

Kenneth A. Olsen
Attorney at Law
33 Philhower Road
Lebanon, New Jersey 08833

Via Fedex Airbill No. 8770 3720 8018

March 2, 2012

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105

Dear Madam Secretary:

Re: Application of Canterbury International, Inc. t/a
Two Men And A Truck
No. A-2011-2251336

As your records will indicate, I represent Applicant in the above referred to application proceeding. My Pennsylvania Supreme Court Identification Number is 29681.

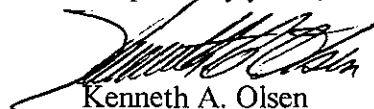
Attached hereto, for filing with your Commission on behalf of my client pursuant to the Honorable Administrative Law Judge's amended briefing schedule, find original and nine copies of Applicant's Main Brief, together with disk.

I hereby certify that the aforesaid and attached Applicant's Main Brief was today given and deposited with the overnight courier, FEDEX Express, for delivery to this Commission and all parties listed on the attached Certificate of Service by March 2, 2011. (Copy of FEDEX Express airbill receipt is attached hereto).

Kindly acknowledge receipt on the duplicate of this letter attached. A self-addressed stamped envelope is enclosed for your convenience.

If you have any questions relative to any of the above or attached, or require additional information, do not hesitate to contact me. Your courtesies and considerations are appreciated.

Respectfully yours,



Kenneth A. Olsen

KAO:amo
Enc.

cc with enc.: Hon. Katrina L. Dunderdale, ALJ (Via FEDEX and email)
William A. Gray, Esq. (Via FEDEX and email)
Canterbury International, Inc. t/a
Two Men And A Truck (Via First Class Mail)

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MAR - 1 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN THE MATTER OF:
APPLICATION OF
CANTERBURY INTERNATIONAL, INC. d/b/a
TWO MEN AND A TRUCK
NUMBER A-2011-2251336

MAIN BRIEF

OF
APPLICANT

RECEIVED

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dated: March 1, 2012

Filed By:
Kenneth A. Olsen
33 Philhower Road
Lebanon, New Jersey 08833
(908) 832-9207
Attorney for Applicant

Table of Contents

HISTORY OF THE PROCEEDING-STATEMENT OF THE CASE.....	3
PERTINENT TESTIMONY AND EVIDENCE OF APPLICANT.....	5
PERTINENT TESTIMONY OF SUPPORTING PUBLIC WITNESSES.....	11
PERTINENT TESTIMONY AND EVIDENCE OF PROTESTANTS.....	18
STATEMENT OF QUESTIONS INVOLVED.....	21
SUMMARY OF ARGUMENT.....	22
ARGUMENT.....	22
Applicant possesses the technical and financial ability to provide the proposed service.....	22
The instant application will serve a useful public purpose responsive to public demand or need....	26
Protestants have not demonstrated that a grant of the instant application would significantly endanger or impair their respective operations contrary to the public interest.....	29
PROPOSED FINDINGS OF FACT.....	32
PROPOSED CONCLUSIONS OF LAW.....	33
PROPOSED ORDER.....	35
CONCLUSION AND PRAYER FOR RELIEF.....	36
CERTIFICATE OF SERVICE.....	37
CITED CASES:	
<i>Application of Eazor Express, Inc.</i> , 53 Pa. PUC 374 (1979).....	30
<i>Application of Blue Bird Coach Lines, Inc.</i> , 72 Pa. PUC 262 (1990).....	26,30
<i>Application of Central Transport, Inc.</i> , Docket No. A-00108155 (Order entered June 26, 1999).....	25
<i>Application of J & J Leasing & Rentals, Inc.</i> , Docket No. A-2010-2164865 (I.D. of ALJ Chestnut).....	26,29
<i>Application of Primo Limousine Company, Inc.</i> , Doc. No. A-00111548 (Order entered 11/29/95).....	27
<i>Application of Santos A. Melendez t/a Union Cab</i> , Doc. No. A-00121472 (Order entered 11/13/06).....	27
<i>Application of Saferide Transportation Services, LLC</i> , Doc.No. A-2010-2159585 (Order entered 7/7/11).....	27
<i>Application of Friedman's Express, Inc.</i> , Docket No. A-00024369, F. 9 & 10, Am-B & Am-I.....	24,25
<i>B.B. Motor Carriers, Inc. v. Com., Public Utility Commission</i> , 36 Pa. Cmwlth. 26 (1978).....	27
<i>D. F. Bast, Inc. v. Pennsylvania Public Utility Commission</i> , 185 Pa. Super. 487 (1958).....	27,29
<i>Dutchland Tours, Inc. vs. Pennsylvania Public Utility Commission</i> , 19 Pa. Cmwlth. 1 (1975).....	27
<i>Highway Exp. Lines, Inc. v. Pennsylvania Public Utility Commission</i> , 195 Pa. Super. 92 (1961).....	27
<i>Loma Inc. v. Pennsylvania Public Utility Commission</i> , 682 A.2d 424 (Pa. Cmwlth.) 1996.....	24,25
<i>Merz White Way Tours v. Pennsylvania Public Utility Commission</i> , 204 Pa. Super. 43 (1964).....	34,39
<i>Modern Transfer Co. v. Pennsylvania Public Utility Commission</i> , 179 Pa. Super. 46 (1955).....	26
<i>New Kensington City Lines, Inc. v. Pennsylvania Public Utility Comm.</i> , 200 Pa. Super. 490 (1963).....	29
<i>Noerr Motor Freight, Inc. v. Pennsylvania Public Utility Commission</i> , 181 Pa. Super. 332 (1956).....	30
<i>Pa. P.U.C. v. Purolator Courier</i> , 24 Pa. Super. 490 (1964).....	33
<i>Pennsylvania R. Co. v. Pennsylvania Public Utility Commission</i> , 181 Pa. Super. 343 (1956).....	33
<i>Pittsburgh & L.E.R. Co. v. Pa. P.U.C.</i> , 170 Pa. Super. 411 (1952).....	33
<i>Railway Exp. Agency, Inc. v. Pennsylvania Public Utility Commission</i> , 195 Pa. Super. 394 (1961).....	30
<i>Reeder v. Pennsylvania Public Utility Commission</i> , 192 Pa. Super. 298 (1960).....	26
<i>W.C. McQuaide, Inc. v. Pennsylvania Public Utility Commission</i> , 585 A.2d 1151 (Pa. Cmwlth. 1991).....	26
<i>Zurcher v. Pennsylvania Public Utility Commission</i> , 173 Pa. Super. 343 (1953).....	26
CITED STATUTES AND REGULATIONS:	
66 Pa.C.S.A. § 332(a).....	33
66 Pa.C.S.A. § 1103(a).....	33
52 Pa. Code § 41.14, 41.14(a), 41.14(b), 41.14(c).....	24,26,33,34,35
52 Pa. Code § 3.382(a).....	29

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN THE MATTER OF:
APPLICATION OF
CANTERBURY INTERNATIONAL, INC. d/b/a
TWO MEN AND A TRUCK
NUMBER A-2011-2251336

MAIN BRIEF

OF

APPLICANT

RECEIVED

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Comes now, Canterbury International, Inc. d/b/a Two Men And A Truck, a corporation of the Commonwealth of Pennsylvania, with address at 3555 Valley Drive, Pittsburgh, PA 15234 (hereinafter referred to as Applicant), by its Attorney, Kenneth A. Olsen, and in accordance with the Rules of Practice of the Pennsylvania Public Utility Commission ("Commission") and pursuant to the January 20, 2012 Briefing Order of the Hon. Katrina L. Dunderdale, ALJ, files this, its Main Brief, in the above entitled proceeding.*

I

HISTORY OF THE PROCEEDING-STATEMENT OF THE CASE

Applicant, on or about June 1, 2011, filed its application for the additional right to begin to transport, as a common carrier, by motor vehicle, household goods in use, from points in the Counties of Beaver, Butler, Westmoreland, Fayette and Washington, to points in Pennsylvania and vice versa. This application was published in the Pennsylvania Bulletin of August 6, 2011, Vol.

