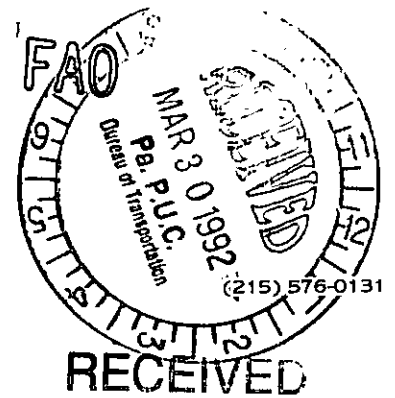


RAYMOND A. THISTLE, JR.

ATTORNEY AT LAW
206B BENSON EAST
100 OLD YORK ROAD
JENKINTOWN, PA. 19046



March 27, 1992

MAR 30 1992

SECRETARY'S OFFICE
Public Utility Commission

John G. Alford, Secretary
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of Towaway Express, Inc.
Docket A-00106208, F.1, Am-A
Protest

Dear Secretary Alford:

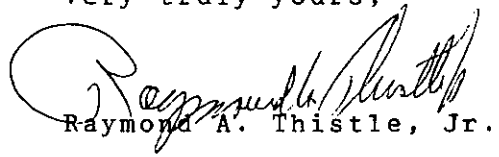
Enclosed herewith for filing are an original plus two copies of a Protest of Courier Unlimited, Inc., against the above captioned Permanent Authority Application.

Proper and timely mail service has been made per the Certificate of Service.

Please acknowledge receipt hereof on that provided.

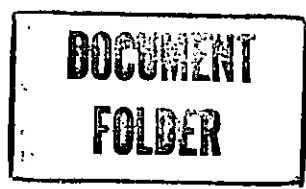
Thank you for your attention and consideration in this matter.

Very truly yours,


Raymond A. Thistle, Jr.

RAT:mt

cc: Courier Unlimited, Inc.



FAO

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

MAR 30 1992

SECRETARY'S OFFICE
Public Utility Commission

IN RE: APPLICATION OF TOWAWAY EXPRESS, INC.
DOCKET A-00106208, FOLDER 1, AMENDMENT-A

PROTEST AGAINST GRANT OF
APPLICATION FOR
PERMANENT AUTHORITY

AND NOW COMES the protestant identified below, by its attorney, and files this its Protest against the grant of the above captioned permanent authority application, the bases of which are as follows:

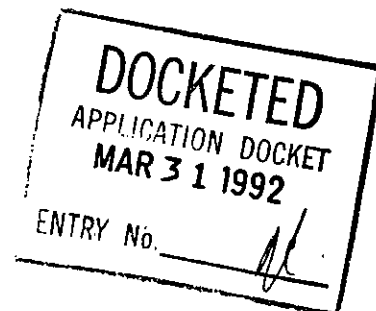
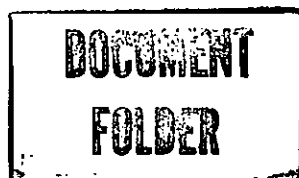
1. Applicant's name and docket number of the application:

Towaway Express, Inc.
P. O. Box 444
New Kingstown, PA 17072

Docket A-00106208, F. 1, Am-A

2. Name, business address and telephone number of the protestant:

Courier Unlimited, Inc.
660 Hollow Road
Oaks, PA 19456
(215) 666-0660



3. Name, business address and telephone number of protestant's attorney:

Raymond A. Thistle, Jr.
206B Benson East
100 Old York Road
Jenkintown, PA 19046
(215) 576-0131

4. Statement of the nature of protestant's interest in the application and of the adverse impact upon protestant and the public:

(a) Nature of protestant's interest

The applicant seeks the following authority,

So as to permit the transportation of business records, in magnetic form, microfilm form and paper form, between points in Pennsylvania.

Courier Unlimited, Inc. possesses authority from the PA PUC which enables it to transport parcels and packages, no one parcel or package to exceed one hundred (100) pounds in weight, between points in Pennsylvania within 125 miles of the township of Upper Providence, Montgomery County (A-00097535, F.1, Am-D). In addition, protestant holds authority for like commodities (A-00097535, F.1, Am-E) which enables protestant to perform transportation (inter alia) of parcels and packages, each not exceeding 100 pounds in weight, from points within 125 miles of the township of Upper Providence to points beyond 125 miles of Upper Providence and vice versa. Such application also granted authority between points in that area of Pennsylvania beyond 125 miles of Upper Providence Township, subject to some restrictions. The authority sought which duplicates that held by protestant is as described above. See adverse impact statement.

Protestant is presently providing a complete service within the scope of protestant's authority which includes all of the area involved in applicant's application. Effectively, protestant has territorial authority between points in Pennsylvania.

(b) Adverse Impact

There is no need for additional authority as sought by applicant which would conflict with that held by protestant. The service of protestant within the scope of its pertinent authorities meets any public need. A grant of authority to applicant which would duplicate the transportation activity of protestant, would impair the operations of protestant to the extent, on balance, that it would be adverse to the public interest; there would be an adverse public impact by a grant of the application.

Protestant challenges the fitness of applicant to conduct the proposed service; there is no need for the authority.

5. List of all Commission Docket Numbers under which protestant operates (with pertinent authorities hereto designated and attached)

The PA PUC docket numbers under which protestant Courier Unlimited, Inc. operates are A-97535; A-97535, F.1, Am-A; A-00097535, F.1, Am-C; A-00097535, F.1, Am-D and A-00097535, F.1, Am-E. Copies of pertinent portions of protestant's authority upon which it protests this application are attached.

6. Proposed Restriction

Since the applicant's proposed authority would encompass the commodities and all areas of protestant's authority, there appears to be no basis for amendment. However, protestant is receptive to a reasonable restrictive proposal by applicant.

WHEREFORE, Protestant prays your Honorable Commission to deny the application for permanent authority.

Respectfully Submitted

COURIER UNLIMITED, INC.

By Raymond A. Thistle, Jr.

Raymond A. Thistle, Jr.
Attorney for Protestant

IN THE MATTER OF THE APPLICATION OF

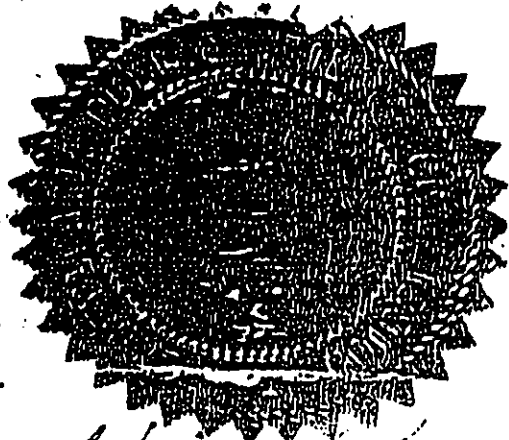
COUNTY DELIVERY CORPORATION, a
corporation of the Commonwealth
of Pennsylvania

CERTIFICATE
OF
PUBLIC CONVENIENCE

The Pennsylvania Public Utility Commission hereby certifies that after an investigation and/or hearing had on the above entitled application, it has, by its report and order made and entered, a copy of which is attached hereto and made a part hereof, found and determined that the granting of said application is necessary or proper for the service, accommodation, convenience and safety of the public, and this certificate is issued evidencing its approval of the said application as set forth in said report and order.

In Testimony Whereof, The PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 24th day of January, 1973.

Attest:



Bill Peters

Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

George Bloom


Chairman

It appearing that the holder of the certificate of public convenience in this proceeding requests that said certificate be amended to stand in the name of COURIER UNLIMITED, INC., and it further appearing that said certificate holder has properly filed with the Secretary of the Commonwealth to amend it name; THEREFORE,

IT IS ORDERED: That the certificate issued to COUNTY DELIVERY CORPORATION, a corporation of the Commonwealth of Pennsylvania, be and is hereby modified and amended to stand in the name of COURIER UNLIMITED, INC.

attest:

BY THE COMMISSION,



C. J. McElwee
Secretary

Order Adopted: June 15, 1978
Order Entered: June 27, 1978

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held June 24, 1988

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice-Chairman
Linda C. Taliaferro
Joseph Rhodes, Jr.
Frank Fischl

Application of Courier Unlimited, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, property in parcels and packages, no parcel or package to exceed one hundred (100) pounds in weight, from points in the borough of Norristown, Montgomery County, to points within twenty-five (25) miles by the usually traveled highways of the limits of said borough, and vice versa: SO AS TO PERMIT the transportation of property, in parcels and packages, no parcel or package to exceed one hundred (100) pounds in weight, between points in the township of Upper Providence, Montgomery County, and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof.

A-00097535
F. 1
Am-D

Raymond A. Thistle, Jr., for the applicant.
Graf, Andrews & Radcliff, by Christian V. Graf for protestant, Silver Line, Inc.
Joseph J. Carroll for protestant, S. T. S. Motor Freight, Inc.
Abrahams & Loewenstein, by Alan Kahn for protestants: Jamour, Inc., t/d/b/a Quick Courier Service and Choice Courier Systems.

There are 20 individual shippers supporting this application which represent a wide variety of business endeavors and an equally wide variety of commodities. There are eight banks, three manufacturers, three advertising agencies, a toy distributor, three printing companies, a healthcare organization and a law firm among the shippers, all professing a need for expedited transportation services. A wide range of commodities are involved, such as product samples, payroll documents, artwork, graphic designs, brochures, video tape, promotional material, medical records, banking documents, etc. The property description proposed by the applicant is well supported and justified.

There are 35 individual counties embraced within the proposed 125 airline mile radius of Upper Providence Township, Montgomery County. Collectively, the shippers have demonstrated a need for service either to, from or between points in each county. The very nature of the service dictates that in a majority of instances, those shipments moving from a shipper's place of business to a branch location or other customers, will in turn, result in shipments back to the shipper's place of business. Several shippers attest to the need for service locally between specified counties.

It is not necessary for an applicant to prove absolute need in every square mile of the territory proposed, but rather, within the territory generally through representative origins and destinations. We believe the applicant has successfully met this burden.

We find:

1. That the applicant has shown that a public need for the proposed service, as amended, does exist.
2. That the applicant is fit, ready, willing and able to render the proposed service as amended.
3. That approval of the application as amended is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved as amended and that the certificate issued to the applicant on January 24, 1973, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property, in parcels and packages, no single parcel or package to exceed one-hundred (100) pounds in weight, between points in the township of Upper Providence, Montgomery County, and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof;

subject to the following condition:

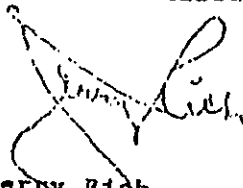
That no right, power or privilege is granted to transport wearing apparel and accessories.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of the Commission relative to the filing and acceptance of a tariff establishing just and reasonable rates.

