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COMMONWEALTH OF PENNSYLVANIA

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PUBLIC UTILITY COMMISSION

Public Utility Commission

SECRETARY'S BUREAU

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Application of Towaway Express, Inc. : Docket No.
For amendment so as to permit the : A-00106208, F001,
transportation of business records, in : Am-A
magnetic form, microfilm form and paper :
form between points in Pennsylvania. :

Further Hearing :

Pages 166 through 191

Hearing Room No. 3
North Office Building
Harrisburg, Pennsylvania

Tuesday, August 18, 1992

Met, pursuant to adjournment, at 10:05 a.m.

BEFORE:

ROBERT A. CHRISTIANSON, Administrative Law Judge

APPEARANCES:

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WITNESSES

DIRECT

CROSS

REDIRECT

RECROSS

Paul D. Steffes

170

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E X H I B I T S

NUMBER

FOR IDENTIFICATION

IN EVIDENCE

Protestant's.

P-1 (Courier Unlimited authority)

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P-2 (vehicle list)

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P-3 (personnel list)

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FORM 1

P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE ROBERT A. CHRISTIANSON: Let's
3 be on the record.

4 I am Administrative Law Judge Robert Christianson.
5 We are here today to close out the record in this application
6 proceeding concerning Towaway Express.

7 Off the record, I checked with counsel, and we
8 will later get into the question of the other protest.
9 I understand there has been an agreement.

10 At this time, we might as well get Mr. Thistle's
11 case. Counsel may proceed.

12 MR. THISTLE: The only thing I think might be
13 intelligible is if I had some idea as to what the Hatboro
14 amendment covered, so that I would know.

15 JUDGE CHRISTIANSON: Let's be off the record briefly.
16 (Discussion off the record.)

17 JUDGE CHRISTIANSON: Let's go back on the record.
18 We have been off the record for a brief review of this
19 amendment concerning basically the Hatboro area.

20 This was discussed at the other hearing. At this
21 point, I think it is probably best, and I will ask counsel
22 to go ahead and reduce that to writing and send in probably
23 a brief letter or a letter as a cover to a stipulation.

24 You can probably just address it to me with a copy
25 for Mr. Thistle, and a copy to Mr. Casey as well would

1 be appropriate. That way we will take care of the scope
2 of the application fairly clearly and it is of record.
3 There was a certain amount of detail that you just read
4 in the off-the-record discussion.

5 Rather than try to get it correct as we sit here,
6 you might as well just follow up with it in writing. Then
7 we can proceed with the Protestant's presentation.

8 MR. THISTLE: Your Honor, I might say, too, for
9 the record, Your Honor, you had directed counsel for the
10 Applicant to furnish to me copies of certain documents
11 and a copy of radio announcements concerning Mr. Gopher,
12 which counsel did do.

13 I want to acknowledge that, and I thank you, counsel,
14 for that. I did receive them. I have reviewed them.
15 I thought that the understanding was that if I did have
16 any questions, I was able to ask questions of Mr. Mundis,
17 but I have no such questions. So I will put my Protestant
18 on.

19 JUDGE CHRISTIANSON: Fine.

20 MR. THISTLE: May he sit where he is?

21 JUDGE CHRISTIANSON: If that is most comfortable,
22 that is fine. I will go ahead and swear in the witness,
23 and you can proceed.

24

25

1 Whereupon,

2 PAUL D. STEFFES

3 having been duly sworn, testified as follows:

4 JUDGE CHRISTIANSON: Proceed, counsel.

5 DIRECT EXAMINATION

6 BY MR. THISTLE:

7 Q Would you state your name and home address,
8 please?

9 A My name is Paul, middle initial "D", Steffes,
10 S-t-e-f-f-e-s. I reside at 215 Stoneridge Drive,
11 Jeffersonville, Pennsylvania.