*References to the record in this proceeding will be governed by the following abbreviations:

Tr. = Transcript of oral hearing and page number; Ex. = Exhibits received into evidence

41, No. 32, at Page 4273. Subsequently, protests to this application were filed by South Hills Movers, Inc., McKean & Burt, Inc. t/d/b/a All Ways Moving & Storage, All Ways World Wide Moving, Inc., Weleski Transfer, Inc., Lytle's Transfer & Storage, Inc., Hoy Transfer, Inc., Vesely Bros. Moving & Storage, Inc., Century III Moving Systems, Inc. t/d/b/a Clariton Transfer Company and Pleasant Hills Van & Storage, Debo Moving and Storage, Inc., and The Snyder Brothers Moving, Inc. t/d/b /a George Transportation Company (hereinafter referred to collectively as Protestants, or individually as Protestant South Hills, Protestant All Ways, Protestant Weleski, Protestant Lytle's, Protestant Hoy, Protestant Vesely, Protestant Century, Protestant Debo, or Protestant George). By letter dated January 10, 2012, the protests of Debo Moving and Storage, Inc. and The Snyder Brothers Moving, Inc. t/d/b /a George Transportation Company to this application were withdrawn by their counsel of record, John A. Pillar, Esq. During the continued hearing of January 11, 2012 and by letter dated January 12, 2012, the protest of Century III Moving Systems, Inc. t/d/b/a Clariton Transfer Company and Pleasant Hills Van & Storage to this application was withdrawn by its counsel of record, William A. Gray, Esq. Accordingly, the protests of seven Protestants remain to this application.

By notice dated October 4, 2011, an Initial In-Person Hearing was scheduled for November 22, 2011 before the Hon. Katrina L. Dunderdale, ALJ, in Pittsburgh, PA. A Prehearing Order was issued and signed October 5, 2011 by the Hon. Katrina L. Dunderdale, ALJ, scheduling the time and manner for prehearing exchange of witness and other hearing information, and setting forth the time and manner for presenting hearing exhibits and witnesses of Applicant and Protestants. On October 12, 2011, counsel for Protestant Debo and Protestant George filed a letter requesting a continuance of the Initial Hearing, which request was not objected to and which continuance was granted. By notice dated October 17, 2011, the Initial In-Person Hearing in this proceeding was

rescheduled for January 5, 2012, and the Initial In-Person Hearing was held on that date, at which time testimony was taken, evidentiary exhibits (Applicant's Exhibits 1-11) were submitted and admitted into evidence on behalf of Applicant by and through Applicant's operating witness and fourteen (14) public witnesses. At the close of the January 5, 2012 Initial In-Person Hearing, all parties requested and the Hon. Katrina L. Dunderdale, ALJ granted a Further Hearing, scheduled for January 11, 2012, to present additional exhibits and testimony in support of this application, and for presentation of Protestants' witnesses and exhibits. The Further Hearing was held on January 11, 2012, in Pittsburgh, PA, before the Hon. Katrina L. Dunderdale, ALJ, at which time the additional testimony of Applicant's operating witness was taken, an additional evidentiary exhibit (Applicant's Exhibit 12) on behalf of Applicant was submitted and admitted into evidence, testimony from Protestants' witnesses was taken, and Protestants' exhibits were submitted and admitted into evidence. At the close of the evidentiary record on January 11, 2012, the Hon. Katrina L. Dunderdale, ALJ ordered the submission of briefs by all parties and issued a Briefing Order on January 20, 2012 containing instructions for contents of the briefs, service of the briefs, and dates for submission of Main Briefs, on or before February 17, 2012, and Reply Briefs on or before March 2, 2012. The dates for submission of the briefs were later revised at Applicant's request, with consent of Protestants' counsel, and the Hon. Katrina L. Dunderdale, ALJ issued an Amended Briefing Order on February 16, 2012 wherein the date for filing of the parties' Main Briefs was set for March 2, 2012 and the date for filing reply briefs of the parties was set for March 16, 2012.

II PERTINENT TESTIMONY AND EVIDENCE OF APPLICANT

Raymond Coll. (Tr. 11-21, 156-203, 210-264). Raymond Coll is Vice President of Applicant and is familiar with Applicant's operations, finances, equipment, employees, drivers,

sales, safety, maintenance, dispatching, communications, and the instant application. Mr. Coll is also a director and stockholder of Applicant, along with his wife who is a director and the majority stockholder of Applicant. (Tr. 11-21). As set forth in Applicant's Exhibit No. 2, Applicant has operated as a certificated motor common carrier of household goods in use by this Commission since May, 2005. Applicant presently holds operating authority from this Commission to transport as a common carrier, by motor vehicle, household goods in use: (a) between points in Allegheny County; and (b) from points in Allegheny County, to points in Pennsylvania, and vice versa. (Applicant's Ex. 2). Also, Applicant presently holds operating authority from Federal Motor Carrier Safety Administration, U. S. Department of Transportation as a common carrier, to transport household goods by motor vehicle in interstate or foreign commerce between points in the United States. (Applicant's Ex. 2). Applicant also holds authority from this Commission to transport property, as a motor carrier, between points in Pennsylvania. (Tr. 260).

Applicant presently utilizes the equipment listed on Applicant's Ex. 3 to utilize in its existing operations and those operations contemplated in the instant application if granted by the Commission. As stated on Applicant's Ex. 3, some vehicles are owned by Applicant while others are under longer term lease from Penske, Ryder, or Fox and James, but no vehicle utilized for transporting household goods in use is more than six years old or has more than 65,000 to 70,000 odometer miles registered on it. (Tr. 15-16). These vehicles are insured for public bodily injury and property damage at the levels required by the Pennsylvania Public Utility Commission and United States Department of Transportation. Also, these vehicles are maintained by either Applicant or the vehicle's lessor owner pursuant to the rules and regulations of the Pennsylvania Public Utility Commission and United States Department of Transportation, undergo a mechanical check every 3,000 miles, are checked by the driver before and after every trip, are cleaned daily,

and have periodic maintenance, major or warranty repairs performed by the manufacturer or lessor. (Tr. 15; Applicant's Ex. 3 and 8). Applicant also has approximately 2,000 pads, 200 dollies, 50 carton dollies, and straps for utilizing in transporting household goods in use. (Tr. 15).

The equipment is garaged, maintained, and parked at Applicant's existing facilities located at 3555 Valley Drive, Pittsburgh, PA and 12 South Avenue, Sewickley, PA, which are both rented and contain approximately 6,000 square feet each, utilized for offices and equipment storage and maintenance. (Tr. 16; Applicant's Ex. 4). At these locations, Applicant parks its commercial and employee vehicles, and operates six days a week, from 7:00 A.M to 5:30 P.M. on weekdays and from 7:00 A.M. to 12:00 P.M. on Saturdays, with offices and an office staff of eight (8) people, two (2) dispatchers, twenty (20) drivers, forty (40) movers, and a safety supervisor. All are direct employees Applicant. (Tr. 16-17; Applicant's 4). Dispatching and communications with the public are performed through a network consisting of telephones, cell phones, internet, e-mail, facsimile machines, and a computerized reservation system. (Tr. 17; Applicant's Ex. 5).

Applicant's utilizes the services of approximately twenty (20) drivers, each of whom possess current and valid licenses in compliance with applicable intrastate and interstate regulations for the types of vehicles they drive and each of whom are subject to an initial ten year and an ongoing motor vehicle/driver history search every three months, criminal background checks, and written, verbal and driving tests. (Applicant's Ex. 7). Drivers undergo a driver training program consisting of four hours of classroom orientation, four hours of viewing safe driving videos, a road test with a qualified instructor, physicals, drug and alcohol testing as required by regulations and company policy, and training and evaluation for loading, unloading, and transporting household goods in use. (Applicant's Ex. 7). Employees undergo tests and training, paid for by Applicant, to become drivers and movers are trained and promoted from

within Applicant to become drivers. (Tr. 158-159). Driver and mover requirements and qualifications, including training, tests, and company mission, are contained and described in an employee handbook, vehicle arrival and departure policies, driving guidelines, new employee orientation, and furniture moving guidelines that Applicant provides and teaches to each driver and mover. (Applicant's Ex. 9, 10, and 11). Applicant spends approximately eight (8) hours on site classroom time and 30 to 40 hours of on the job training its drivers and movers in handling, packing, and transporting household goods because such reduces damage claims, creates professionalism on dealing with customers, and generates customer referrals or repeat business if the customer experiences a good or satisfactory move that is reported back to Applicant on reply cards given at the end of each move. (Tr. 164-166). Any customer complaint is handled through a complaint resolution system in which damage complaints are acted upon immediately as they happen to repair or replace any damages in order to keep a happy customer because Applicant is in a service business. (Tr. 167-168, 188). Applicant only expended one (1%) percent of its revenue in 2011 for damage claims, which is below the national average. (Tr. 187). If the instant application is granted, Applicant proposes to utilize the same policies, personnel, and equipment in the expanded territory. (Tr. 176).

