TO PERMIT the transportation of

household goods in use, (1) from points in the city

of Nanticoke, Luzerne county, and within an airline

distance of (3) miles of the limits of the said city

and from points in the township of Newport, Luzerne

County, to points in the county of Luzerne and vice

versa; (2) between points in the city of Nanticoke,

Luzerne County; (3) between points in the city of

Wilkes-Barre, Luzerne County, and within three (3)

miles of the limits of said city; and (4) from points

in the city of Wilkes Barre, Luzerne County and within

three (3) miles of the limits of the said city, to other

points in Pennsylvania, and vice versa, which is to

be a transfer of all the rights authorized under the

certificate issued at A-00099670 to Delphine Painter,

t/a Painter’s Van Lines, subject to the same limitations

and conditions.

**ORDER**

**BY THE COMMISSION:**

This matter comes before the Commission on an application filed March 18, 2011. Public Notice of the application was given in the *Pennsylvania Bulletin* of April 16, 2011, with protests due by May 2, 2011. No protests were filed and no hearings were held. The unopposed application is certified to the Commission for its decision without oral hearing. The record consists of the application, and an agreement of sale between Bekins A-1 Movers, Inc., t/a Ace Moving and Storage, and Delphine Painter t/a Painter’s Van Lines (transferor).

**DISCUSSION AND FINDINGS**

Bekins A-1 Movers, Inc., t/a Ace Moving and Storage (applicant or Bekins) seeks to amend its common carrier certificate to transport, by motor vehicle, household goods in use, by acquiring thorough transfer the right held by Delphine Painter, t/a Painter’s Van Lines. The applicant’s principal place of business is located at 125 Stewart Road, Wilkes-Barre, Luzerne County, Pennsylvania.

Bekins has held a certificate of public convenience to transport household goods in use since January 1990. David A. Caruso is the CEO, sole shareholder, and director of Bekins. A safety policy is currently in place which includes driver training and equipment maintenance. All drivers must meet the U.S. D.O.T. requirements.

The balance sheet of the applicant dated December 31, 2010, indicated cash assets of $47,720, total assets of $23,684,801 and total liabilities of $12,086,377 for owner’s equity of $11,598,424.

A review of the record before us indicates that the applicant possesses the technical expertise, facilities, sufficient capital, and other resources necessary to provide the proposed service. Applicant has no outstanding fines or assessments. Transferor has no outstanding fines or assessments due the Commission.

Applicant has evidence of bodily injury and property damage liability insurance on file to cover its current operations, however, the Commission will require a new filing to cover the amended rights granted herein.

The authority to be transferred has been operated by the transferor; therefore, it is presumed that there is a continuing need, which may be overcome only by evidence to the contrary. In re: Byerly, 270 A.2d 186 (Pa. 1970); Hostetter v. Pa. P.U.C., 49 A.2d 862 (Pa. Super 1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

The authority being transferred was granted in 1979. The Federal Aviation Act of 1994, 49 U.S.C. §§ 41713 (h) and 11501 (h), pre-empted the authority of states to regulate rates, routes, and services of motor carriers except matters involving safety and insurance. As a result, in its Order at Docket No. P-00940884, the Commission ruled that authority for the transportation of property, not including household goods in use, would no longer be transferred. For this reason, the authority has been amended by the Commission and only that service related to the transportation of household goods in use is being approved for transfer.

**After complete review of the record, we find:**

1. Applicant is fit, willing, and able to provide the service proposed.

2. Transfer of the authority is in the public interest and is necessary for the

continued accommodation and convenience of the public; **THEREFORE**,

**IT IS ORDERED:** That the application is hereby approved and that a certificate be issued granting the following right:

To transport, by motor vehicle, household goods in use, (1) from points in the

city of Nanticoke, Luzerne County, and within an airline distance of three (3) miles

of the limits of the said city and from points in the township of Newport, Luzerne

County, to points in the county of Luzerne and vice versa; (2) between points in

the city of Nanticoke, Luzerne County; (3) between points in the city of Wilkes-Barre,

Luzerne County, and within three (3) miles of the limits of the said city; and (4) from

points in the city of Wilkes-Barre, Luzerne County and within three (3) miles of the

limits of said city, to other points in Pennsylvania and vice versa.

**IT IS FURTHER ORDERED:** That the applicant shall not engage in any transportation

authorized by this order until the applicant has received a certificate of public convenience from the Commission.

**IT IS FURTHER ORDERED:** That a certificate of public convenience shall not be issued until the following are submitted to the Commission and approved by the Commission:

1. An acceptable Form E, as evidence of bodily injury and property damage liability insurance.

2. An acceptable Form H, as evidence of cargo insurance.

3. An acceptable tariff establishing just and reasonable rates.

**IT IS FURTHER ORDERED:** That Applicant must demonstrate safety fitness by completing a Safety Fitness Review. Applicant will be contacted by the Commission’s Bureau of Transportation and Safety, which will schedule a review to be completed within 180 days of the date Applicant’s Certificate is issued. Failure to submit to a Safety Fitness Review or to attain a satisfactory evaluation will result in cancellation of the Certificate.

**IT IS FURTHER ORDERED:** That upon compliance with the requirements above set forth, a certificate shall issue evidencing the Commission’s approval of the right to operate as above-determined.

**IT IS FURTHER ORDERED:** That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

**IT IS FURTHER ORDERED:** That in the event said applicant has not, on or before sixty (60) days from the date of entry of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

**IT IS FURTHER ORDERED:** That upon compliance with this order, the right granted the transferor, Delphine Painter, t/a Painter’s Van Lines, at A-00099670 be cancelled and the record marked closed.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

**(SEAL)**

**ORDER ADOPTED: June 30, 2011**

**ORDER ENTERED: July 7, 2011**