12 Q Mr. Steffes, by whom are you employed?

13 A Courier Unlimited, Inc.

14 Q Is that a duly qualified Protestant in this
15 proceeding?

16 A Yes.

17 Q In what capacity are you employed by the Protestant?

18 A I am employed as a Regional Manager.

19 Q Does that region include this area?

20 A Yes, it does.

21 Q How long have you been employed by Courier
22 Unlimited, Incorporated?

23 A I have been employed for two-and-a-half years.

24 Q Are you authorized to testify on behalf of
25 the Protestant in opposition to this application?

1 A Yes.

2 Q What is the business address of your company?

3 A 660 Hollow Road, Oaks, Pennsylvania.

4 Q Is your company certificated by the Pennsylvania
5 Public Utility Commission?

6 A Yes, we are.

7 MR. THISTLE: Your Honor, I would like to have this
8 identified as Protestant's Exhibit P-1, sir.

9 JUDGE CHRISTIANSON: Yes, P-1.

10 MR. THISTLE: P-1 is a multi-page document entitled,
11 "Pennsylvania Public Utility Commission, County Delivery
12 Corporation," which the inside will show that name was
13 changed to Courier Unlimited, Incorporated.

14 JUDGE CHRISTIANSON: Fine. This is your P-1.

15 (Whereupon, the document was
16 marked as Protestant's Exhibit
17 No. P-1 for identification.)

18 BY MR. THISTLE:

19 Q Mr. Steffes, I show you what has been identified
20 as Protestant's Exhibit P-1 and ask you if that is a true
21 and correct reflection of the authority held by Courier
22 Unlimited, Incorporated, a Protestant in this proceeding?

23 (Document shown to witness.)

24 A Yes, it is.

25 Q Does the first page and second page of identified
Exhibit P-1 indicate the original grant of the certificate

1 to County Delivery Corporation changed by endorsement
2 of the Commission to Courier Unlimited, Incorporated?

3 A Yes.

4 Q Would you point to the two paragraphs by folder
5 number and amendment number which effectively, if it does,
6 give Protestant authority between points in Pennsylvania?

7 A That would be referring to Folder 1, Amendment E.

8 Q All right. Let's take a look at that. Now,
9 the paragraph authority shows on page 12 of that order,
10 which has been segregated to show the title page and then
11 the granting page. That is the western portion of the
12 State of Pennsylvania?

13 A Correct.

14 Q Then to the eastern part and vice versa?

15 A Correct.

16 Q Is the authority prior to that at Folder 1,
17 Amendment D, does that grant authority effectively between
18 points in the eastern part of Pennsylvania to the western
19 part?

20 A Yes, it does.

21 Q So between those two authorities with some
22 restrictions, which are set forth herein, does that
23 effectively give Courier Unlimited authority between points
24 in Pennsylvania?

25 A Yes, it does.

1 Q Is the commodity description a small package-type
2 authority being 100 pounds or less?

3 A Yes, it is.

4 Q Is your company operating under such authority?

5 A Yes.

6 Q Do you own and operate certain motor vehicle
7 equipment?

8 A Yes, we do.

9 MR. THISTLE: Your Honor, I ask to be identified a
10 multi-page document headed, "Courier Unlimited, Incorporated,
11 Owned Vehicles."

12 JUDGE CHRISTIANSON: This will then be your P-2.

13 (Whereupon, the document was
14 marked as Protestant's Exhibit
15 No. P-2 for identification.)

16 BY MR. THISTLE:

17 Q Mr. Steffes, I show you what has been identified
18 as Protestant's Exhibit P-2 and ask you if that is a true
19 and correct reflection of the motor vehicle equipment which
20 is owned and leased by the Protestant?

21 A Yes, it is.

22 Q Would you describe what is shown on the various
23 pages thereof?

24 A On page 1, we show vehicles that are owned and
25 operated by Courier Unlimited, Incorporated, which are
broken down by vehicle.