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

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

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: June 24, 1980

ORDER ENTERED: JUN 30 1980

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held November 21, 1990

Commissioners Present:

William H. Smith, Chairman
Frank Fischl
David W. Rolka
Joseph Rhodes, Jr.

Application of Courier Unlimited, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, *inter alia*, to transport, by motor vehicle, property, in parcels and packages, no single parcel or package to exceed one-hundred (100) pounds in weight, between points in the township of Upper Providence, Montgomery County, and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof; subject to the following condition: That no right, power or privilege is granted to transport wearing apparel and accessories: SO AS TO PERMIT the transportation of property, in parcels and packages, no single parcel or package to exceed one-hundred (100) pounds in weight, (1) between points in that part of Pennsylvania beyond an airline distance of one hundred twenty-five (125) statute miles of the limits of the township of Upper Providence, Montgomery County; and (2) from points in the township of Upper Providence, Montgomery County and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof to points beyond one hundred twenty-five (125) statute miles of the limits of the township of Upper Providence, Montgomery County, and vice versa; with the right to interline with Class A, B and D carriers so authorized.

A-00097535
F. 1
Am-E

2. The applicant has the support of 47 parties which are representative of the type of service proposed in the amended territory.

3. Approval of the amended application is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued January 24, 1973, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property in parcels and packages, no single parcel or package to exceed one hundred (100) pounds in weight, between points in that part of Pennsylvania beyond an airline distance of one hundred twenty-five (125) statute miles of the limits of the township of Upper Providence, Montgomery County, and from points in the township of Upper Providence, Montgomery County, and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof, to points beyond one hundred twenty-five (125) statute miles of the limits of the township of Upper Providence, Montgomery County, and vice versa; with the right to interline with Class A, B and D carriers so authorized;

subject to the following conditions:

That no right, power or privilege is granted to provide transportation of human laboratory specimens, clinical laboratory instruments, and supplies therefore, and reports relative to human laboratory specimens, clinical laboratory instruments and supplies therefore, between points in the counties of Allegheny, Armstrong, Lawrence, Butler, Washington, Westmoreland, Greene, Indiana, Mercer, Somerset, Bedford and Beaver.

That no right, power or privilege is granted to provide transportation between points in the county of Allegheny.

That no right, power or privilege is granted to provide transportation for the Pennsylvania Department Environmental Resources.

That no right, power or privilege is granted to pickup and deliver any shipment within the same calendar day between points in the counties of Crawford, Erie, Mercer and Venango.

That no right, power or privilege is granted to provide transportation for General Electric Company and Copes-Vulcan, Inc., from their facilities in the county of Erie, to points in Pennsylvania, and vice versa.

That no right, power or privilege is granted to pickup and deliver any shipment within the same calendar day from points in the city of Pittsburgh, Allegheny County, to points in Pennsylvania beyond the limits of the county of Allegheny, but which are within thirty (30) miles of the usually traveled highways of the City-County Building in the City of Pittsburgh, Allegheny County.

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

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of the Commission relative to the filing and acceptance of a tariff establishing just and reasonable rates.

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

BY THE COMMISSION,



JERRY RICH
Secretary

(SEAL)

ORDER ADOPTED: November 21, 1990

ORDER ENTERED: NOV 28 1990


CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served a copy of the foregoing Protest upon all known parties of record, or their counsel, at their proper addresses as indicated below, by placing a copy thereof with the United States Postal Service, first class mail, postage prepaid:

Towaway Express, Inc.
P. O. Box 444
New Kingstown, PA 17072

Keith B. Fickel, Esquire
2320 North Second Street
Harrisburg, PA 17110

Dated at Jenkintown, PA this 27th day of March, 1992.



Raymond A. Thistle, Jr.
Attorney for Protestant
Courier Unlimited, Inc.

PROTEST DUE: April 13, 1992
PROTEST POSTED: March 27, 1992

TO:

CASEY AND ROSSI
ATTORNEYS AT LAW
99 EAST COURT STREET
DOYLESTOWN, PENNSYLVANIA 18901

HARRY L. ROSSI
WILLIAM H. R. CASEY

(215) 348-7300
FAX (215) 348-1456

RECEIVED

APR 13 1992

SECRETARY'S OFFICE
Public Utility Commission

April 10, 1992

Jerry Rich, Secretary
PA PUBLIC UTILITY COMMISSION
P.O. Box 3265
Harrisburg, PA 17120

RE: Application of Towaway Express, Inc.
A-00106208, Folder 1, Am-A

RECEIVED

APR 13 1992

SECRETARY'S OFFICE
Public Utility Commission

Dear Secretary Rich:

Enclosed please find an original and three copies of a Protest pertaining to the above-captioned Application on behalf of my client, Hatboro Delivery Service, Inc. A copy of this Protest is being sent to the Applicant's attorney on this date by copy of this letter.

Thank you for your cooperation in this matter.

Very truly yours,



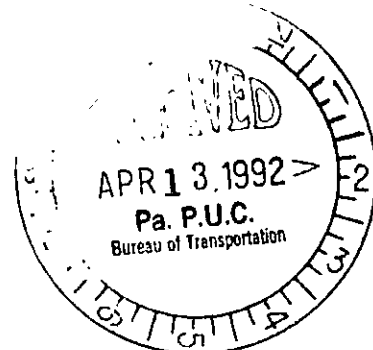
WILLIAM H. R. CASEY

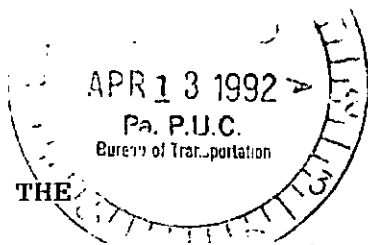
**DOCUMENT
FOLDER**

WHRC:rb

Enclosures

cc: Keith B. Fickel, Esq.
Hatboro Delivery Service, Inc.





RECEIVED
APR 13 1992
SECRETARY'S OFFICE
Public Utility Commission

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: Application of Towaway Express, Inc. P.O. Box 444, New Kingstown, Cumberland County, Pa. 17072), a corporation of the Commonwealth of Pennsylvania--(1) trailers (excluding mobile homes, travel trailers and office trailers), trailer chassis, trailer converter dollies, and containers, and (2) materials, equipment, parts and supplies used in the manufacture, assembly, servicing, distribution and sale of the commodities named in (1) above, between points in Pennsylvania; subject to the following conditions: (A) that no right, power or privilege is granted to render service for Morgan Corp. from its facilities; (B) that no right, power or privilege is granted to render service from the facilities of Boyertown Auto Body; (C) that no right, power, or privilege is granted to render service for Cliff Industries, Gelco Space; Guest Trailer Rentals, Inc.; or Sauer Industries, t/d/b/a Central Equipment; (D) that no right, power or privilege is granted to render service for Mellon Stuart Company or Sargent Electric Company, between points in that part of Pennsylvania lying in and west of the counties of Bedford, Blair, Clearfield, Elk and McKean; (E) that no right, power or privilege is granted to render transport storage trailers for Ruthrauff, Inc., between points in Pennsylvania located on and west of U.S. Highway Route 15; and (F) that no right, power or privilege is granted to transport wrecked or disabled vehicles or trailers, and replacement vehicles, or trailers; when the origin or destination point is other than the scene of an accident or breakdown; with the use of flatbed and lowboy trailers; between points in the borough of Hollidaysburg, Blair County, and within an airline distance of 150 statute miles of the limits of said borough; so as to permit the transportation of business records, in magnetic form, microfilm form and paper form, between points in Pennsylvania, as more particularly described in the Pennsylvania Bulletin, Vol. 22, No. 12, March 21, 1992. A-00106208, Folder-1, Am-A.

**DOCUMENT
FOLDER**

PROTEST OF
HATBORO DELIVERY SERVICE, INC.
P.O. BOX 269
WARMINSTER, PA 18974

DOCKETED
APPLICATION DOCKET
APR 13 1992
ENTRY No. *gy*

The Protestant above named, supplying common carrier

services for the transportation of property within the territory covered by the above-entitled Application, by means of motor vehicles, hereby protests approval of the Application above referred to, among others, for the following reasons:

1. The Application prayed for is not necessary or proper for the service, accommodation, convenience or safety of the public.
2. The Application prayed for, if granted, would authorize a service which would be unnecessary and destructively competitive with rights, powers and privileges now being exercised by Protestant or which Protestant is authorized to exercise.

PROPOSED AMENDMENT

A RESTRICTION TO THE APPLICATION WOULD BE ACCEPTABLE IF TRANSPORTATION WITHIN THE RESPECTIVE AREAS OF THE PROTESTANT'S RIGHTS WERE ELIMINATED.

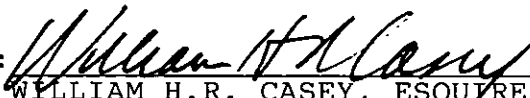
WHEREFORE, the Protestant respectfully prays that the Application be dismissed.

Respectfully Submitted,

CASEY AND ROSSI

Date: April 10, 1992

BY:


WILLIAM H.R. CASEY, ESQUIRE
Attorney for Protestant
99 East Court Street
Doylestown, PA 18901
Phone: (215) 348-7300

HATBORO DELIVERY SERVICE, INC.

OPERATING AUTHORITY AS ISSUED BY THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN CERTIFICATE NO. A-00097036, Folder 1:

- (1) To transport, as a Class D carrier, property in parcels and packages from retail stores in the Borough of Hatboro, Montgomery County, and within ten (10) miles by the usually travelled highways of the limits of said borough, to customers of said stores in said territory, excluding the City and County of Philadelphia.
- (2) To transport, as a Class B carrier, property between points in the Borough of Hatboro, Montgomery County.
- (3) To transport, as a Class D carrier, property from points in the Borough of Hatboro, Montgomery County, to points within five (5) miles by the usually travelled highways of the limits of the said borough, and vice versa.
- (4) To transport, as a Class D carrier, property from retail or service establishments in the Townships of Cheltenham and Abington and the Borough of Jenkintown, Montgomery County, to the homes of their customers in the said townships and borough.
- (5) To transport, as a Class D carrier, property from retail or service establishments in the Township of Cheltenham and Abington and the Borough of Jenkintown, Montgomery County, to points within twenty (20) miles by the usually travelled highways of the limits of the Borough of Jenkintown, Montgomery County and vice versa, but limited to shipments where the order originates in the said townships and borough.
- (6) To transport, as a Class D carrier, household or personal articles from homes in the Townships of Cheltenham and Abington and the Borough of Jenkintown, Montgomery County, to points in the said townships and borough and to points within twenty (20) miles of the limits of the Borough of Jenkintown, Montgomery County, and vice versa, and limited to shipments where the order originates in the said townships and borough.