For the calendar years of 2010, 2009, and 2008, Applicant reported \$1,581,096.00, \$1,188,184.00, and \$1,226,988.00, respectively, in Pennsylvania intrastate household goods in use revenue to this Commission. (Applicant's Ex. 6). Applicant's Profit and Loss Statement and Balance Sheet and Income Statement, for the eleventh month period ending November 30, 2011, shows Applicant's revenues of \$2,149,796.71; net income of \$56,569.48; and stated assets of \$291,274.23. (Applicant's Ex. 6). Applicant has experienced double digit growth in revenues each year since it began operations in May, 2005, and a five (5%) percent growth this past year.

(Tr. 156). Applicant has sufficient financial resources, through an existing \$100,000.00 PNC Bank line of credit and personal wealth of its stockholders that can be tapped into, to replace equipment, purchase or lease additional equipment, and hire additional personnel as needed if the instant application is granted. (Tr. 157, 176). Also, Applicant has secured pricing information on leasing three additional trucks from Fox and James, and contemplates adding probably four drivers, ten to 15 movers, and approximately \$300,000.00 in annual revenue. (Tr. 157, 186-187).

Applicant will transport a full house or less of household goods in use from a person's house or apartment, or from storage, with whatever equipment or personnel required to satisfy the customer whether on a minimum hourly charge of two (2) hours for moves under 40 miles, internal moves within a house or apartment, or for moves requiring additional hours and trucks. (Tr. 168-169). Applicant receives requests for service from the public via telephone or email inquiries to its website, and it keeps a record of these service requests. (Tr. 169-170). If the instant application is granted, tariff rates for the expanded territory will be profitable, be published by the Tri-State Tariff Bureau (if which Applicant is a member), and be an expansion or duplication of existing rates. (Tr. 177).

In further support of its application, Applicant also presented evidence of a list of 394 service requests for household goods in use service in the proposed territory, which Applicant received from the public via telephone and email from February 21, 2011 to December 15, 2011. (Applicant's Ex. 12; Tr. 171-172). Mr. Coll supervised the creation of the list of service requests, personally created the Excel spreadsheet that is Applicant's Ex. 12 from handwritten notes of Applicant's customer service representatives, supervises Applicant's ongoing policy to document all inquiries for household goods service received via email or telephone, and described the process by which Applicant receives inquiries from the public via email or telephone for

household goods service in and around or from and to Allegheny County, PA. (Tr. 171-175, 195-200). No referrals were made to other carriers when the callers were informed by Applicant it could not perform the requested move. (Tr. 200-201).

U. S. Department of Transportation equipment and driver violations were immediately remedied by Applicant securing a pin to a fire extinguisher upon the vehicle's return to Applicant's facility, securing brake housing tubing upon the vehicle's return to Applicant's facility, supplying an updated medical certificate, terminating a driver who drove over hour upon his return to the office the next day, terminating an unqualified driver upon his return to the office, and disciplining a driver for no seat belt use and following too close. (Tr. 193, 263). Applicant is aware of only one complaint filed against it by this Commission for transportation within Washington County, for which Applicant provided an explanation (of zip code misunderstanding) to the Commission and paid a reduced fine of \$250.00. (Tr. 194, 230).

After re-direct of Applicant's operating witness and cross-examination of Protestant's witness, it was learned that all federal equipment safety violations were immediately corrected upon the equipment's return to Applicant; all federal driver violations were remedied by terminating employment of the drivers involved (Tr. 261, 263-264); the tariff proffered by Protestants as Applicant's current tariff could not be identified by Applicant's operating witness (Tr. 255-259; Applicant's operating witness testified that Applicant's current tariff contains recent amendments conforming to Commission regulations (Tr. 215, 223, 254-259); Protestant's several hearsay telephone complaints to the Commission against Applicant were not documented and did not result in any Commission complaint; and Applicant's internet advertisements were generic advertisements created on the franchisor's website to direct public inquiries regarding Allegheny

County, PA area household goods movements to Applicant, which responded that it did not have intrastate household goods in use authority outside of Allegheny County. (Tr. 245, 260-262).

III PERTINENT TESTIMONY OF SUPPORTING PUBLIC WITNESSES

Anthony Pantoni. (Tr. 22-34). Mr. Pantoni appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 22). Mr. Pantoni will have a need for household goods in use transportation of the contents of his residence in Cranberry Township, Butler County, PA to Lancaster Township, Butler County, PA, within the next year. He and his wife have firm plans to move to Lancaster Township, Butler County, PA with the next year and have a couple of sites that they plan to purchase very soon. (Tr. 27 at lines 17-19, Tr. 33 at lines 1-5). Mr. Pantoni is familiar with Applicant and its services, having used Applicant in Spring, 2010 to transport some household goods from his deceased aunt's house in Sharpsburg, Allegheny County, PA to his mother's house in Midland, Beaver County, PA; was satisfied with the service; and would use Applicant if this application is granted. (Tr. 24, 27, 30). Mr. Pantoni is a commercial realtor, who has relocated in the past, has recommended Applicant's services to the public, has referred Applicant and two other movers to the public upon inquiries, and believes dependability and reliability are important factors (with cost as a tertiary factor) in choosing and recommending Applicant or other movers. (Tr. 29, 30, 32, 33).

Gillian Yahnite. (Tr. 35-43). Ms. Yahnite appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 35). Ms. Yahnite will have a need for household goods in use transportation of the contents of her residence in Monogahela, Washington County, PA to Cranberry Township, Butler County, PA within the next year, due to her husband's job promotion

in the next year requiring such move. (Tr. 36-37). She is familiar with Applicant and its services through business and networking acquaintances, who have used Applicant, and would use Applicant if this application is granted. (Tr. 37-38). Reliability, cleanliness of the people moving the goods, and whether the carrier is a woman owned business (which Applicant is) are the significant factors determining her use of a mover. (Tr. 38 at line 25, 40-41).

Emerald Van Buskirk. (Tr. 43-50). Ms. Van Buskirk appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 44). Ms. Van Buskirk will have a need for household goods in use transportation of the contents of her residence in McMurray, Peters Township, Washington County, PA to a point within a 50 mile radius of Pittsburgh, PA, within the next two years, due to household downsizing, her husband's recent retirement, and her husband's recently starting a new business. (Tr. 45-46). She is familiar with Applicant and its services through chamber of commerce membership and would use Applicant if this application is granted because it is a member of her chamber of commerce. (Tr. 47-48, 50). Dependability, reliability, cleanliness, and efficiency, not costs, are the significant factors determining her use of a mover. (Tr. 49-50).

Janet Bouma. (Tr. 50-61). Ms. Bouma appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 51). Ms. Bouma will have a need for household goods in use transportation of the contents of a house in Champion, Fayette County, PA to another point in Fayette County, PA within the next eight (8) months to one (1) year, due to the imminent sale of the house in Champion, PA. (Tr. 51-52). She has definite plans to relocate to another point in Fayette County, PA because she is familiar with the area, likes the area and its low taxes compared to surrounding counties. (Tr. 59-60) Ms. Bouma is familiar with Applicant and its services,

having used Applicant five (5) times Applicant within the past five (5) years for household goods moves in and around Allegheny County, PA, and would use Applicant if this application is granted. (Tr. 52-53). She is also familiar with the Ms. Coll, the president of Applicant, through networking meetings and acquaintances. (Tr. 56-57). Ms. Bouma would not consider utilizing other household goods movers if she can use Applicant because Applicant is a known quantity, with whom she is comfortable and pleased as to their services. (Tr. 60).

Suzanne Froelich. (Tr. 61-69). Ms. Froelich appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 62). Ms. Froelich will have a need for household goods in use transportation of the contents of her residence in Zelienople, Butler County, PA to another point in Butler County, PA or in Beaver County, PA, within the next few months in the Spring, 2012. (Tr. 63-64). She has definite plans to relocate to another point in Butler or Beaver County, PA due to the close proximity of her contractor employer and the fact that her present month to month lease permits the move on short notice. (Tr. 63-64). Ms. Froelich is familiar with Applicant and its services, having used Applicant three years ago to move on Super Bowl Sunday in two feet of snow, found their services "astonishing" and "fantastic job," and would use Applicant if this application is granted (Tr. 64 at lines 23-25, Tr. 65 at lines 1-9). She is also familiar with the Ms. Coll, the president of Applicant, through networking meetings and acquaintances; and the big determining factors for her use of Applicant (or any mover) is service, her of support of women owned businesses such as Applicant, and cost, for which Applicant is competitive. (Tr. 66-68).