1 We have a total of 19 pieces of equipment. On
2 page 2 --

3 Q Excuse me. Before leaving page 1, what type of
4 vans are they?

5 A These are what are referred to as full-sized,
6 one-ton vans, a parcel delivery van, and we have one station
7 wagon.

8 Q Okay. Go ahead.

9 A The second page shows six automobiles, which are
10 also utilized in our operation. They are commonly referred
11 to as nonrevenue vehicles.

12 Page 3 and page 4 list vehicles which are leased by
13 Courier Unlimited, Incorporated. There is a total number
14 of 44 pieces of equipment: 18 vans, 23 automobiles, 3 light-
15 duty trucks and 1 straight-body truck.

16 Q Are those vehicles listed as leased vehicles
17 in accordance with the Commission's regulations on leasing,
18 are they neither counted as owned or as leased?

19 A They are counted as neither owned or leased.

20 Q Is that because the leases are for 120 days or
21 more?

22 A Correct.

23 Q Did you prepare for this hearing a list of
24 personnel?

25 A Yes, we did.

1 MR. THISTLE: Your Honor, I would offer for identi-
2 fication as Protestant's Exhibit P-3 a personnel list.

3 JUDGE CHRISTIANSON: Yes, this is your P-3.

4 MR. THISTLE: This is headed at the top "Courier"
5 Unlimited, Incorporated, Personnel List."

6 (Whereupon, the document was
7 marked as Protestant's Exhibit
8 No. P-3 for identification.)

9 BY MR. THISTLE:

10 Q I show you what has been identified as Protestant,
11 Courier Unlimited, Incorporated, Exhibit P-3 and ask you:
12 what does that indicate? Without reading the numbers, what
13 does it indicate?

14 A It gives a total breakdown of personnel which are
15 employed by Courier Unlimited, Incorporated, and the break-
16 down is by job description or job classification.

17 Q Is that statewide?

18 A Yes, it is.

19 Q Are you familiar with the application in that
20 it seeks between points in Pennsylvania?

21 A Yes, I am.

22 Q I think, perhaps, then you had better tell us to
23 the extent that you can on P-3 the allocation of the
24 different classifications as to where they are located.

25 First of all, let me have your terminals. Where are
your terminals and your key operational points?

1 A We have operations terminals in Pittsburgh,
2 Pennsylvania, Harrisburg, Pennsylvania, Williamsport,
3 Pennsylvania, Oaks, Pennsylvania, Allentown, Pennsylvania,
4 and Pittston, Pennsylvania.

5 Q Pittston?

6 A Yes.

7 Q Spell that, please?

8 A P-i-t-t-s-t-o-n.

9 Q Any others?

10 A That is it.

11 Q As to the breakdown of your personnel list,
12 where are they assigned, approximately? First of all, do
13 they fluctuate?

14 A Yes, they do fluctuate.

15 Q For now, approximately where are they assigned?

16 A Approximately 35 percent of our couriers are located
17 in Oaks, Pennsylvania. I would say another 30 to 35 percent
18 of the couriers are located in Harrisburg, Pennsylvania,
19 with the remainder of the couriers being evenly distributed
20 between the other three terminals.

21 Approximating the remaining breakdown of job descrip-
22 tions, those percentages would hold up on an approximate
23 basis for distribution employees.

24 Q Let's go back to your Exhibit P-2, which is your
25 equipment list. How would that be apportioned or assigned

1 insofar as your terminal mix is concerned, approximately?

2 A Referring to the equipment list, we would probably
3 see a 40 to 45 percent allocation of the equipment to our
4 Oaks terminal with 30 to 40 percent allocation to our
5 Harrisburg terminal and, again, the remainder being evenly
6 distributed amongst the other terminals that I mentioned on
7 an approximate basis.