RESTRICTION: That no right, power or privilege is granted to transport any shipments of household goods in use in connection with the transfer of the owner's domicile exceeding five hundred (500) pounds in weight. (This restriction applies to (4), (5) and (6) above.)

To transport, as a Class D carrier, limited to emergency service constituting pickups and deliveries in less than eight (8) hours, property (excluding household goods in use and commodities in bulk in tank vehicles or in hopper type vehicles) between points in the Borough of Hatboro, Montgomery County, and

HATBORO DELIVERY SERVICE, INC.

OPERATING AUTHORITY AS ISSUED BY THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

within five (5) miles of the limits of said borough and from points in the said borough and within five (5) miles of the limits thereof to points in the City and County of Philadelphia, and vice versa.

IN CERTIFICATE NO. A-00097036, Folder 1:

To transport, as a Class D carrier, property for the W.T. Grant Company from its retail stores in the Villages of Warminster, Warminster Township, and Southampton, Upper Southampton Township, Bucks County, and the Village of Willow Grove, Upper Moreland Township, Montgomery County, to customers of the said stores in the Townships of Warminster and Upper Southampton, Bucks County, and Upper Moreland, Montgomery County, and within twenty (20) miles of the limits of said townships, and the return of rejected or damaged property from said customers to the said stores.

To transport, as a Class D carrier, property for Strawbridge and Clothier, from its retail store in the Neshaminy Mall, Bensalem Township, Bucks County, to said customers of the said store within an airline distance of twenty-five (25) statute miles thereof, and the return of rejected and damaged property from said customers to the point of origin; excluding the transportation of a single package or parcel which weighs fifty (50) pounds or less and which has an over-all dimension of six (6) cubic feet or less.

To transport, as a Class D carrier, checks, deposit tickets, notes, money orders, drafts, traveler's checks, commercial papers, documents, written instruments and office supplies, for the Philadelphia National Bank, from its branch banks in the counties of Montgomery and Bucks to heliports in said counties and offices of said bank in the city and county of Philadelphia and vice versa.

IN CERTIFICATE NO. A-00097036, FOLDER 1, Am-A:

- (1) To transport, as a Class D carrier, property, for Vicks Health Care Division, a Division of Richardson-Vicks, U.S.A., from the plants and warehouses of said companies located in the counties of Philadelphia and Montgomery, to points located within an airline distance of one-hundred (100)-statute miles of said plants and warehouses, and vice versa.

- (2) To transport, as a Class D carrier, waste water, in tank trucks, for Vicks Health Care Division, a Division of Richardson-Vicks, U.S.A., from the plants and warehouses of said companies located in the counties of Philadelphia and Montgomery to disposal sites approved by the Pennsylvania Department of Environmental Resources located within an airline distance of one-hundred (100) statute miles of said plants and warehouses; with the right immediately above, subject to the following condition:

That the disposition of any waste water at points other than regularly established disposal sites licensed by the Pennsylvania Department of Environmental Resources may be deemed just and sufficient cause for the revocation of the authority herein granted.

IN CERTIFICATE NO. A-00097036, Folder 1, Am-B:

To transport, as a Class D carrier, food products for R.T. French Company, from the Borough of Souderton, Montgomery County, to the Borough of Langhorne, Bucks County, and vice versa.

IN CERTIFICATE NO. A-00097036, Folder 2:

To transport, as a Class B carrier, property between points in the City and County of Philadelphia.

IN CERTIFICATE NO. A-00097036, Folder 2, Am-A:

To transport, as a Class B carrier, property excluding household goods in use, between points in the Boroughs of Norristown, Bridgeport and Conshohocken, Montgomery County, and within one (1) mile of the limits of each of said Boroughs.

To transport, as a Class B carrier, property, excluding household goods in use, between points in the Borough of Norristown, Montgomery County, and within three (3) miles of the limits of the said Borough.

To transport, as a Class D carrier, property, excluding furniture in use and household goods in use, between points in the Borough of Ambler, Montgomery County, and within an airline distance of ten (10) statute miles of the Reading Company's station in said borough.

SUBJECT TO THE FOLLOWING CONDITIONS:

That no right, power or privilege is granted to transport:

Household goods in use, office furniture and furnishings in use;

General machine parts, fabricated steel parts and supplies and materials incidental to the manufacture or fabrication of such articles, such as are usually transported on flat trailers, for the McCarter Iron Works, Inc., to or from its plant in the Borough of Norristown, Montgomery County;

HATBORO DELIVERY SERVICE, INC.

OPERATING AUTHORITY AS ISSUED BY THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Property between points in the Borough of Collegeville, Montgomery County and to or from points located within four (4) miles of the limits of Collegeville;

Property from points in the Boroughs of Norristown, Bridgeport and Conshohocken, Montgomery County and within one (1) mile of the limits of each of said boroughs, to or from points in the City and County of Philadelphia;

Property to or from Norristown Magnesia and Asbestos Company located in the Borough of Norristown, Montgomery County;

Property between points in the City and County of Philadelphia.

IN CERTIFICATE NO. A-00097036, Folder 2, Am-B:

To transport as a Class B carrier, property between points in the Borough of Sellersville, Bucks County, and within five (5) miles by the usually travelled highways of the Post Office in said borough.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. That no right, power or privilege is granted to transport excavated materials and road and building construction materials, such as are usually transported in dump trucks.
2. That no right, power or privilege is granted to transport raw materials, (except coal) for the manufacture of gauges, from or to the plant of the United States Gauge Company in the Borough of Sellersville, Bucks County.

IN CERTIFICATE NO. A-00097036, Folder 1, Am-D

To transport, as a Class D carrier, checks, deposit tickets, notes, money orders, drafts, travelers checks, commercial papers, documents, written instruments and office supplies from the facilities of The Bank of Old York Road, Fox Chase Federal Savings & Loan Association, Fidelity Bank, Philadelphia National Bank, Union National Bank, Independence Bancorp (including Bucks County Bank, Independence International, Freedom Valley Bank, Lehigh Valley Bank and Cheltenham Bank), located in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, and the city of Allentown, Lehigh County, to points in the said counties and city, and vice versa.

HATBORO DELIVERY SERVICE, INC.

OPERATING AUTHORITY AS ISSUED BY THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SUBJECT TO THE FOLLOWING CONDITION:

That no right, power or privilege is granted to transport between points in the city and county of Philadelphia.

IN CERTIFICATE NO. A-00097037, Folder 1, Am-E

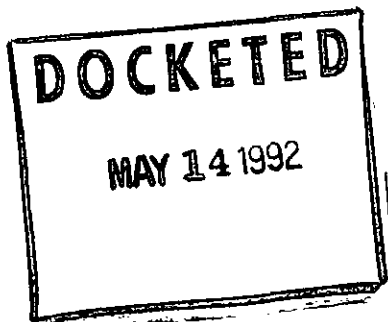
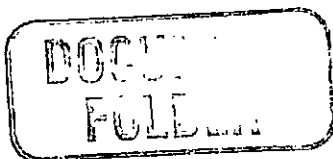
To transport, as a Class D carrier, property, for CRC Chemicals, USA, from its facility in the Township of Warminster, Bucks County, to points in Pennsylvania, and vice versa.

SUBJECT TO THE FOLLOWING CONDITION:

- (a) That no right, power or privilege is granted to transport petroleum products in bulk or in tank vehicles;
- (b) That no right, power or privilege is granted to transport shipments weighing less than two hundred and one (201) pounds.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA. 17120
MAY 13, 1992

SCH



IN REPLY PLEASE
REFER TO OUR FILE
A-00106208

TOWAWAY EXPRESS, INC.
500 MULBERRY DRIVE
MECHANICSBURG PA 17055

NOTICE OF SUSPENSION OF PUC OPERATING RIGHTS

EFFECTIVE MAY 13, 1992

FOR EXPIRATION OR CANCELLATION OF
CARGO LIABILITY INSURANCE

This is to notify you that as of the above effective date, the authority granted to you by the Pennsylvania Public Utility Commission is hereby suspended as more thoroughly described on the attached sheet.

Please be advised that you may not operate until we have received evidence of renewed insurance coverage.

Upon receipt and acceptance of the required certificate of Insurance, you will receive written notification that the suspension is lifted and that you may resume operations.

Very truly yours,

John G. Alford
Secretary

cc: Enforcement Division

Certified Mail

SENDER:

- Complete items 1 and 2 for additional services.
- Complete items 3, and 4 b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. Addressee's Address
2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

A-00106208

4a. Article Number

044896

4b. Service Type

- Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

TOWAWAY EXPRESS, INC.

Mary J. Miller

5. Signature (Addressee)

7. Date of Delivery

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

5-14-92

MF

UNITED STATES POSTAL SERVICE

HARRISBURG PA 170

Official Business

PM 05/14/98



PENALTY FOR PRIVATE
USE, \$300

Print your name, address and ZIP Code here

PA PUBLIC UTILITY COMMISSION
PO BOX 3265
HARRISBURG PA 17105-3265

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
May 19, 1992

SCH

In Re: A-00106208, F001, Am-A

(See attached list)

Application of Towaway Express, Inc.

For amendment so as to permit the transportation of business records, in magnetic form, microfilm form and paper form between points in Pennsylvania.

NOTICE

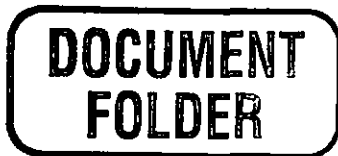
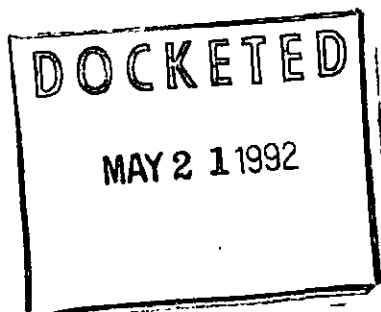
The Public Utility Code directs that hearings shall be commenced in this case by the Administrative Law Judge within 90 days after the proceeding is initiated.