Timothy Edris. (Tr. 70-80). Mr. Edris appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 70). Mr. Edris will have a need for household goods in use

transportation of the contents of his residence in Beaver Falls, Beaver County, PA to the Polymer/Hershey/Harrisburg, Dauphin County, PA within the next year to year and a half, due to his wanting to relocate close to his aging parents and other siblings, who now reside in that area. (Tr. 71-72). He is familiar with the Polymer/Hershey, PA area having grown up in the area and has definite ideas of the locations to which he would relocate, especially as to affordability. (Tr. 72). He is familiar with Applicant's owners through business and networking connections and trusts them, trust is a "pretty big" or major factor in determining who he will do business with, and he would use Applicant for his move if this application is granted. (Tr. 80).

Julie Ann Sullivan. (Tr. 80-86). Ms. Sullivan appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 81). Ms. Yahnite will have a need for household goods in use transportation of the contents of her residence in McMurray, Peters Township, Washington County, PA to Mount Lebanon/Dormont area in Allegheny County, PA by July, 2012, and she has listed her house with a realtor. (Tr. 81-82). She is familiar with Applicant and its services through business and networking acquaintances with Applicant's owner, Dottie Coll, and with other people who have utilized Applicant's services. (Tr. 83). She would use Applicant if this application is granted. (Tr. 83).

Robert M. Flock. (Tr. 86-93). Mr. Flock appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 87). Mr. Flock will have a need for household goods in use transportation of the contents of her residence in Belle Vernon, Westmoreland County, PA to either Greensburg, Westmoreland County, PA; Allentown, Lehigh County, PA; St. Louis, MO; or to Huntinton, WV within six months to two years. (Tr. 88-89). He is familiar with Applicant

and its services, having known Applicant's vice president Ray Coll over 50 years and occasionally visited Applicant's facility, and would use Applicant if this application is granted. (Tr. 90, 91).

Edward Sickmund. (Tr. 93-104). Mr. Sickmund appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 94). Mr. Sickmund will have a need for transportation of household goods in use from his residence in McMurray, Washington County, PA to another point in the application territory in May, 2012 and to Erie, PA in late August, 2012. The first movement involves transportation of his daughter's household belongings from Mr. Sickmund's residence to an apartment his daughter is relocating to in May, 2012; the second movement involves transportation of his son's household belongings to an off-campus site in Erie, PA before the start of the 2012 fall term at Mercyhurst college; and he will be paying for both movements that he does not presently want to do himself (Tr. 94-97, 100). He is familiar with Applicant and its services by knowing people who used Applicant and through its membership in the Southwest Community Chamber of Commerce, of which he is a director. He would use Applicant if this application is granted because Applicant's owners are members of his chamber of commerce. (Tr. 98-99). Membership in his chamber of commerce and costs are important factors Mr. Sickmund uses in determining his use of a mover. (Tr. 102-103).

John Sherry. (Tr. 104-114). Mr. Sherry appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 105). Mr. Sherry will have a need for transportation of household goods in use from his residence in McMurray, Washington County, PA to another point in Washington County, PA in the Spring or Summer of 2012, and to Hidden Valley, Somerset County, PA in the near future. (Tr. 106-108). The first movement involves transportation of

household belongings from Mr. Sherry's residence to another house he will be purchasing approximately four miles from his present residence; and the second movement involves transportation of household belongings and hunting trophies in his basement to a resort residence he contemplates purchasing soon in Hidden Valley, Somerset County, PA. (Tr. 107-108). He is familiar with Applicant and its services, having performed legal services for Applicant and having known Applicant's owners for 41 years. (Tr. 108-110). He would use Applicant if this application is granted because of his knowledge of Applicant and Applicant's owners. (Tr. 109).

Kimberly Aukerman. (Tr. 115-126). Ms. Aukerman appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 115). Ms. Auckerman has an immediate need for transporting donated household goods items presently stored at her residence's garage in Greensburg, Westmoreland County, PA to various deserving or needy families located in the community for Cornerstone Ministries of Murrysville, Westmoreland County, PA. (Tr. 116-117). She intends to pay for the moving services, wants to get some of the household items now to three identified families in the community, and wants to empty her garage of these donated household items as soon as possible to use her garage for parking her automobile. (Tr. 117-119). Ms. Aukerman is familiar with Applicant and its services since her son works for Applicant. (Tr. 120). She would use Applicant if this application is granted and pay for its services, but would not use another mover if the application is not granted. (Tr. 118 at lines 22-25, 122, 125-126).

Patsy Gene Mooney. (Tr. 126-137). Ms. Mooney appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 127). As part of her and her husband's definite plans to downsize and relocate within the next year to year and a half, Ms. Mooney will have a need for

transporting household goods they need from her residence in Alliquippa, Beaver County, PA to a new smaller residence in the Ligonier, Westmoreland County, PA area. (Tr. 127-128). Her husband's worsening rheumatoid arthritis, their retirement, and the fact her husband still maintains a current realtor's license, have made their downsizing and relocation plans to Ligonier, PA definite within the last month and a half, and she is familiar with the Ligonier, PA area having visited it many times for vacation or recreation purposes. (Tr. 128, 131-132), Ms. Mooney is familiar with Applicant and its services since her grandson works for Applicant, but she does not have any personal or social dealings with Applicant or its owners. (Tr. 129-130). She would use Applicant if this application is granted. (Tr. 129).

Penny Ann Rodgers. (Tr. 137-150). Ms. Rodgers appeared at the January 5, 2012 hearing individually and on behalf of her mother in support of the authority sought by Applicant in the instant proceeding and set forth on Applicant's Ex. 1. (Tr. 137-138, 144). As part of her and her mother's definite plans to downsize and relocate within the next six months and a half, Ms. Rodgers will have a need for transporting household goods from her residence in Ardara, Westmoreland County, PA to a new smaller residence in the Greensburg, Westmoreland County, PA area. (Tr. 127-128). She intends to pay for the moving services, has determined there are three apartment places available in Greensburg, PA to move into with her ill and grieving mother, and her brother will move into her and her mother's present residence once they leave. (Tr. 140-142). Ms. Aukerman is familiar and had a good/worry-free experience with the Two Men And A Truck organization, having researched and used them in her prior move from Georgia to Pennsylvania, and she would use Applicant if this application is granted. (Tr. 140, 146).

John Edward Lettrich. (Tr. 150-155). Mr. Lettrich appeared at the January 5, 2012 hearing individually in support of the authority sought by Applicant in the instant proceeding and

set forth on Applicant's Ex. 1. (Tr. 150). Mr. Lettrich will have a need for transportation of household goods in use from his residence in Lower Burrell, Westmoreland County, PA to another point in Westmoreland County, PA, or to a place in Armstrong County within the next eight to nine months, but certainly by August or September, 2012. (Tr. 151). His plans to relocate and downsize are based upon his desire to find a smaller residence after a child goes to college later this year, his desire to find a place in Armstrong County that is half way between his and his fiance's work, his familiarity with the Armstrong County area where he was raised, and the ability and desire to move from his present rental apartment on short notice before needing to renew the lease. (Tr. 152-153). He would use Applicant if this application is granted because of his knowledge of Applicant's employees' training, which has done working as an employee of Applicant. (Tr. 153).

IV PERTINENT TESTIMONY AND EVIDENCE OF PROTESTANTS

Robert Lee. (Tr. 270-288). Mr. Lee testified at the January 11, 2012 hearing that he is the president of Protestant South Hill Movers, which provides intrastate household goods transportation services in portions of the territory sought in the instant application. (Tr. 270-275; South Hills Ex. 1). Mr. Lee stated his company reported \$2,200,000.00 in Pennsylvania intrastate household goods revenue to the Commission in 2010; has 50,000 square feet of office, warehouse, and truck maintenance facility in Bethel Park, PA; has communication systems and a safety program; has 45 tractors and trailers and 35 straight trucks; advertises in the telephone yellow pages and on the internet; and employees approximately 200 drivers, helpers, and office staff on a full time or part time basis. (Tr. 276-281). Upon cross-examination, Mr. Lee stated his company serves portions of the entire territory sought in the instant application, that he did not have any documentation to substantiate equipment not being operated to full capacity, and

stipulated, through his attorney, that his company is not arguing any adverse effect will occur by this Applicant competitor. (Tr. 283-286).