8 Q Is the motor vehicle equipment, which are shown
9 on P-2 for identification, are they used to capacity?

10 A No, they are not used to full capacity.

11 Q To what percentage capacity are they used?

12 A Presently they are utilized approximately 65
13 to 70 percent of capacity.

14 Q Is your company then able to handle any additional
15 traffic with your present equipment?

16 A Yes, we are.

17 Q Insofar as your existing operation is concerned,
18 what training do your drivers have and have your drivers had?

19 A We conduct routine route training on all new
20 hires as well as existing --

21 Q All new what?

22 A All new hires, new employees.

23 Q Okay.

24 A As well as existing drivers. In addition, we
25 provide a road test under the guidelines of the American

1 Truck Association. We have a drug testing program imple-
2 mented, and we also conduct routine and periodic safety
3 training seminars.

4 Q Is that an ongoing and continuing program?

5 A Yes, it is.

6 Q To your knowledge, is your company in compliance
7 with the PA PUC and PennDOT safety rules and regulations?

8 A Yes, we are.

9 Q To your knowledge, is your company in compliance
10 with the PA PUC requirements as to insurance filings and
11 tariff filings?

12 A Yes, we are.

13 Q Are you familiar with the daily operations of
14 your company?

15 A Yes, I am.

16 Q As a regular part of your duties in the normal
17 course of business, do you review your traffic volume and
18 trends?

19 A Yes, I do.

20 Q Is that done by you with the owner of the company,
21 Mr. Thomas Trainer?

22 A Yes.

23 Q Have you reviewed the list of supporting shippers
24 as they were reflected in the notes of testimony of the
25 first hearing on July 21, 1992?

1 A Yes.

2 Q What portion or portions of the Applicant's
3 requested area of authority does your company's authority
4 enable you to serve?

5 A That would encompass our entire area of authority.

6 Q In other words, you can serve everything they are
7 requesting?

8 A Yes.

9 Q There are some exceptions?

10 A With limited restrictions as noted in Exhibit P-1.

11 Q In your review of the supporting witnesses'
12 testimony in this proceeding, did you read any requests for
13 transportation service including equipment which Courier
14 Unlimited, Incorporated, would be unable to meet?

15 A No, I did not.

16 Q Do you have competitors which would be competing
17 with Courier Unlimited, Incorporated, for the traffic that
18 is involved in this application?

19 A There are numerous competitors existing in an
20 already saturated marketplace.

21 Q Who might they be?

22 MR. FICKEL: I object to the characterization,
23 Your Honor, "in an already saturated marketplace." I mean, that
24 is --

25 JUDGE CHRISTIANSON: We will allow that as an editorial

1 comment. I will not regard that as testimony, but you say
2 numerous competitors. Do you want to argue the point?

3 MR. THISTLE: I didn't hear you.

4 JUDGE CHRISTIANSON: I think the thing about
5 saturated --

6 MR. THISTLE: I will bring that in when I ask him why
7 he is protesting the application. For the purpose of this
8 question, I will agree with Your Honor's ruling.

9 JUDGE CHRISTIANSON: He can say numerous competitors.

10 MR. THISTLE: Yes, and I am going to ask him to name
11 some of the ones that there are.

12 THE WITNESS: Yes, we do have numerous competitors.

13 BY MR. THISTLE:

14 Q Who are some of the competitors that you face and
15 that you know of personally?

16 A United Parcel Service, Roadway Package Service,
17 Quick Courier, Incorporated, United States Cargo and Courier
18 Service, Way Messenger Service, ASAP Courier, ADP Courier,
19 Courier Express, First Courier, Dash Delivery, Capital
20 Messenger, Valley Forge Courier Service, Falcon Express.