In compliance with this directive, a initial hearing is hereby scheduled for Tuesday, June 30, 1992, at 10:00 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania 17120.

The presiding officer in this proceeding is Administrative Law Judge Robert A. Christianson. Judge Christianson can be contacted at P.O. Box 3265, Harrisburg, Pennsylvania 17105-3265; telephone (717) 783-5452.

If you intend to file exhibits, please be advised that two copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

cc: Judge Christianson
Mr. Frazier - PIO
Mrs. Lewis
Scheduling Sec.
Mrs. Plantz
 Docket Room



A-00106208, F001, Am-A - Parties of Record

Keith B. Fickel, Esquire
2320 North Second Street
Harrisburg, PA 17110

Towaway Express, Inc.
500 Mulberry Drive
Mechanicsburg, PA 17055

Raymond A. Thistle, Jr., Esquire
206B Benson East
100 Old York Road
Jenkintown, PA 19046

William H. R. Casey, Esquire
Casey and Rossi
99 East Court Street
Doylestown, PA 18901

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA. 17120
MAY 20, 1992

SCH

DOCUMENT
FOLDER

IN REPLY PLEASE
REFER TO OUR FILE
A-00106208

TOWAWAY EXPRESS, INC.
500 MULBERRY DRIVE
MECHANICSBURG PA 17055

NOTICE TO LIFT SUSPENSION

This is to notify you that we have received proof of insurance coverage. Therefore, you may disregard the Notice of Suspension previously issued.

Very truly yours,

Julia A. Byndas

Insurance Section
(717) 787-1227

cc: Enforcement Division

DOCKETED
MAY 26 1992

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
June 26, 1992

HLS

In Re: A-00106208, F001, Am-A

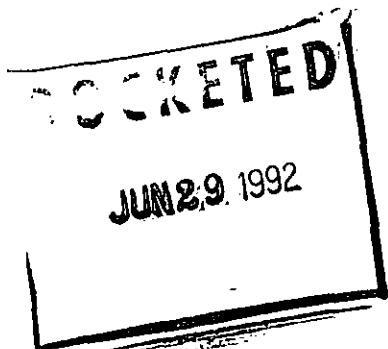
(See letter dated 5/19/92)

Application of Towaway Express, Inc.

For amendment so as to permit the transportation of business records, in magnetic form, microfilm form and paper form between points in Pennsylvania.

This is to inform you that at the request of counsel for the applicant, the initial hearing now scheduled to be held on Tuesday, June 30, 1992 in the subject proceeding has been postponed to Tuesday, July 21, 1992, at 10:00 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania.

cc: Judge Christianson
Mr. Frazier - PIO
Mrs. Lewis
Scheduling Sec.
Mrs. Plantz
Docket-Room



ALJ HEARING REPORT

DOCKET NO. A-00106208, FO01, Am-A

CASE NAME Application of Towaway Express, Inc.

HEARING LOCATION Harrisburg

HEARING DATE June 30, 1992

ALJ Robert A. Christianson

CHECK THOSE BLOCKS WHICH APPLY:

Hearing held YES NO

Testimony taken YES NO

Hearing concluded YES NO

Further hearing needed YES NO

Estimated add'l days _____

RECORD CLOSED YES _____ NO _____

Date

Briefs to be filed YES _____ NO _____

Date

BENCH DECISION YES _____ NO _____

REMARKS:



Postponed to 7-21-92

RECEIVED
JUN 29 1992
Office of A. L. J.
Public Utility Commission

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD
PLEASE PRINT CLEARLY
INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
Telephone No. ()	City	State	Zip	
Telephone No. ()	City	State	Zip	
Telephone No. ()	City	State	Zip	

CHECK THIS BOX IF ADDITIONAL PARTIES OR COUNSEL OF RECORD APPEAR ON BACK.

Reporter _____

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
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8/18

ALJ HEARING REPORT

DOCKET NO. A-00106208, F001, Am-A

CASE NAME Application of Towaway Express,
Inc.

HEARING LOCATION Harrisburg

HEARING DATE July 21, 1992

ALJ Christianson

CHECK THOSE BLOCKS WHICH APPLY:

Hearing held YES NO

Testimony taken YES NO

Hearing concluded YES NO

Further hearing needed YES NO

Estimated add'l days one

RECORD CLOSED YES NO
Date _____

Briefs to be filed YES NO
Date _____

BENCH DECISION YES NO

REMARKS: Please set one
day ^{soon} after Aug 17, when
Thistle is available.

RECEIVED

JUL 22 1992


Office of A. L. J.
Public Utility Commission

DOCKETED

AUG 13 1992

DOCUMENT
FILED
OFFICE OF RECORD

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD
PLEASE PRINT CLEARLY
INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
<u>Keith B. Fickel</u>	<u>2320 North Second St</u>			<u>Towaway Express,</u> <u>Inc.</u>
<u>Telephone No. (717) 2386570</u>	<u>Harrisburg</u>	<u>PA</u>	<u>17110</u>	
<u>Raymond A. Thistle, Jr.</u>	<u>206 B Benson East</u> <u>100 Old York Road</u>			<u>Courier Unlimited, Inc.</u> <u>Protestant</u>
<u>Telephone No. (215) 576-0131</u>	<u>Jenkintown, PA</u>	<u>PA</u>	<u>19046</u>	
<u>Telephone No. ()</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	

CHECK THIS BOX IF ADDITIONAL PARTIES
OR COUNSEL OF RECORD APPEAR ON BACK.

Amey S. Istreeri
Reporter

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
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COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
July 23, 1992

HLS

In Re: A-00106208, F001, Am-A

(See letter dated 6/26/92)

Application of Towaway Express, Inc.

For amendment so as to permit the transportation of business records, in magnetic form, microfilm form and paper form between points in Pennsylvania.

NOTICE

This is to inform you that a further hearing on the above captioned case will be held Tuesday, August 18, 1992, at 10:00 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania.

cc: Judge Christianson
Mr. Frazier - PIO
Mrs. Lewis
Scheduling Sec.
Mrs. Plantz
Docket Room



DOCKETED
AUG - 4 1992

HLS

CASEY AND ROSSI
ATTORNEYS AT LAW
99 EAST COURT STREET
DOYLESTOWN, PENNSYLVANIA 18901

ORIGINAL

HARRY L. ROSSI
WILLIAM H. R. CASEY

(215) 348-7300
FAX (215) 348-1456

DOGE
FOLLO

August 18, 1992

Jerry Rich, Secretary
Commonwealth of Pennsylvania
PA PUBLIC UTILITY COMMISSION
P.O. Box 3265
Harrisburg, PA 17120

RECEIVED
AUG 20 1992

SECRETARY OF
Public Utility Commission

Re: Application of Towaway Express, Inc.
A-00106208, Folder 1, Am-A

Dear Secretary Rich:

Enclosed please find an original and three copies of a
Withdrawal of Protest pertaining to the above-captioned Application
on behalf of my client, Hatboro Delivery Service, Inc. A copy of
this Withdrawal of Protest is being sent to the Applicant on this
date, by copy of this letter.

Thank you for your cooperation in this matter.

Very truly yours,

William H. R. Casey
WILLIAM H.R. CASEY

WHRC:las
Enclosure

cc: Keith B. Fickel, Esquire
Hatboro Delivery Service, Inc.

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
AUG 20 1992

IN RE: APPLICATION OF TOWAWAY EXPRESS, INC.
DOCKET NO. A-00106208, Folder 1, Am-A

SECRETARY'S OFFICE
Public Utility Commission

WITHDRAWAL OF PROTEST

Protestant, HATBORO DELIVERY SERVICE, INC., hereby withdraws their Protest to the above Application, subject to the letter containing provisions for Restrictive Amendment, attached hereto, made a part hereof and marked Exhibit "A".

Respectfully Submitted,

CASEY AND ROSSI

Date: August 18, 1992

BY: 

WILLIAM H.R. CASEY, ESQUIRE
ATTORNEY FOR PROTESTANTS
99 EAST COURT STREET
DOYLESTOWN, PA 18901
PHONE: (215) 348-7300



AUG 20 1992

MICHAEL E. FARR*
JORDAN D. CUNNINGHAM
ROBERT E. CHERNICOFF
KEITH B. FICKEL
DEBORAH L. PACKER
CAROLYN M. ANNER

FARR & CUNNINGHAM, P.C.
ATTORNEYS AT LAW
2320 NORTH SECOND STREET
P.O. BOX 1855
HARRISBURG, PENNSYLVANIA 17105-1855

HERSHEY TELEPHONE
(717) 534-2833

IRS NO. 23-2274135

FAX
(717) 238-4809

TELEPHONE
(717) 238-6570

*INACTIVE

August 17, 1992

William H. R. Casey, Esquire
Casey & Rossi
99 East Court Street
Doylestown, PA 18901

RE: Application of Towaway Express, Inc.

Dear Mr. Casey:

Pursuant to our telephone conference and my previous correspondence to you of April 24, 1992, I am presenting to you the restrictive amendment to which my clients and your clients have agreed in connection with the above matter.

The restrictions to the proposed authority shall be as follows:

1. No transportation of property between points within the Borough of Hatboro, Montgomery County, and no transportation of property where the origination point or destination point is within the Borough of Hatboro, Montgomery County.

2. No transportation of property from retail or service establishments between points within Cheltenham Township, Abbington Township, or Jenkintown, Montgomery County, and no transportation of property where the origination point or destination point is in those townships or that Borough.

3. No transportation of property for the Philadelphia National Bank.

EXHIBIT "A"

William H. R. Casey, Esquire

August 17, 1992

Page 2

4. No transportation, as a Class D carrier of checks, deposit tickets, notes, money orders, drafts, traveler's checks, commercial papers, documents, written instruments and office supplies for the Philadelphia National Bank, from its branch banks in the counties of Montgomery and Bucks to heliports in said counties and offices of said bank in the City and County of Philadelphia, and vice versa.

5. No transportation of property for Vicks Healthcare Division, a division of Richardson/Vicks, U.S.A.

6. No transportation of property, as a Class B carrier, excluding household goods in use between points within the Boroughs of Norristown, Bridgeport and Conshohocken, Montgomery County.

7. No transportation of property, as a Class D carrier, excluding furniture in use and household goods in use, between points within the Borough of Ambler, Montgomery County.

8. No transportation of property, as a Class B carrier, between points within the Borough of Sellersville, Bucks County.

9. No transportation of property, as a Class D carrier, for CRC Chemicals, U.S.A., from its facility in the Township of Warminster, Bucks County, to points in Pennsylvania, and vice versa.