Joseph Vesely. (Tr. 289-306). Mr. Vesely testified at the January 11, 2012 hearing that he is vice president and fifty percent owner of Protestant Century III Moving Systems, which is dormant/not operating, and of Protestant Vesely Bros. Moving, which provides intrastate household goods transportation services in only a portion (three counties) of the territory sought in the instant application, ie. Fayette, Washington, and Westmoreland Counties. (Tr. 291-295; Vesely Bros. Moving and Storage Ex. 1). Mr. Vesely stated his operating company had three leased tractors, six owned tractors, fifteen owned trailers, and seven owned straight vans; reported \$400,000.00 in Pennsylvania intrastate household goods revenue to the Commission in 2010; will report \$400,000.00 in Pennsylvania intrastate household goods revenue to the Commission in 2011; has a 40,000 square feet of office and warehouse facility in Belle Vernon, PA; has communication systems and a safety program; advertises in the telephone yellow pages, on the internet, and with associations; is an agent of United Van Lines; and has competition. (Tr. 296-301). Upon cross-examination, Mr. Vesely stated his company serves portions (from various points in Fayette, Washington, and Westmoreland Counties) of the entire territory sought in the instant application; his company enjoyed the same (not less) \$400,000.00 in intrastate revenues in 2011 as it did in 2010, and 50% of that revenue is derived from Allegheny County where Applicant already has authority; seven of the eighteen drivers are independent contractors – not employees; the public is charged for warehousing services; most of the equipment is less than ten years old; (Tr. 302-306).

Timothy Moore. (Tr. 306-346). Mr. Moore testified at the January 11, 2012 hearing that he is president and sole owner of Protestants All Ways World Wide Moving, Inc. and McKean and

Burt, Inc., which provides intrastate household goods transportation services in only a portion (15 miles of City of Washington) of the territory sought in the instant application, ie. Washington County. (Tr. 311-315; McKean and Burt Ex. 1; All Ways World Wide Moving Ex. 1). Mr. Moore stated his companies: operate out of five buildings consisting of offices and warehousing in Washington, PA; have three tractors, four trailers, two sales vehicles, two operational vehicles, eleven straight trucks, and one pack truck, which are leased to All Ways World Wide Moving as needed; have 12 full time drivers and 16 helpers, which are leased to All Ways World Wide Moving as needed; has communication systems and a safety program; advertises in the telephone yellow pages, on the internet, on flyers, and with associations; is an agent of Wheaton Van Lines for All Ways World Wide Moving; is only interested in Washington County, and has 12 existing competitors. (Tr. 315-325, 333). Over objections made on the record, Mr. Moore stated he made some informal telephone complaints to the Commission about Applicant's operations and rates, which the Commission did not act upon, except the one that Applicant resolved with the Commission. (Tr. 325-330). Upon cross-examination, Mr. Moore stated his company serves only a one county portion (ie. Washington County) of the entire territory sought in the instant application and his companies' authority does not include all of Washington County; his companies charge the public for warehousing services; the average age of his equipment is Year 2010 and he bought a straight truck in 2011; all of his company equipment and facilities are owned debt-free; and he no documentation to substantiate his informal telephone complaints to the Commission about Applicant. (Tr. 331-345).

Michael Chick. (Tr. 346-365). Mr. Chick testified at the January 11, 2012 hearing that he is vice president and fifty percent owner of Protestant Weleski Transfer, which provides intrastate household goods transportation services in only a portion of the territory sought in the

instant application, ie. some parts of Butler and Westmoreland Counties, and to and from Armstong, Cambria, and Somerset Counties (Tr. 347-352; Weleski Ex. 1). Mr. Chick stated his company is a diversified company performing hotel industry distribution, U. S. Department of Defense, warehousing and household goods work; reported \$1,700,000.00 in Pennsylvania intrastate household goods revenue to the Commission in 2010; has four separate warehouses containing 400,000 square feet and a separate office facility in Tarentum, PA; has 50 tractor trailer units, 30 straight trucks, 20 local straight trucks, and 12 pack vans, several sales vehicles and some company cars; has approximately 140 employees consisting 37 employee drivers, 18 independent contractor drivers, and 40 seasonal helpers; is an agent of Atlas Van Lines; advertises in the telephone yellow pages, on the internet, in mailings, with sales people, and with associations; and has competition. (Tr. 353-360). Upon cross-examination, Mr. Chick stated his company serves only portions of the territory sought in the instant application (ie. some points in Westmoreland and Butler Counties but nothing in Beaver, Washington, or Fayette Counties); his company generate \$1,700,000.00 in intrastate household goods revenues in 2010 when it had competition and it had competition since 2005; his company has successfully diversified within the last 10 years; the eighteen independent contractor drivers own their own tractors and some are incorporated; his company charges the public extra for warehousing and after hours or late pick-ups or delivery services; the seasonal help are day laborers; the tractors and trailers are approximately 5 years old on the average while the straight trucks are somewhat older; and it has been beneficial to be an Atlas Van Lines agent. (Tr. 361-365).

V
STATEMENT OF QUESTIONS INVOLVED

Applicant states that the questions involved in this proceeding are as follows: (1) Does the approval of the instant application serve a useful public purpose, responsive to a public demand or

need?; (2) Does Applicant possess the technical and financial ability to provide the proposed service and comply with Commission regulations?; and (3) Would the approval of this application endanger or impair the operations of Protestants contrary to the public interest? For the reasons argued below, Applicant submits the answers to the first two questions are affirmative and the answer to the last question is the negative.

VI SUMMARY OF ARGUMENT

It is Applicant's position that it has satisfied the Commission's criteria set forth in 52 Pa. Code § 41.14. First, Applicant's has demonstrated that approval of the instant application will serve a useful public purpose responsive to a public demand and need. Secondly, Applicant has demonstrated it possesses the technical and financial ability to provide the proposed service in a continuous and lawful manner. Inasmuch as the one shipment documented by a Commission complaint to have been performed by Applicant without authority has been adequately explained by Applicant as a misunderstanding and was resolved with the Commission, and the other undocumented allegations of Protestants were unsubstantiated hearsay of some telephone complaints which the Commission did not pursue with any proceedings, such cannot be a preclusion to a subsequent grant of authority and there has been no showing that Applicant lacks a propensity to operate safely and legally, thereby removing any such basis on which to withhold a grant of authority. Thirdly, there has been no showing or documentation that Protestants operations would be endangered or impaired contrary to the public interest by a grant of the instant application.

VII ARGUMENT

A. Applicant possesses the technical and financial ability to provide the proposed service.

Applicant has submitted ample evidence of its technical and financial ability to provide the

proposed service in the form of amount and types of vehicles it utilizes in its authorized intrastate and interstate operations; the type and amount of sedan vehicles is presently has available for use in the proposed operation if this application is granted; a description of its equipment maintenance and safety program; a description of its facilities and communications network; a description of its drivers, office, dispatching, and equipment maintenance personnel; a description of its driver qualifications and training program; a description of its present intrastate and interstate operations, a description of the type and amount of insurance it presently has in effect for the protection of the public; and a description of its financial condition showing sufficient assets and income to conduct present and the proposed operations. The credibility of the foregoing testimonial and documentary evidence adduced by Applicant regarding its technical and financial ability to provide the proposed service was sufficiently established during the hearings and not successfully attacked by Protestants.

Moreover, no showing has been made of any propensity by Applicant to operate in other than a lawful and safe manner. Through cross-examination of Applicant and direct examination of its own witnesses, Protestants attempted to show Applicant conducted unlawful operations on occasions, was advertising beyond the scope of authorized operations on the internet, and was not charging its filed tariff rates for existing operations. However, after re-direct of Applicant's operating witness and cross-examination of Protestant's witness, it was learned that all federal equipment safety violations were immediately corrected upon the equipment's return to Applicant, all federal driver violations were remedied by terminating employment of the drivers involved (Tr. 261, 263-264); the tariff proffered by Protestants as Applicant's current tariff could not be identified by Applicant's operating witness (Tr. 255-259; Applicant's operating witness testified that Applicant's current tariff contains recent amendments conforming to Commission regulations

(Tr. 215, 223, 254-259); Protestant's several hearsay telephone complaints to the Commission *against Applicant* were not documented and did not result in any Commission complaints against Applicant, and the one complaint filed by the Commission against Applicant was adequately explained to and resolved with the Commission (Tr. 223, 325-330).