21 Q Are there others that you haven't mentioned?

22 A There are others.

23 Q Does your company hold ICC authority?

24 A Yes, we do.

25 Q Describe just generally, because this is not an

1 ICC proceeding, but as background material for your company,
2 describe what ICC authority you have.

3 A We hold an ICC operating certificate as a small
4 package carrier within the 48 contiguous states.

5 Q Between points in the United States?

6 A Between points in the United States.

7 Q Except Alaska and Hawaii?

8 A With the exception of Alaska and Hawaii.

9 Q Do you operate under such authority?

10 A Yes, we do.

11 Q What effect, if any, would a grant of this
12 application have on your operation?

13 A The effect of the granting of this application
14 along with the granting of other applications as they come
15 before the Commission has a cumulative effect which adversely
16 impacts Courier Unlimited.

17 It, in turn, has an adverse impact on the public.

18 Q Mr. Steffes, why is your company opposing this
19 application?

20 A We are protesting this application because we feel
21 there is no need for additional authority as sought by the
22 Applicant. The authority sought by the Applicant duplicates
23 the authority of Courier Unlimited, Incorporated.

24 The service provided by Courier within the scope of
25 our authority meets the public need. The grant of authority

FORM 1

1 to the Applicant, which would duplicate the transportation
2 activity of Courier Unlimited, would again impact the
3 operation of Courier Unlimited to the extent that on balance,
4 it would be an adverse impact to the public.

5 MR. FICKEL: I would like to move to strike that last
6 response. There is really no basis. He is protesting his
7 own authority here. The question and the response is nothing
8 more than self-serving.

9 JUDGE CHRISTIANSON: Well, it is self-serving. Do
10 you want to respond?

11 MR. THISTLE: Yes. That is the very nature of the
12 question: why is this carrier opposing your application?
13 I think it is perfectly relevant. It is pertinent to the
14 proceeding as to why this carrier is opposing your applica-
15 tion. I don't see anything improper about it.

16 The Judge is the one who will give it such weight as
17 it may or may not deserve.

18 JUDGE CHRISTIANSON: I will allow it. It goes to the
19 ultimate question, but it is more or less customary to state.
20 It is considered his opinion that it goes against the public
21 interest, and it will go to his facts as to whether it does
22 or not.

23 MR. THISTLE: Cross-examination.

24 MR. FICKEL: Your Honor, may I have just a few minutes?

25 JUDGE CHRISTIANSON: Yes, we can be off the record.

1 briefly. We will take a couple minutes recess.

2 (Recess.)

3 JUDGE CHRISTIANSON: We can be back on the record.

4 We can proceed with cross-examination.

5 CROSS-EXAMINATION

6 BY MR. FICKEL:

7 Q Mr. Steffes, where is Jeffersonville?

8 A Montgomery County.

9 Q On what has been marked as P-3, the personnel
10 list, do the sales personnel have any various titles?

11 A There is a Director of Sales, and the remaining
12 four personnel are Sales Managers.

13 Q Where are they located? Are they all in Oaks?

14 A Two of them are located in Oaks, and one is
15 located in the Pittston office. One is located in
16 Pittsburgh. Two are located in the Harrisburg office.

17 Now, actually the five sales personnel, those are all
18 Sales Managers. The Director of Sales is listed under
19 management personnel.

20 Q And the office personnel, where are they located?

21 A As I stated on the percentage breakdown that I
22 gave, it is representative of their place of work.

23 Q So two in Oaks, two in Harrisburg and one for the
24 other four locations?

25 A Approximately, yes. Again, those are approximate

1 numbers. It varies from time to time.

2 Q The same would apply for management on that list
3 as well?

4 A Management, yes.

5 Q How many Regional Managers are there?

6 A One.

7 Q And that would be you?

8 A Yes.

9 Q You are in the Oaks office?

10 A Yes.

11 Q What other positions would you identify as
12 management? It is listed as ten. So far, we had a Director
13 of Sales and a Regional Manager, being yourself. That would
14 leave about eight others.

15 A Yes, we have Operations Managers, Operations
16 Supervisors and our executive staff as well, or upper
17 management.