10. No transportation, as a Class D carrier, of checks, deposit tickets, notes, money orders, drafts, traveler's checks, commercial papers, documents, written instruments and office supplies from the facilities of the Bank of Old York Road, Fox Chase Federal Savings and Loan Association, Fidelity Bank, Philadelphia National Bank, Union National Bank, Independence Bancorp., (including Bucks County Bank, Independence International, Freedom Valley Bank, Lehigh Valley Bank and Cheltenham Bank) located in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia, and the City of Allentown, Lehigh County to points in the said Counties and City and vice versa.

William H. R. Casey, Esquire
August 17, 1992
Page 3

Should you have any questions, do not hesitate to contact me.
Thank you for your cooperation in this matter.

Very truly yours,

FARR & CUNNINGHAM, P.C.



Keith B. Fickel

KBF/bjf

cc: Towaway Express, Inc.

FAX Transmission: (215) 348-1456

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
Telephone No.()				
	City	State	Zip	
Telephone No.()				
	City	State	Zip	
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Telephone No.()				
	City	State	Zip	
Telephone No.()				
	City	State	Zip	

HLS

ORIGINAL

FARR & CUNNINGHAM, P.C.
ATTORNEYS AT LAW
2320 NORTH SECOND STREET
P.O. BOX 1855

HERSHEY TELEPHONE
(717) 534-2833

MICHAEL E. FARR*
JORDAN D. CUNNINGHAM
ROBERT E. CHERNICOFF
KEITH B. FICKEL
DEBORAH L. PACKER
CAROLYN M. ANNER

HARRISBURG, PENNSYLVANIA 17105-1855

IRS NO. 23-2274135

TELEPHONE
(717) 238-6570

FAX
(717) 238-4809

DOCUMENT
FOLDER

*INACTIVE

DOCKETED
SEP - 1 1992

August 21, 1992

RECEIVED
AUG 24 1992
OFFICE OF A.L.J.
HARRISBURG

The Honorable Robert Christianson
Administrative Law Judge
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
AUG 25 1992

Re: Application of Towaway Express, Inc.
A-00106208 *F, Am H*

SECRETARY'S OFFICE
Public Utility Commission

Dear Judge Christianson:

The purpose of this letter is to set forth for you the restrictions to which applicant, Towaway Express, Inc., has agreed to in order to resolve the protest filed by Hatboro Delivery Service, Inc.

The restrictions are as follows:

1. No transportation of property between points within the Borough of Hatboro, Montgomery County, and no transportation of property where the origination point or destination point is within the Borough of Hatboro, Montgomery County.
2. No transportation of property from retail or service establishments between points within Cheltenham Township, Abbington Township, or Jenkintown, Montgomery County, and no transportation of property where the origination point or destination point is within the townships of Cheltenham or Abbington or the Borough of Jenkintown.
3. No transportation of property for the Philadelphia National Bank.
4. No transportation of property for Vicks Healthcare Division, a division of Richardson/Vicks, U.S.A.
5. No transportation of property, as a Class B carrier, excluding household goods in use, between points within the Boroughs of Norristown, Bridgeport and Conshohocken, Montgomery County.

FARR & CUNNINGHAM, P.C.
ATTORNEYS AT LAW

The Honorable Robert Christianson
August 21, 1992
Page 2

6. No transportation of property, as a Class D carrier, excluding furniture in use and household goods in use, between points within the Borough of Ambler, Montgomery County.

7. No transportation of property, as a Class B carrier, between points within the Borough of Sellersville, Bucks County.

8. No transportation of property, as a Class D carrier, for CRC Chemicals, U.S.A., from its facility in the Township of Warminster, Bucks County, to points in Pennsylvania, and vice versa.

9. No transportation, as a Class D carrier, of checks, deposit tickets, notes, money orders, drafts, traveler's checks, commercial papers, documents, written instruments and office supplies from the facilities of the Bank of Old York Road, Fox Chase Federal Savings and Loan Association, Fidelity Bank, Union National Bank, Independence Bancorp., (including Bucks County Bank, Independence International, Freedom Valley Bank, Lehigh Valley Bank and Cheltenham Bank) located in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia, and the City of Allentown, Lehigh County, to points in the said Counties and City and vice versa.

Should you have any questions regarding this restriction, please contact me. Thank you.

Very truly yours,

FARR & CUNNINGHAM, P.C.



Keith B. Fickel

KBF/bjf

cc: Towaway Express, Inc.
William H. R. Casey, Esquire
Raymond A. Thistle, Jr., Esquire



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

HL 5

IN REPLY PLEASE
REFER TO OUR FILE

September 16, 1992

Keith B. Fickel, Esquire
2320 North Second Street
Harrisburg, PA 17110

DOCKETED

SEP 24 1992

RECEIVED

SEP 17 1992

**SECRETARY'S OFFICE
Public Utility Commission**

RE: Application of Towaway Express, Inc.
Docket No. A-00106208, F001, Am-A

Dear Mr. Fickel:

The transcript of testimony taken in the above entitled proceeding indicates that the parties will file briefs. See Tr. 186-190.

In accordance with the Commission's Rules of Practice, main briefs shall be filed within 30 days after the date of this letter and reply briefs, if any, shall be filed within 20 days thereafter. If briefs are not received within the allotted time, they shall not be accepted for filing, except by special permission of the presiding officer. The record closes with the filing of reply briefs.

An original and nine (9) copies of each main and reply brief must be filed with the Secretary of the Commission (New Filing Section, Room B-18). Also serve two copies on me and two copies on the other party.

Very truly yours,

Robert A. Christianson
Robert A. Christianson
Administrative Law Judge

RAC/tlt

cc: Raymond Thistle, Jr.
Beth Plantz
✓New Filing



ORIGINAL

HL S

RAYMOND A. THISTLE, JR.

ATTORNEY AT LAW

206B BENSON EAST

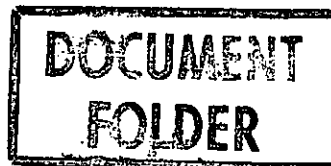
100 OLD YORK ROAD

JENKINTOWN, PA. 19046

October 15, 1992

(215) 576-0131

Honorable John G. Alford, Secretary
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265



Re: Application of Towaway Express, Inc.
Docket A-00106208, F.1, Am-A
Limited Brief of Protestant
Courier Unlimited, Inc.

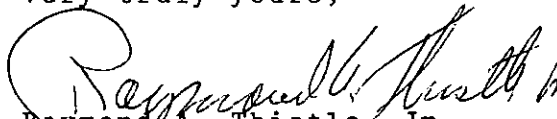
Dear Secretary Alford:

Enclosed herewith for filing are an original plus nine (9) copies of an Initial Limited Brief of Protestant, Courier Unlimited, Inc., in the above referenced application proceeding.

Proper service has been made as per the Certificate of Service. This filing is by receipted mail dated as indicated above, and is therefore timely filed.

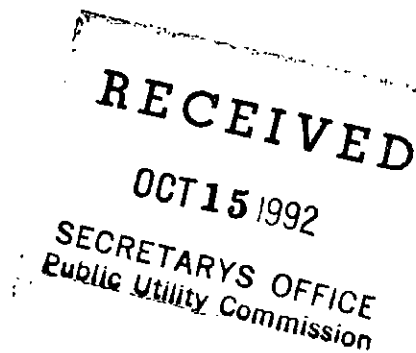
Please acknowledge receipt on that provided.

Very truly yours,


Raymond A. Thistle, Jr.
Attorney for Protestant

RAT:mt

cc: Courier Unlimited, Inc.



BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: APPLICATION OF TOWAWAY EXPRESS, INC.
DOCKET NO. A-00106208, FOLDER 1,
AMENDMENT-A

INITIAL LIMITED BRIEF ON BEHALF OF PROTESTANT
COURIER UNLIMITED, INC.

DOCUMENT
FOLDER

DOCKETED
OCT 22 1992

RECEIVED
OCT 15 1992
SECRETARY'S OFFICE
Public Utility Commission

Raymond A. Thistle, Jr., Esquire
206B Benson East
100 Old York Road
Jenkintown, PA 19046
Attorney for Protestant

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

IN RE: APPLICATION OF TOWAWAY EXPRESS, INC.
DOCKET NO. A-00106208, FOLDER 1,
AMENDMENT-A

INITIAL LIMITED BRIEF ON BEHALF OF PROTESTANT
COURIER UNLIMITED, INC.

I. PREFACE TO LIMITED BRIEF

At the close of the evidentiary hearings on Tuesday, August 18, 1992, in Harrisburg, PA, the Honorable Robert A. Christianson, Administrative Law Judge, indicated that he felt he did not need briefs to be submitted by applicant and protestant. Counsel for protestant, Courier Unlimited, Inc., requested and was granted the privilege of submitting an initial brief limited to a summary or digest of testimony and argument of the facts. Judge Christianson gave the applicant the option to submit such brief or not (N.T.186-188). Due dates subsequently were set for October 16, 1992 for main briefs and November 5, 1992 for reply briefs, if any.

This limited brief is filed on behalf of protestant Courier Unlimited, Inc.

II. SUMMARY OR DIGEST OF TESTIMONY COMBINED WITH ARGUMENT

Before digesting each witnesses' testimony, two concepts must be borne in mind: (1) the commodity description of "business records, in magnetic form, microfilm form and paper form"; the territorial scope, "between points in Pennsylvania" and (2) the restrictive amendments (nine (9) in number) entered into and filed by applicant by letter dated August 21, 1992, with the Honorable Robert Christianson, Administrative Law Judge, to resolve the protest of Hatboro Delivery Service, Inc. (N.T.168, 169).

THOMAS SHEAFFER (N.T.5-32) testified as President and CEO of applicant **Towaway Express, Inc.**, a common motor carrier under authority from the ICC and the PA PUC. Applicant's present PA PUC authority authorizes transportation of trailers, trailer chassis and other items unrelated to the commodities sought in this application between points in Pennsylvania. There are a number of shipper and type service restrictions (N.T.6,7). This is a new type of operation for applicant (N.T.19,20). The witness stated that his company was operating statewide (minus restrictions) under its present authority and stated statewide authority makes applicant's operation more efficient among other advantages (N.T.7,8,18,19). However, cross-examination revealed

that witness could not substantiate nor did he know of various movements which would support his claim of statewide operations; a point in Erie County to another point in Erie County; this is true of Crawford County or any county; Cameron to Cameron; also there was no recollection of going from Washington County to Wayne County; from Franklin County to Bradford County; Elks County to Elks County. The Administrative Law Judge indicated that he had enough of such cross (N.T.24-28). The relevancy, of course, of such cross is to demonstrate that the fact that applicant holds between points in PA in its present unrelated commodity authority, but did not demonstrate that applicant in fact serves between all points in PA (even by representative points) renders the territorial scope of applicant's present authority irrelevant to the present application.