With respect to Applicant's internet advertisements, Applicant's Mr. Coll explained that such were generic advertisements created on the franchisor's website to direct public inquiries regarding Allegheny County, PA area household goods movements to Applicant, who responded that it did not have intrastate household goods in use authority outside of Allegheny County. (Tr. 245, 260-262).

The one documented trip by Applicant without appropriate operating authority was explained as a misunderstanding generated by a Zip Code destination within Applicant's present authority, occurred without prior knowledge or authorization of Applicant's management, and was stated by Applicant's vice president that it was resolved with the Commission and steps taken for such misunderstanding to not occur again. Other unlawful activities, as to charging unfiled tariff rates, advertisements, and operations in Washington County, alleged by Protestants to have been performed by Applicant were not either not documented or substantiated by Protestants during the hearings.

Measured against the standards and principles espoused in Application of Friedman's Express, Inc., Docket No. A-00024369, Folder 9, Am-B, Folder 10, Am-I, and in Loma, Inc. v. Pennsylvania Public Utility Commission, 682 A.2d 424 (Pa. Comwlth. 1996), the one documented trip outside of Applicant's authority and the other unlawful actions alleged, but not documented or substantiated, by Protestants do not support any conclusion that Applicant lacks the propensity to operate safely and lawfully.

It is well settled that in order for the Commission to conclude that an Applicant lacks a propensity to operate legally, the evidence of record, taken as a whole, must demonstrate that an Applicant has a persistent disregard for, flouting, or defiant attitude toward the Public Utility Code, or the orders and regulations of the Commission. Application of Central Transport, Inc., Docket No. A-00108155 (Order entered June 26, 1992). First, applicable case law has established the principle that a motor carrier authority applicant's prior unlawful operations do not preclude the Commission from granting authority in a subsequent proceeding. Loma, Inc. v. Pennsylvania Public Utility Commission, 682 A.2d 424 (Pa. Cmwlth. 1996). The Commission can accept evidence presented by a motor carrier applicant, in a proceeding subsequent to any unauthorized operations, as credible to determine that the company is likely to comply with the Commission's regulations in the future. Loma, Inc. v. Pennsylvania Public Utility Commission, supra. Consequently, the occurrence of isolated prior unlawful operation should not and does not form a basis upon which to deny Applicant's instant application, and certainly does not form a basis under the Application of Friedman's Express, Inc., Docket No. A-00024369, Folder 9, Am-B, Folder 10, Am-I (Order entered August 17, 1989) standard of a propensity to operate unsafely and illegally.

On the contrary, the facts that Applicant has operated since 2005 as a certificated motor carrier of household goods in use and property by this Commission, has operated since 2005 as a licensed interstate motor carrier of household goods in interstate commerce, has responded to and resolved one complaint from the Commission, has communicated with Commission personnel for advice as to proper and lawful intrastate operations, will discipline and terminate drivers that do not comply with the law, and commenced and continued with the instant application proceeding clearly demonstrates Applicant's propensity to operate lawfully and safely. Incidentally, it has

been held the Commission considered the applicant's unauthorized service as proof of public need where the service was based on a good faith misunderstanding of the scope of its certificate and the revenues generated thereby may be considered in determining applicant's financial fitness. W. C. McQuaide, Inc. v. Pennsylvania Public Utility Commission, 1156 (Pa. Cmwlth. 1991), 585 A.2d 1151 (1991).

B. The instant application will serve a useful public purpose responsive to a public demand or need.

An applicant can establish that approval of its application will serve a useful public purpose, responsive to a public demand or need, and meets its burden under 52 Pa. Code § 41.14(a), through presentation of relevant, probative, competent, and credible evidence of record. Application of Blue Bird Coach Lines, Inc., 72 Pa. PUC 262 (1990) (Bluebird). Applicant herein has done such with the presentation of relevant, probative, competent, and credible evidence of fourteen (14) supporting public witnesses and Applicant Ex. 12, plus supportive testimony.

An applicant for Commission authority may prove a need or demand for its proposed transportation service through witnesses comprising a representative sampling of the public that will use the proposed service within the application territory. In re Application of J & J Leasing & Rentals, Inc. d/b/a Anytime-Airport- Taxi by J & J Transportation, A corporation of the Commonwealth of Pennsylvania, Docket No. A-2010-2164865, (Order entered December 15, 2011) citing Bluebird, supra. It is not necessary that an applicant for a certificate of public convenience show that a proposed service be absolutely indispensable or establish a demand for service in every square mile of territory sought, as proof of necessity within an area generally is sufficient to support a grant of authority. Modern Transfer Co. v. Pennsylvania Public Utility Commission, 179 Pa. Super. 46, 115 A.2d 887 (1955); Reeder v. Pennsylvania Public Utility Commission, 192 Pa. Super. 298, 162 A.2d 231 (1960); Zurcher v. Pennsylvania Public Utility

Commission, 173 Pa. Super. 343, 98 A.2d 218 (1953); and B. B. Motor Carriers, Inc. v. Com., Public Utility Commission, 36 Pa. Cmwlth. 26, 389 A.2d 210 (1978). While evidence of present need can be presented, the Commission may act upon indicated future need if circumstances require such, and a witness's future need is sufficient to satisfy an Applicant's burden. Highway Exp. Lines, Inc. v. Pennsylvania Public Utility Commission, 195 Pa. Super. 92, 169 A.2d 798 (1961). Application of Santos A Melendez t/a Union Cab, Docket No. A-00121472 (Order entered November 13, 2006). Where the scope of the operating authority is narrow or limited, as it is in this case, fewer witnesses are required to prove public need. In re Application of Saferide Transportation Services, LLC, Docket No. A-2010-2159585 (Order entered July 7, 2011) citing Bluebird). Similarly, the Commission determined that the testimony of one witness was sufficient to support a grant of authority from all points in one county, because the testimony represented a reasonable cross section of the public's need for the proposed service. Application of Primo Limousine Company, Inc., Docket No. A-00111548 (Order entered November 29, 1995) An applicant's burden is met by showing the proposed service is reasonably necessary for the public's accommodation or convenience, as an absolute or indispensable necessity need not be proven. Highway Exp. Line v. Pennsylvania Public Utility Commission, 164 Pa. Super. 145, 63 A.2d 461 (1949); Pennsylvania R. Co. v. Pennsylvania Public Utility Commission, 181 Pa. Super. 343, 124 A.2d 685 (1956); D. F. Bast, Inc. v. Pennsylvania Public Utility Commission, 185 Pa. Super. 487, 138 A.2d 270 (1958); and Dutchland Tours, Inc. v. Pennsylvania Public Utility Commission, 19 Pa. Cmwlth. 1, 337 A.2d 922 (1975).

The evidentiary record in this proceeding establishes that Applicant's proposed service is reasonably necessary for the public's existing or future accommodation or convenience in the general area sought by Applicant, and that Protestants cannot lawfully serve all the points testified

to by the public witnesses. The fourteen public witnesses' testimony as to present and future need for household goods in use transportation stated points to and from Beaver, Butler, Fayette, Washington, and Westmoreland Counties, such as (1) Cranberry Township to Lancaster Township in Butler County; (2) Monogahela, Washington County to Cranberry Township, Butler County; (3) McMurray, Washington County to points within a 50 mile radius; (4) Champion, Fayette County to another point in Fayette County; (5) Zelienople, Butler County to point in Butler or Beaver County; (6) Beaver Falls, Butler County to Polymer/Hershey, Dauphin County; (7) McMurray, Washington County to Mount Lebanon, Allegheny County; (8) Belle Vernon, Westmoreland County to Greensburg, Westmoreland County or to Allentown, Lehigh County; (9) McMurray, Washington County to Erie, PA and to another point in the application territory; (10) McMurray, Washington County to Hidden Valley, Somerset County and to another point in Washington County; (11) Greensburg, Westmoreland County to other points in Greensburg, Westmoreland County; (12) Alliquippa, Beaver County to Ligonier, Westmoreland County; (13) Ardara, Westmoreland County to Greensburg, Westmoreland County; and (14) Lower Burrell, Westmoreland County to another point in Westmoreland County or to a point in Armstrong County. Additionally, the public witness stated their desire to utilize Applicant. The foregoing demonstrates Applicant's proposed service is reasonably necessary for the public's convenience or accommodation. There can be little doubt these public witnesses will utilize Applicant in the future for their call and demand needs because each witness specifically identified their respective need and testified as to their reasons they desired to use Applicant and their satisfactory experience with Applicant when utilizing Applicant for past intrastate household goods transportation. Applicant's Ex. 12 also demonstrates current and future evidence of a of public need by listing service requests for call and demand service in the proposed territory, which Applicant received