18 Q Would that be the President and Vice-President?

19 A Executive staff, yes.

20 JUDGE CHRISTIANSON: Let me just interject one point.

21 Do these people do your interstate work as well?

22 THE WITNESS: Yes.

23 BY MR. FICKEL:

24 Q How active is your interstate work? Do you
25 operate under your ICC authority, for example, in New Jersey?

1 A Yes, we do.

2 Q In Maryland?

3 A Yes, we do.

4 Q In New York?

5 A Yes, we do.

6 Q In Delaware?

7 A Yes.

8 Q I don't suppose you go to California?

9 A On occasion we do, yes.

10 MR. FICKEL: Your Honor, I don't believe I have any
11 other questions.

12 JUDGE CHRISTIANSON: Fine. Any further questions
13 for the witness?

14 MR. THISTLE: I have nothing further, Your Honor.
15 I would offer into evidence Courier Unlimited, Incorporated's,
16 exhibits identified as P-1, P-2 and P-3.

17 JUDGE CHRISTIANSON: Any objections to those three?

18 MR. FICKEL: No, sir.

19 JUDGE CHRISTIANSON: The three exhibits, P-1, P-2 and
20 P-3 are accepted into the record.

21 (Whereupon, the documents marked
22 as Protestant's Exhibits Nos. P-1,
23 P-2 and P-3 were received in
evidence.)

24 JUDGE CHRISTIANSON: If there is nothing further, the
25 witness is excused.

(Witness excused.)

MR. THISTLE: The Protestant rests.

JUDGE CHRISTIANSON: Fine. The other question is where do we go from here? Presumably, we will be closing the record, certainly. I have no particular desire for briefs.

Does anybody want to file any briefs or memos?

MR. THISTLE: Do you say you do or you don't?

JUDGE CHRISTIANSON: I don't really.

MR. THISTLE: May I consult with my client?

JUDGE CHRISTIANSON: Yes, you can.

(Pause.)

JUDGE CHRISTIANSON: We can be shown as off the record.

(Discussion off the record.)

JUDGE CHRISTIANSON: Let's be back on the record.

Off the record, we checked on briefs. Mr. Thistle indicates a desire to file a brief just in the nature of summary of testimony and argument of the facts.

Is that basically the case?

MR. THISTLE: That is right, Your Honor.

JUDGE CHRISTIANSON: We will not worry about details of legal argument in the sense of making precedents.

MR. THISTLE: Or conclusions of law or findings of fact or issues involved. All of that is not necessary. It

1 is time consuming. Your Honor is well aware of those things,
2 but I would like the opportunity, as Your Honor has pointed
3 out, to summarize the testimony or call it a digest of
4 testimony and then argue that. That is all.

5 JUDGE CHRISTIANSON: Yes, that would be helpful,
6 obviously, as well. Then we will provide the standard motor
7 carrier briefs, main briefs to be filed simultaneously, and
8 then reply briefs.

9 I will come out with a standard timing like 20 or 30
10 days for briefs and then 20 days to reply.

11 MR. THISTLE: Thirty, if possible.

12 JUDGE CHRISTIANSON: Thirty and 20?

13 MR. THISTLE: Thirty days, if possible, for the main
14 briefs.

15 JUDGE CHRISTIANSON: Okay, fine. Thirty and 20.
16 Thirty for the main and 20, probably, for reply. I haven't
17 done a motor carrier letter for a while. This is what
18 happens. It seems we get fads in cases. I have had a couple
19 of big electric cases.

20 Then I will provide for briefs with the Applicant
21 free to file a main brief or not.

22 MR. FICKEL: I am sorry, Your Honor. I was just
23 wondering about the time frame, considering we are not doing
24 full briefs, whether that can be shortened any as far as
25 the main and reply, whether that would fit in with your

1 schedule?

2 JUDGE CHRISTIANSON: It would be a bit before I get
3 to it. I am writing up other cases right now. I think I
4 will go for 30 days for the main from when the letter comes
5 out and then 20 for reply.