Applicant's witness described its present equipment indicating that if this application were approved applicant planned to have mobile or van type straight trucks and automobiles (N.T.9) Applicant's present equipment is all owner-operator - none owned (N.T.29). Leases are 30 days to 30 days (N.T.30). Such equipment would be leased on a 30 day to 30 day owner-operator lease, plus applicant would purchase 12 pieces. Witness did not know how many owner-operator units his company would lease (N.T.30,31). Applicant should be cautioned about the provision of the Commission motor carrier leasing regulations, as relates to applicant's fitness to operate in a

new and strange field to applicant with regard to vehicles owned and vehicles leased.

Witness identified PA PUC Annual Report and Assessment Report for calendar year 1991 (N.T.11); described his facilities; described applicant's safety status (extensively) (N.T.11-18). Much other testimony of this witness was self-serving testimony.

TERRY BRODE (N.T.34-47), is responsible for sales and marketing for **Solution Technologies**, which performs services for data processing departments of major corporations in PA (N.T.34, 35). Majority of work is done by communications network since it is data processing. There are situations where shipper has magnetic media and disk tape to be transported to and from its data center (either Lemoyne or Camp Hill, PA?) and its customers. The majority of shipper's work is done in PA, as far west as Altoona, as far north as Williamsport (maybe further), as far east as Allentown and as far south as York (N.T.36,37,39,40). Applicant just got a contract with a very large company to handle Medicare claims in from all counties in PA. Witness stated that shipper hopes that the requirements can be met by shipper's communication network, which is the preferable method of disbursing to physicians. At present, shipper does not have a problem, and is progressing according to schedule with its communications network (N.T.41-43). On any incoming shipments the customer pays the transportation or mailing expense and they have the right to choose whatever means they wish to get it to

shipper (N.T.46). This would apply to hard copy documents received by shipper from its customers to key them. There is no need for outbound once they have been keyed (N.T.43-45).

First, the testimony of this witness does not meet the criteria of Blue Bird Coach Lines in that there was given no representative origin points for inbound shipments. Only single points were given to define the perimeters of shipper's service area, not representative points. Secondly, it appears that outbound movement of documents are accomplished through shipper's communications network. The transportation charges for inbound shipments are paid for by customers of shipper. Any shipments either originate or terminate at Lemoyne, PA, and certainly there is not a shred of evidence of need between points in PA.

WILLIAM DAGS (N.T.47-57) whose company is **Computer Results**, Camp Hill, testified that his company is a hardware broker, "a used car dealer of computers if you will" (N.T.47). Witness's primary concern right now is contracts for which there is not structure or schedule - everything is on demand (N.T.48). He ships from his office, contracts, documentations, books, paperwork. His customers ship back to his office such documents (less in volume); and shipments are made from shipper A to customer B, the transportation charges being paid for by B. Shipments will be two to three times each week (N.T.52-55). Shipper is content to use his own people right now (N.T.55,56).

If the authority is granted, the main factor to be considered is cost (N.T.56).

Territorially, the origin would be Camp Hill. Here again, witness said 90 percent is within a 50 mile radius of Camp Hill, except Allentown and Philadelphia suburbs (N.T.55). The only other point mentioned was Millersberg and "work" (a typographical error - point unknown) (N.T.49).

Again, we are presented with supporting testimony which falls short of required proof of representative destination points: Allentown, Philadelphia and Millersberg with an origin of Camp Hill, cannot justify between points in PA. Also there is no support for business records other than in paper form.

RONALD D. BUTLER (N.T.57-65) is an **Attorney** in sole practice with an office in Harrisburg, PA (N.T.57). This witness has clients in Philadelphia area, Lehigh Valley area, Sunbury - Selinsgrove area, in Lock Haven, a client in Altoona, clients in Chambersburg, but the bulk of his clients are within a 25 or 30 mile radius [of Harrisburg].

He needs to move legal documents and business documents to his clients and on occasion from his clients [to his office] and from his office to filing places for legal documents (N.T.58). Shipments would be on as needed basis. This witness has come the closest to meeting the criteria of representative points. It should be noted, however, that either the destination or origin is the attorney's office in Harrisburg to or from

points within a 25 or 30 mile radius. Certainly this testimony does not form a basis for territorial authority between points in PA, nor was there any support for other than business records in paper form.

DAVE SHINER (N.T.65-74) is sales manager of **Shiner Insurance Agency**, a family run insurance agency. This witness's recent situation involves furnishing original insurance policies at settlements for commercial and residential properties (N.T.66, 70). If something is real important, and has to go to shipper's satellite office in Mansfield, PA, Tioga County, somebody has to take it up. The general transportation requirements of policies where witness could use transportation help happens about 2½ to 3½ times each week. There are very few requirements inbound to shipper's office (N.T.67).

It is amazing that the business location of this supporting shipper was not given - therefore there is no outbound origin nor inbound destination.

Other than the office in Mansfield, PA, for which no frequency was given, no representative points of shipments were given where a courier service would be needed. Again this does not meet criteria of Blue Bird. The only commodity involved is original insurance policies and not by any other form than paper form.

RODNEY SWANK (N.T.74-87) a major account manager (sales representative) for **Sprint Communications Company**. His operation

is based at Camp Hill, PA. Witness deals primarily with the state universities of the State Government (N.T.83). The items involved documents including RFP's (Request For Proposals). Witness has transportation needs to and from his facility (Camp Hill) on a demand basis on an occasion maybe two--three--four times a month (N.T.75-77). The main campuses of the state universities are :

Edinboro University (Erie County)
Slippery Rock University (Butler County)
California University (Washington County)
Indiana University (Indiana County)
Clarion University (Clarion County)
Lock Haven (Clinton County)
Mansfield (Tioga County)
Shippensburg University (Cumberland County)
Bloomsburg University (Columbia County)
East Stroudsburg University (Monroe County)
Cheney University
Millersburg University (Lancaster County)
West Chester University (Chester County)
Kutztown (Berks County)

(N.T.84-86)

Witness also has responsibilities at Penn State University, Bucknell University and Dickinson University (Carlisle) (N.T.86).

It is to be noted that the sole origin point is witness's headquarters at Camp Hill and shipments are made from and to such point - not between points in PA. The question arises whether the frequency of shipments (2 to 4 each month) meets the level of demand necessary to grant authority to and from those points in PA. Only paper form of business records is involved.

MICHAEL J. CLEARY (N.T.87-93) is President of Cleary Rehabilitation Services Incorporated, Mechanicsburg, PA. The business is insurance rehabilitation consultants. The company employs nurses, vocational job placement people who work from their house and shipper has clerical staff in its sole office in Mechanicsburg. It is an independent consultant for insurance companies. Shipper receives numerous doctors' reports, xrays on occasion that it would transport to physicians (N.T.87,88). The frequency is on an emergency basis and could happen 3 times a week or 2 times a month. The company goes only as far west as Altoona, Johnstown, Bedford Area (N.T.89,90). Shipper has not used Mr. Gopher to date (Karl Mundis) but expressed an interest in this application because it could have a need for such service (underlining supplied by author). Although witness discussed the proposed operation by applicant with the house people used by shipper at a quarterly meeting on June 24, [1992], shipper has not had a need yet (underlining supplied) (N.T.92). He could have used it yesterday but he was not authorized. The people involved would have to go through their supervisor (N.T.92,93).

Obviously, use of applicant's proposed service depends upon other persons than this witness, who is not yet authorized, nor certain that he will be authorized, to use applicant's services. This situation reduces this testimony to little if any probative evidentiary value in proving need.

GARY TORCASO (N.T.93-100) is an owner of two business partnerships, **Carpinski Associates Insurance Agency** and an in-house framing. The insurance business deals with individuals and businesses for life, health, annuities, investments, disabilities and operates out of Lancaster, PA (N.T.93,94). Shipper is getting documents to and from insurance companies and doctors which results in shipments to and from shippers' facilities at Lancaster. Witness stated shipper needed all of Pennsylvania (N.T.96). Cross-examination reveals that shipper shipped to Erie for a client about two months ago. Witness admitted that he had not shipped to Crawford or Mercer Counties in the last couple of months. He was in Pittsburgh a couple of days ago. Witness cannot recall anything in McKean County, Warren County and Perry County (N.T.98-101). The witness stated in answer to cross-examination:

"A. Not that I recall. No, like I stated previously, to be honest with you, to tell you that I was in all the counties, I can't do that. I'm saying I've been in a lot of the counties and the need could arise where I could go into a lot. My license is in the state of Pennsylvania. I can't dictate what comes tomorrow." (N.T.101)

There are seven other agents in the shipper insurance company, not employed as employees but engaged as independent contractors. These independent contractor-agents have been included in witness's description of the territory he serves (N.T.103,104).

It is to be noted that all shipments originate or terminate at Lancaster, PA not between all points in PA; that witness included in his description of geographical area served, areas served by seven other insurance agents engaged by witness's company as independent contractors without any testimony that he could speak for them in using applicant's service and without any breakdown as to what shipments inbound and outbound he controlled as contrasted to shipments controlled by these seven independent contractor agents. No mention was made of any commodity other than business records in paper form. Other than Pittsburgh and Erie, no other specific points were mentioned only general unsubstantiated testimony that he needed every point in PA. No testimony was given about the in-house framing business.

MARTIN LOWY (N.T.109-119) is financial Vice-President of **Lemoyne Sleeper Company** whose offices are in Lemoyne, PA. These are retail establishments selling shipper's products located at Colonial Park, Harrisburg, York, Lancaster, Lebanon, Carlisle, Chambersburg, Reading and shortly will be one in Selingsgrove. Shipper manufactures bedding products, mattresses and related furniture products. Support for this application is to receive from the 8 store locations orders taken at such stores from which orders the bedding is manufactured (N.T.109,110). At present, shipper gets the orders once each week when its driver returns after delivering the furniture. Witness decides the orders to be transported inbound to his place at Lemoyne twice

more during the week. He could not have used the inbound service until now because his company did not have enough corporate staff to process it. They are now computerizing (N.T.111-119).