from the public from February 21, 2011 to December 15, 2011. (Applicant's Ex. 12; Tr. 171-175; Tr. 195-201). Mr. Coll of Applicant supervised the creation of the list of service requests, sometimes referred the callers to other household goods moving companies, (without naming them), explained the callers inquired about household goods in uses moving services to and from points in the application territory, and explained that Applicant tried to secure as much information as possible from the callers during the telephone calls. (Tr. 195-201). In view of the foregoing, Applicant submits that its Exhibit 12 complies with 52 Pa. Code § 3.382(a) because while each specific listing may not strictly comply with the requirements for service request testimony contained in 52 Pa. Code § 3.382(a), the exhibit listing as a whole is sufficiently relevant and of sufficient probative value as to provide corroboration of the specific need testimony proffered by the public witnesses. In re Application of J & J Leasing & Rentals, Inc. d/b/a Anytime-Airport-Taxi by J & J Transportation, A corporation of the Commonwealth of Pennsylvania, Docket No. A-2010-2164865, Initial Decision of ALJ Chestnut at page 24.

C. Protestants have not demonstrated that a grant of the instant application would significantly endanger or impair their respective operations contrary to the public interest. It has been conclusively determined that the legislature, in enacting the Public Utility Law, did not intend to benefit established carriers by erecting artificial barriers to the entry of new competitors. Merz White Way Tours v. Pennsylvania Public Utility Commission, 204 Pa. Super. 43, 201 A.2d 446 (1964); New Kingsington City Lines, Inc. v. Pennsylvania Public Utility Commission, 200 Pa. Super. 490, 190 A.2d 179 (1963). Moreover, the primary object of the public service laws is not to establish a monopoly or to guarantee the security of investment in public service corporations, but first, and at all times, to serve the interests of the public. D. F. Bast, Inc. v. Pennsylvania Public Utility Commission, 185 Pa. Super. 487, 138 A.2d 270 (1958). The law does not

guarantee any carrier freedom from competition, and the public convenience and interest may require a proposed service (ie. such as Applicant's herein) even though it results in diversion of business from existing carriers. Railway Exp. Agency, Inc. v. Pennsylvania Public Utility Commission, 195 Pa. Super. 394, 171 A.2d 860 (1961). The courts and the Commission have historically recognized that no existing carrier has an absolute right to be free from competition. Noerr Motor Freight, Inc. v. Pennsylvania Public Utility Commission, 181 Pa. Super. 332, 338, 124 A.2d 393 (1956). The Commission has stated that it promulgated the transportation regulatory policy statement at 52 Pa. Code § 41.14 "to eliminate monopolistic protection of existing motor carriers and to promote health competition among motor carriers for the purpose of assuring the availability of transportation service commensurate with the demonstrated public demand/need." Bluebird, supra, at 274. Furthermore, the Commission, in Application of Eazor Express, Inc., 53 Pa. PUC 374 (1979), stated more emphasis would be placed on economic analysis and commission discretion over the level of competition which appears to best serve the public interest, with less emphasis on protecting existing carriers from additional competition.

Not one of the Protestants herein submitted any quantitative evidence of the extent to which the grant of the instant application would endanger or impair their respective operations to the point of being contrary to the public interest. As a matter of fact, Protestant South Hill Movers testified that its company only being able to serve a portion of the territory sought in the instant application, the company received \$2,200,000.00 in Pennsylvania intrastate household goods revenue in 2010 with competition, the company having large facilities with approximately 200 employees and 80 pieces of equipment, and it was not arguing any adverse effect from a grant of the instant application; Protestant Vesely Bros. Moving testified its company only being able to serve a portion (various points in three counties) of the territory sought in the instant application,

the company received \$400,000.00 in Pennsylvania intrastate household goods revenue in 2010 and in 2011 with competition, the company has equipment that is mostly as new as ten (10) years old; Protestant McKean and Burt testified its company, and its affiliated company, only being able to serve a portion (only Washington County) of the territory sought in the instant application, the average age of company equipment being Year 2010 with new equipment being purchased in 2011, all while the company had competition, and all company facilities and equipment were owned debt-free; and Protestant Weleski Transfer testified its company only being able to serve a portion (only some points in Butler and Westmoreland County – but nothing in Beaver, Fayette, or Washington Counties) of the territory sought in the instant application, the company received \$1,700,000.00 in Pennsylvania intrastate household goods revenue in 2010 when it had competition since 2005 from Applicant, the average age of company equipment being five (5) years old; and the company successfully diversified within the last ten (10) years and is a Atlas Van Lines Agent.

Merely stating that business has competition implying that revenues may decrease, or that equipment has or will not been fully utilize in the face of more competition, does not establish any adverse public interest endangerment or impairment connection to a grant of the instant application. Also, Protestants herein appear to have lost sight of the fact that a certificate of public convenience issued by the Commission merely confers the right to do business as a regulated public utility, but it does not provide any iron-clad guarantee that such business will be protected from competition, be successful, or always be available to the certificate holder.

Accordingly, while Applicant submits the evidentiary record in this proceeding establishes its technical and financial ability to provide the proposed service in a safe and lawful manner, and establishes that the approval of the instant application is in the public interest responsive to public

demand and need, the evidentiary record is void of how a grant of the instant application will endanger or impair Protestants' operations contrary to the public interest.

VIII PROPOSED FINDINGS OF FACT

Applicant respectfully submits that its digest of testimony and evidence contained in the foregoing Section II – Pertinent Testimony And Evidence Of Applicant, Section III – Pertinent Testimony Of Supporting Public Witnesses, and Section IV – Pertinent Testimony And Evidence Of Protestants, was done for the convenience of the Honorable Administrative Law Judge, and could also be utilized as Applicant's Proposed Findings Of Fact. Nevertheless, Applicant submits the following also as its Proposed Findings Of Fact.

1. Applicant presently holds authority as a certificated common carrier, by motor vehicle, to transport household goods in use, between points in Allegheny County, and from points in Allegheny County, to points in Pennsylvania, and vice versa. (Applicant's Ex. 2).

2. Applicant presently holds authority as a certificate motor carrier, to transport, by motor vehicle, property, between points in Pennsylvania. (Tr. 260)

3. Applicant presently holds operating authority from the Federal Motor Carrier Safety Administration, U. S. Department of Transportation, to engage in the transportation as a common carrier of household goods by motor vehicle in interstate or foreign commerce, between points in the United States. (Tr. 11; Applicant's Ex. 2).

3. Applicant presently has the necessary equipment, personnel, facilities, insurance, technical and financial ability to perform the proposed service in a lawful and safe manner. (Tr. 15-17; Tr. 156-157; Tr. 158-159; Tr. 164-166; Tr. 167-170; Tr. 176-177; Tr. 186-188; Applicant's Ex. 3, 4, 5, 6, 7, 8, 9, 10, & 11).

4. The instant application will serve a useful public purpose responsive to a present and future public demand and need. (Tr.22-155; Tr. 171-175; Tr. 195-201; Applicant's Ex. 12).

5. A grant of the instant application will not endanger or impair Protestants' contrary to the public interests. (Tr. 270-365).

IX PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter in this case.

2. Pursuant to 66 Pa.C.S.A. § 332(a), the burden of proof in this proceeding is upon Applicant.

3. An application for a certificate of public convenience should be granted only if the Commission finds that "the granting of such certificate is necessary or proper for the service, accommodation, convenience or safety of the public." 66 Pa.C.S.A. § 1103(a).

4. An applicant seeking motor common carrier authority has a burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need. 52 Pa. Code § 41.14(a).

5. In permitting a motor carrier to enter a competitive field, the Public Utility Commission need not find the proposed service to be rendered by Applicant is absolutely indispensable, but it is sufficient that service is reasonably necessary for accommodation or convenience of the public. Pittsburgh & L. E. R. Co. v. Pa. P.U.C., 170 Pa. Super. 411 (1952).

6. In order to establish need, it is not necessary to prove an absolute necessity or present demand for the service in every part of the territory involved. Pa. P.U.C. v. Purolator Courier, 24 Pa. Cmwlth. Ct. 301 (1976).