6 MR. THISTLE: I have two full-scale briefs that I am
7 working on now. That is why I suggested, Your Honor, the
8 30 days.

9 JUDGE CHRISTIANSON: That is standard.

10 MR. THISTLE: After the notes are in.

11 JUDGE CHRISTIANSON: I think I will go with that.
12 For instance, if the Applicant chooses not to file a main
13 brief and wants to get a quick reply and be done with it
14 quicker than the 20 days, that is fine. You can make up your
15 minds, but I think I will go with the 30 and 20. That is
16 the standard time. Then I will try to get to the matter as
17 quickly as I can.

18 I have the first transcript right now, and I will begin
19 to review it as I go along. We get a little bogged down in
20 these cases, but I will try to get it out as promptly as I can.

21 Feel free -- the standard statutory provision is we
22 get three months to decide the case after the matter is
23 closed out, and we can get a second three months, but we try
24 not to. I have not done that for quite a while. Counsel is,
25 I am sure, in a hurry.

1 Feel free to give me a ring on the telephone just
2 in case to make sure you are not forgotten.

3 MR. THISTLE: Your Honor, so counsel can hear my
4 question, too -- I don't care which way it was -- is
5 Your Honor familiar with any case in the Commonwealth where
6 it has been argued about meeting 41.14(c)?

7 I am not aware of any case ever since that has been
8 passed where a Protestant has ever come even close to being
9 successful in that 41.14(c).

10 JUDGE CHRISTIANSON: I know an old case. I think
11 Krevda might be the name of it. K-r-e-v-d-a, I think it is,
12 or some name like that, where Barry Ernst wrote one up
13 years ago on the adverse impact. But since 41.14(c), I am
14 aware of nothing that has made it work.

15 MR. THISTLE: I have asked everybody. No one has ever
16 seen one that effectively knocked the Protestant's own proof
17 out.

18 JUDGE CHRISTIANSON: Yes, that seems to be just about
19 where things are now. I know of some old cases where that was
20 true, where the adverse impact was given some weight. I don't
21 know of any recently.

22 I have always gone through the balancing and always
23 tended to come on the side of the Applicant. Even where there
24 have been claims of losses or precarious financial situations,
25 that notwithstanding, I think, 41.14(c) is about a dead letter,

1 as far as I am concerned. Somebody can come in and make a
2 case, but I haven't seen one.

3 MR. THISTLE: It would have to be ideal. In other
4 words, you would have to have maybe six clients, one of which
5 was 90 percent of your business, and that witness came in
6 and said, "If the Applicant gets it, I am going to take all
7 my business from this Protestant even though his service is
8 perfect." Then you might have a chance on 41.14(c).

9 JUDGE CHRISTIANSON: I have never seen it.

10 MR. THISTLE: I haven't either.

11 JUDGE CHRISTIANSON: I am frankly not holding my
12 breath to see it. Then we can let it go with the matter as
13 it is. I will try to get to it as promptly as possible.
14 Of course, counsel can prompt me if they get impatient with
15 the whole thing.

16 Since the Protestant wants the abbreviated briefing
17 presentation, we will go with that. Then, I guess, we don't
18 need to keep things open for the record. We will provide
19 for briefs and look for my letter coming out when the trans-
20 cript is logged. We will essentially be closing the matter
21 out when the briefs are filed. I will try to do it as quickly
22 as possible. With that provision, the record is closed, both
23 sides having rested. We are off the record for today's hearing.

24 (Whereupon, at 11:00 a.m., the hearing was concluded.)

25

C E R T I F I C A T E

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I hereby certify, as the stenographic reporter,
that the foregoing proceedings were taken stenographically
by me, and thereafter reduced to typewriting by me or under
my direction; and that this transcript is a true and accurate
record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

By: Sandra Milus-Brown

Sandra Milus-Brown

FORM 1