This witness's testimony involves 2 times each week only inbound shipments to Lemoyne from the eight store's locations. Certainly not between points in PA. No mention was made of any business documents other than in paper form.

JAMES BOWER (N.T.119-131) is an **Insurance Broker** with his office at Camp Hill, PA. Again this insurance witness supported the application for shipping homeowners policies to customers for settlement purposes. Witness also expressed needs for receiving claims information, court documents, late payments, photographs, architect drawings. Witness ships out documents. Witness wanted outbound and inbound service at his office in Camp Hill (N.T.119-121). He pays outbound transportation charges and sometimes inbound as well. Although he has clients all over the state, the majority of his clients would be in a 50 to 70 mile radius of the Harrisburg area. Most of the clients would be in Harrisburg, Cumberland County, York, Lancaster and the surrounding suburban areas of those cities. Frequency would be a few times each month to a few times each week (N.T.122,123). Cross-examination of this witness demonstrated the evasiveness of the witness to answer the questions put to him (N.T.125-131). There was no evidence of any business records other than in paper form. No testimony was given for between points in PA.

ALLEN J. BLOOM (N.T.131-139), owner and CEO of **MCI Packaging Company**, Harrisburg, PA. Ninety percent of this company's work is Military; it basically packages for people who sell to the United States Government, mainly for machine shop, distribution and manufacturers (N.T.131,132). The documents dealt in by this company are basically government contracts and occasionally it has contracts dealing with Reading, PA, which is the "decast"(?) representative for shipper's area (N.T.133). Contracts need to be shipped once in 5 months or 15 contracts every other day (N.T.134). The transportation charges are paid for by the Federal Government; if it is the contractor's fault it is the contractor's responsibility (N.T.135,136). This shipper never pays the freight (N.T.137). Transportation is always an additional cost to the contractor. Any bill from shipper designates and segregates transportation charges (N.T.138). Transportation for correction of errors on paperwork is up to the contractor (N.T.139).

This shipper does not control the freight; no representative points were given; no mention of any business records other than in paper form; no support for between points in PA.

THOMAS RIMBEY (N.T.139-144), owner of **T. Thomas B. Rimby Agency**, an insurance agency of Beaver Falls, PA (just north of Pittsburgh) has a personal line and a commercial agency as far east as Oreysburg. This insurance agent likewise mentioned

getting original insurance policies in the hands of lienholder or policyholders as described by the other insurance agent witness (for settlement purposes) (N.T.140-142). Witness described some other paper forms of business records he ships. Inbound shipments to his office is not a great need, it is the outbound from the office which is the greater need (N.T.142). Frequency is sporadic. Oreysburg is just south of Pottstown (N.T.143).

Note that other than the point mentioned (Oreysburg) as the most eastern point served by shipper, there were no other representative destination points given by this supporting shipper. No mention was made of any nonpaper form of business record.

KARL J. MUNDIS (N.T.145-161) lives at Enola, PA, and runs a company called **Mr. Gopher**. His position in this proceeding in testifying is that of Director of Operations for the division of Towaway Express, Inc. which will perform the service under the authority sought in this application [if granted]. He will primarily perform marketing duties and described his proposed coordinated multi-media program (N.T.145-150). He described one phase of his proposed operation as standard legal courier work in moving business records in paper form such as contracts and bids. The other phase is to provide transportation of and eventually the storage and magnetic media which he will transport and provide storage facilities for back-up tapes and other magnetic media for computer centers

(N.T.151). Obviously, testimony of this witness is not proof of need but only motivation and proposed operation (N.T.153). No witness even mentioned anything about storage of magnetic tapes, etc. None, as discussed hereinafter, mention any need to ship business documents in such form. Witness described alleged specifications for transportation of magnetic tapes (N.T.153-155).

The testimony of this witness combined with that of supporting witnesses present a strange and somewhat unusual situation. While the application is in the name of Towaway Express, Inc. as an existing carrier, it appears:

(1) Applicant presently holds authority from the PA PUC and ICC completely unrelated to that sought here, commodity and equipment wise.

(2) Applicant holds no other State authority similar to that sought here.

(3) Practically all of the supporting witnesses knew or have had contact with Mr. Mundis or his company, Mr. Gopher, not the applicant.

(4) Mr. Mundis appears to be the person who will completely operate the authority sought by Towaway, if granted.

Protestant is not certain of the significance of these facts upon this application as relates to fitness, but these negative thoughts are expressed for the benefit of the Administrative Law Judge's consideration.

The **Protesting Witness** to testify is **PAUL D. STEFFES**,
Regional Manager of protestant **Courier Unlimited, Inc.**, 660
Hollow Road, Oaks, PA (N.T.170-185).

Protestant is Certificated as a common carrier by motor vehicle of property in parcels and packages each weighing no more than 100 lbs in weight between points within the township of Upper Providence, Montgomery County, and within 125 statute miles of the limits of said township. The carrier holds other authority with a similar commodity description between points in that part of PA beyond 125 statute miles of Upper Providence Township, and from points in Upper Providence Township and within 125 statute miles thereof to points beyond 125 statute miles of Upper Providence and vice versa; with the right to interline with Class A, B and D carriers so authorized. There are some restrictions in this latter authority but these Folders 1, Am-D and Folder 1, Am-E give protestant between points in PA. The authority is sufficient to enable protestant to serve the total territory for which applicant presented support. Protestant is operating under such authority (N.T.171-173; Exhibit P-1). Exhibit P-2 is a current list of equipment owned and leased by protestant, used in its operation. There are 35 vans in service at any one time, 18 of which are owned by applicant; there is 1 station wagon, 1 parcel delivery van, there are leased 23 automobiles, 3 light duty trucks and 1 straight body truck. The

length of leases for the leased equipment ranges from 120 days to 5 years (N.T.173,174, Exhibit P-2).

A list of personnel of protestant was prepared for this hearing (Exhibit P-3). P-3 shows a total personnel of 57 persons being 32 couriers, 5 dispatchers, 10 management, 5 office personnel and 5 sales personnel. This is state wide. Terminal operations are in Pittsburgh, Harrisburg, Williamsport, Oaks, Allentown and Pittston. Thirty-five percent of couriers are located in Oaks; another 30 to 35 percent are located in Harrisburg with the remainder being evenly distributed between the other three terminals. The equipment would be assigned 40 to 45 percent to Oaks; 30 to 45 percent to Harrisburg; the remainder being evenly distributed among the other terminals. Such equipment is not used to full capacity but only to 65 to 70% of their capacity. Protestant could handle additional traffic with present equipment (N.T.174-177). Routine training is given all new hirees or new employees as well as existing drivers. A road test is given under the guidelines of the American Truck Association; a drug testing program; and routine and periodic safety training seminars are conducted. Protestant is in compliance with PA PUC rules and regulations and PennDOT safety rules and regulations (N.T.177-178).

Witness reviewed the testimony of the supporting shippers who had testified in this proceeding. Witness was not aware of any requests for transportation service, including

equipment, which Courier Unlimited, Inc. would be unable to meet (N.T.178,179).

There are numerous competitors in the marketplace. Some are United Parcel Service, Roadway Package Service, Quick Courier, Inc., United States Cargo and Courier Service, Way Messenger Service, ASAP Courier, ADP Courier, Courier Express, First Courier, Dash Delivery, Capital Messenger, Valley Forge Courier Service, Falcon Express (N.T.179,180).

Protestant holds ICC authority as a small package carrier within the 48 contiguous states (between points in the U.S., except Alaska and Hawaii) (N.T.181).

A grant of this application along with the granting of other [competitive] applications has a cumulative effect which adversely impacts Courier Unlimited and in turn adversely impacts the public (N.T.181).

Cross-examination revealed further information and testimony of witness. Of the sales personnel, one is a Director of Sales and 5 are Sales Managers, of which two are located in Oaks, one in Pittstown, one in Pittsburgh and two in Harrisburg (N.T.182,183).

Partial further cross examination related to location of categories of employees.

While the testimony of this witness may fall short of the impossible burden placed upon protestants by 52 Pa. Code §41.4(c) (see on record discussion with Judge Christianson

N.T.189,190), the protestant's testimony demonstrates its position and place in the specialized area in the courier motor carrier industry and demonstrates the competitiveness of such segment of the industry. The Commission has expressed a policy toward competitiveness in the motor carrier fields but has not placed its policy approval of destructive or unbridled competition where no carrier can exist because of unbridled competition. The Commission has never condemned a regulated but competitive semi-monopoly but has not embraced destructive competition. Is it time for the Commission and Administrative Law Judges to consider the issue of competition, viewing it as too much? Look what happened to the cable industry from regulation to deregulation, now back to Congressional regulation. Look at the airlines, the banks, the interstate trucking carriers, AT&T; on and on and safety considerations for all.

III. ANALYSIS OF SUPPORTING WITNESSES' TESTIMONY AND CONCLUSION

Protestant's counsel, writer of the brief, twice carefully reviewed the testimony of the eleven (11) supporting witnesses and prepared a columnar chart upon which the following analysis of the supporting testimony is based.

The testimony of **Michael J. Cleary, Cleary Rehabilitation Services Incorporated** (N.T.87-93), should be given **no weight** because of his lack of authorization to use the

services of applicant. He stated he needed authorization but did not have it.

The testimony of **Allen J. Bloom, MCI Packaging Company**, (N.T.131-139) should be given **no weight** because he stated he never pays the freight charges and he does not control the freight. Those who pay and control the freight are either the United States Military or the military contractors. There was no attempted support for other than paper work or between points in PA.

Of the remaining nine (9) supporting witnesses, **none** testified that he or it had a need for transportation between points in Pennsylvania. It is submitted that even the cumulative effect of all the testimony does not warrant between points in PA. Whatever probative value there is to the supporting testimony, discussed hereinafter, it is limited to "to and from" or "to" or "from" the office of the witness and some points in PA.

In spite of the detailed testimony of **Karl Mundis**, an employee of applicant, concerning the special vehicles and skills required for the transportation of business records in magnetic form and microfilm form, **none** of the supporting witnesses testified as to a need for motor carrier/courier transportation of such nature, but only concerning business records in paper form. Even Terry Brode of Solution Technologies stated that his company transported such data by its communication network.

Dave Shiner of Shiner Insurance Agency (N.T.65-74) gave testimony of a need for transportation of insurance policies mentioning one specific point, i.e. his company's satellite office in Mansfield, Tioga, to and from his office. Actually, nowhere in his testimony or in his swearing-in is there a location given for his office. Therefore, there is absolutely no reference point to and from which shipments may or may not be made. Further, other than the satellite office in Mansfield, Tioga County, there are no other representative destination points given. This testimony is not a sufficient probative value to be given much, if any, weight.