7. An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service; and, in addition,

authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally. 52 Pa. Code § 41.14(b).

8. The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing carriers to such an extent that, on balance, the granting of the authority would be contrary to the public interest. 52 Pa. Code § 41.14(c).

9. The amount of competition which will best serve the public interest and convenience is a matter within the discretion of the Public Utility Commission. Merz White Way Tours v. Pa. P.U.C., 204 Pa. Super. 490, 201 A.2d 446 (1964).

10. Applicant Canterbury International, Inc. d/b/a Two Men And A Truck sustained its burden of establishing by substantial evidence that its Application for a certificate of public convenience should be granted, as necessary or proper for the service, accommodation, convenience or safety of the public.

11. Applicant Canterbury International, Inc. d/b/a Two Men And A Truck sustained its burden of establishing by substantial evidence that the proposed service will serve a useful public purpose, responsive to a public demand or need.

12. Applicant Canterbury International, Inc. d/b/a Two Men And A Truck sustained its burden of establishing by substantial evidence that it possesses the technical and financial ability to provide the proposed service.

13. The record fails to establish that applicant Canterbury International, Inc. d/b/a Two Men And A Truck lacks the propensity to operate safely and legally.

14. Protestants did not sustain their burden that the entry of a new carrier into the field would endanger or impair the operations of existing carriers to such an extent that, on balance, the granting of the authority would be contrary to the public interest. 52 Pa. Code § 41.14(c).

15. The approval of the instant application will not endanger or impair the operations of the Protestants contrary to the public interest.

16. The Application filed by Canterbury International, Inc. d/b/a Two Men And A Truck at Docket No. A-2011-2251336 should be approved..

X
PROPOSED ORDER

THEREFORE, IT IS ORDERED, this day of , 2012, upon consideration of the complete record of formal testimony and evidence submitted and obtained in this proceeding:

1. The protests of all Protestants are denied;
2. The application of Canterbury International, Inc. d/b/a Two Men And A Truck, docketed at Number A-2011-2251336, be and it is hereby approved;
3. That upon compliance with the requirements herein, the certificate of public convenience issued to Applicant Canterbury International, Inc. d/b/a Two Men And A Truck be amended to include the right to “transport as a common carrier, by motor vehicle, household goods in use, from points in the Counties of Beaver, Butler, Westmoreland, Fayette, and Washington, to points in Pennsylvania and vice versa;”
4. That Applicant Canterbury International, Inc. d/b/a Two Men And A Truck shall not engage in any transportation authorized herein until it shall have complied with the requirements of the Pennsylvania Public Utility Code and the Regulations of the Pennsylvania Public Utility Commission relating to the filing and acceptance of evidence of cargo and liability insurance in the

appropriate amounts for the protection of the public, and related to the filing and acceptance of a tariff establishing just and reasonable rates;

6. That if Applicant Canterbury International, Inc. d/b/a Two Men And A Truck has not, on or before sixty (60) days from the service of a final order in this proceeding, complied with the requirements hereinbefore set forth, the Application shall be dismissed without further proceedings;

7. That the certificate holder shall comply with all the provisions of the Public Utility Code as now existing or as may be hereafter amended, and with all regulations of the Commission now in effect, or as may be hereafter be prescribed, by the Commission;

8. That the authority granted herein, to the extent that it duplicates authority now held or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right; and

9. That the record at Docket No. Number A-2011-2251336 be marked closed.

Dated:

Katrina L. Dunderdale, Administrative Law Judge

XI

CONCLUSION AND PRAYER FOR RELIEF

Wherefore, the above premises being considered, Applicant seeks the relief set forth in this Commission's rules and regulations, and respectfully prays the Honorable Administrative Law Judge find as follows:

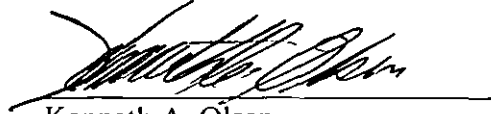
2. That Applicant is fit, willing, and able to provide the services proposed herein, in that it possesses the requisite technical and financial ability to provide the proposed service and comply with Commission regulations;

3. That Applicant, through its operating and public witnesses, together with its submitted evidentiary record, has shown a need for the proposed operations in that approval of this application will serve a useful public purpose, responsive to a public need;
4. That Protestants operations, or that of other carriers, will not be endangered or impaired by the grant of this application;
5. That the grant of the authority sought herein is not contrary to the public interest; and
6. That the record in its entirety supports a finding that the application be granted in its entirety.

Dated: March 1, 2012

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MAR - 1 2012
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Respectfully submitted,

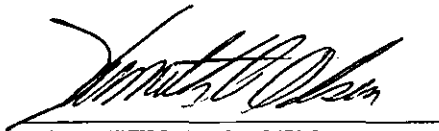

Kenneth A. Olsen
33 Philhower Road
Lebanon, New Jersey 08833
(908) 832-9207
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the original and true copies of the foregoing document, Main Brief of Applicant, upon the persons listed below, via Federal Express, prepaid, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

William A. Gray, Esq., Vuono & Gray LLC, Grant Building Suite 2310, 310 Grant St., Pittsburgh, PA 15219-2383 as to a true copy and an electronic copy; the Hon. Katrina L. Dunderdale, ALJ, Pennsylvania Public Utility Commission, 801 Market St. Piatt Building, Pittsburgh, PA 19107 as to a true copies and one (1) electronic copy; and the Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 as to an original and nine copies, plus disk.

Dated this 1st day of March, 2012


KENNETH A. OLSEN
Attorney for Applicant

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00028

FedEx NEW Package
Express US Airbill
FedEx
Tracking
Number

8770 3720 8018

1 From This portion can be removed for Recipient's records.

Date

3/1/12

FedEx
Tracking Number

877037208018

Sender's
Name

KENNETH A. OLSEN

Phone 908 832-9207

Company KENNETH A OLSEN LAW FIRM

Address 33 PHILHOWER RD

Dept./Floor/Suite/Room

City LEBANON

State NJ ZIP 08833-4537

2 Your Internal Billing Reference

CANTERBURY INT'L APPL

3 To

Recipient's
Name

ROSEMARY CHIAVETTA

Phone 717-772-7777

Company

PA PUBLIC UTILITY COMM.

Address

400 NORTH ST

We cannot deliver to P.O. boxes or P.O. ZIP codes

Dept./Floor/Suite/Room

Address

KEYSTONE BLDG

Use this line for the HOLD location address or for continuation of your shipping address.

City

HARRISBURG

PA 17125

TO: CHIAVETTA, R.

Agency: PUC

Floor:

External Carrier: FedEx Express



8770 3720 801

Form
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4 Express Packag

NOTE: Service order has

Next Business Day

☐ FedEx First Overnight
Earliest next business morning
locations. Friday shipments will
Monday unless SATURDAY Del

☒ FedEx Priority Overnig
Next business morning. Friday
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is selected

☐ FedEx Standard Overn
Next business afternoon.
Saturday Delivery NOT available

5 Packaging

* Decline

☐ FedEx Envelope*

6 Special Handling a

☐ SATURDAY Delivery
NOT available for FedEx Standard

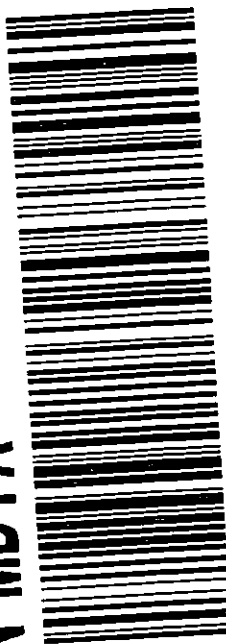
☐ No Signature Required
Package may be left without
obtaining a signature for delivery

Does this shipment contain

☒ No ☐ Yes
One box must be
As per attached
Shipper's Declaration

☐ Dangerous goods (including dry ice) cannot
be placed in a FedEx Express Drop Box

7 Payment Bill to:

FRI - 02 MAR AT
PRIORITY OVERNIGHT
17120
PA-US
MDT

FedEx
TRK# 8770 3720 8018
0215

ZN MDTA

To Party

☐ Credit Card

☐ Cash/Check

Credit Card Auth.

for details

611

SFH2

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ENGL 433413 81MAR12 JMTA 512C1/8105/A278

fedex.com 1800.GoFedEx 1800.463.3339

RECIPIENT: FEEL HERE