Terry Brode (N.T.34-47), Solution Technologies, testified his company had inbound shipment only from its customers to Lemoyne but that the freight charges were paid for by such customers. There were no representative points of origin of the inbound shipments given.

Gary Torcaso (N.T.93-100), Carpinski Associates Insurance Agency, testified that he had paper documents for shipment to and from his office, at Lancaster, Lancaster County and Pittsburgh and Erie; this included the shipping points of eight (8) other agents in the office over which he not exercise control (they were independent contractors) and for whom he was not testifying. There was no distinction in his testimony whether the two points mentioned were his or some or all of the other eight (8) agents.

The only supporting shipper from the western part of PA was Thomas B. Rimbey, Thomas B. Rimbey Agency (N.T.139-144). He ships policies and other paper work. His office is in Beaver Falls (Beaver County), PA. He does not have a great need for inbound shipments but ships outbound as far east as Oreysburg (just south of Pottstown), Montgomery County. Other than that comment, no representative destination points of shipments were given. There is no way of determining whether that was the only eastern point to which the shipper ships, if that point. Such is the basis for the Commission's decision which requires representative destination points.

Of the remaining five (5) supporting shippers, the analysis continues.

The following named points with the counties in which they are located are the locations of the offices of the supporting shippers from which shipments are made and to which shipments are allegedly made from the destination points. Some are not both ways.

Camp Hill, Cumberland County
William Dags, Computer Results
Rodney Swank, Sprint Communications Company
James Bower, Insurance Broker

Lemoyne, Cumberland County
Martin Lowy, Lemoyne Sleeper Company
(Inbound only)

Harrisburg, Dauphin County
Ronald D. Butler (outbound - only occasionally
inbound)

The destination points to and from which shipments are made back to the shipper's place of business are:

To William Dags, Computer Results, Camp Hill, Cumberland Co.
From: Allentown (Lehigh County), Philadelphia County,
and Millersberg (Dauphin County)

From Ronald D. Butler, Harrisburg, Dauphin County
To: Philadelphia area; Lehigh Valley area; Sunbury
Selinsgrove area, Lock Haven, Altoona, Chambersburg;
however bulk of outbound shipments are within 25 to
30 miles of Harrisburg.

To and From Rodney Swank, Sprint Communications Company, Camp Hill, Cumberland County and 17 State Universities, located at Edinboro, Erie County; Slippery Rock, Butler County; Washington County (California University); Indiana, Indiana County; Clarion, Clarion County; Lock Haven, Clinton County; Mansfield, Tioga County; Shippensburg, Cumberland County; Bloomsburg, Columbia County; East Stroudsburg, Monroe County; Cheney University (?); Millersburg, Lancaster County; West Chester, Chester County and Kutztown, Berks County.

To Martin Lowy, Lemoyne Sleeper Company, Lemoyne, Cumberland County (inbound only) from the 8 stores plus one more store on the way at Colonial Park, Dauphin County, Harrisburg, Dauphin County; York, York County; Lancaster, Lancaster County; Carlisle, Cumberland County; Chambersburg, Franklin County; Reading, Berks County; and the new and coming Selingsgrove, Snyder County.

To and From James Bower, Insurance Broker, Camp Hill, Cumberland County and Harrisburg (Dauphin County); Cumberland County; York, York County; Lancaster, Lancaster County and the suburbs of those cities.

In summary, there is no support for business records other than in paper form; there is no support for between points in Pennsylvania; there is no cumulative support for between points in Pennsylvania; there are only five witnesses whose

testimony is of probative value in support of the application; all other witnesses failed to give representative origin and/or destination points, lacked authorization, does not pay the transportation charges nor control the freight, gave no clarification whether shipments were theirs or other independent contractors (insurance agents).

Of the five witnesses of probative value, three (3) shipped to and from their places of business at Camp Hill, Cumberland County; one (1) had inbound shipments only to Lemoyne, Cumberland County; and one (1) shipped almost exclusively from his place of business in Harrisburg, Dauphin County. Except for Rodney Swank, Sprint Communications Company, none of the five (5) supporting shippers shipped state-wide; one stating most shipments were to a 50 mile radius; another most shipments a 25 to 30 mile radius. The less frequent shipments to more distant points, such as Lock Haven, Altoona, Chambersburg, etc., would not be feasible for a courier run.

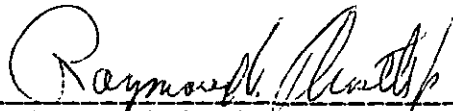
The exception is Rodney Swank, Sprint Communication Company. This witness was the best quality witness geographically for applicant. It's needs could be satisfied by granting applicant authority to serve Sprint Communication Company from its facilities at Camp Hill, Cumberland County, to and from Pennsylvania State Universities and Penn State, Bucknell and Dickinson Universities. The question here is whether the 2

to 4 shipments each month meets the level of demand necessary to grant authority to such extent.

If any authority is granted in this application, it should, in fairness, equity, balance and economical feasibility, be limited to the proof offered in support of such application.

Respectfully Submitted

COURIER UNLIMITED, INC.

By  _____
Raymond A. Thistle, Jr.
206B Benson East
100 Old York Road
Jenkintown, PA 19046
Attorney for Protestant

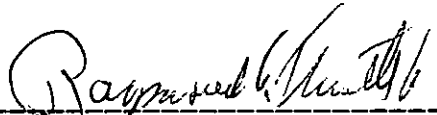
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served copies of the foregoing Initial Limited Brief upon all parties of record at their proper addresses as indicated below, by placing such copies with the United States Postal Mail Service, postage prepaid:

Honorable Robert A. Christianson
Administrative Law Judge
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265
(2 copies)

Keith B. Fickel, Esquire
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Dated at Jenkintown, PA, this 16th day of October, 1992.



Raymond A. Thistle, Jr.
Attorney for Protestant

DUE DATE OF BRIEF:
October 16, 1992
DATE POSTED WITH POSTAL
RECEIPT FORM #3817
ATTACHED TO ORIGINAL:
October 16, 1992

ORIGINAL

HLS

IN RE: : PENNSYLVANIA PUBLIC
: UTILITY COMMISSION
APPLICATION OF :
: TOWAWAY EXPRESS, INC. : NO. A-00106208, F001, Am-A
:

RECEIVED

OCT 16 1992

Public Utility Commission
SECRETARY'S BUREAU
Information Control Division

BRIEF OF APPLICANT,
TOWAWAY EXPRESS,
IN SUPPORT OF
ITS APPLICATION FOR AUTHORITY

DOCKETED
OCT 23 1992

DOCKETED
FOLDER

Submitted by:

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WHETHER THE APPLICANT HAS DEMONSTRATED THAT APPROVAL OF THE APPLICATION WILL SERVE A USEFUL PURPOSE, RESPONSIVE TO A PUBLIC NEED AND WHETHER THE APPLICANT HAS DEMONSTRATED THAT IT POSSESSES THE TECHNICAL AND FINANCIAL ABILITY TO PROVIDE THE PROPOSED SERVICE AND PROVIDE SUCH SERVICE SAFELY AND LEGALLY?

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Public Utility Commissior

I. STATEMENT OF THE CASE

Applicant, Towaway Express, Inc., ("Towaway") operates under authority issued by the Pennsylvania Public Utility Commission at the above-referenced file number. Towaway has operated under such authority for over six (6) years. On February 10, 1992, Towaway filed an Application for Motor Carrier Certificate or Permit seeking to amend its authority to transport business records in magnetic, microfilm and paper form within Pennsylvania.

Two (2) protests were filed to the requested amendment of authority. One protest was filed by Hatboro Delivery Service, Inc., and the other protest was filed by Courier Unlimited, Inc. The protest of Hatboro Delivery was resolved by agreement. After a series of proposals and extensive negotiations, the protest filed by Courier Unlimited, Inc., could not be resolved and the matter was scheduled for hearing.

The initial hearing in this matter was held on July 21, 1992, before the Honorable Robert A. Christianson, Administrative Law Judge. The hearing was continued until August 28, 1992, when the case of the Protestant was presented. Following the completion of the Protestant's case on August 28, the record was closed.

Pursuant to a letter from Judge Christianson of September 16, 1992, initial Briefs were to be filed within thirty (30) days from the date of that letter. Subsequently, the parties shall have twenty (20) days from October 16, 1992, in which to file Reply Briefs. This Brief is Applicant's Initial Brief submitted in support of the Application for Authority.

II. SUMMARY

Towaway Express, Inc. currently operates under Pennsylvania Public Utility Authority and has so operated for over six (6) years. Towaway has had no service failures, safety violations or other violations. Towaway has an excellent financial condition. The company has an extensive fleet of vehicles and has the immediate ability to obtain as many more as is necessary to meet the increased transportation needs which will accompany the additional authority.

Towaway has highly qualified personnel employed in its operation in Mr. Sheaffer and Mr. Mundis, and has a full-time safety director and mechanics. These individuals will be able to operate the company in an effective and efficient manner.

The need for the service which Towaway seeks to provide has been clearly demonstrated by testimony from the supporting shippers. The individuals who testified represent a broad spectrum of industries and businesses and identified statewide transportation needs.

The burden of proof having been met by Towaway and not rebutted by the Protestant, the authority requested by Towaway must be granted and issued in its entirety.

III. SUMMARY OF TESTIMONY

Thomas Sheaffer, President of Towaway, testified as to the overall qualifications regarding fitness technical ability and financial ability of Towaway to perform under the requested authority. Mr. Sheaffer is the President and Chief Executive Officer of Towaway. (N.T. p.6) Towaway is a transportation company currently operating under Pennsylvania Public Utility Commission Authority and Interstate Commerce Commission Authority as a common carrier. (N.T. p.6) Under its current authority, Towaway operates throughout the entire state of Pennsylvania with a few restrictions as stated in its authority. (N.T. p.6) Mr. Sheaffer has been involved in the transportation business for over twenty two (22) years. (N.T. p.8)

Over the years, Mr. Sheaffer has been involved in various types of systems of transportation. (N.T. p.8) Through his extensive experience, he has found that a central dispatching system is most efficient and cost effective and plans to use this type of system for the authority which he is seeking. (N.T. p.8)

In its current operation, Towaway has approximately fifty five (55) operating units. (N.T. p.9) In addition to

the units which it currently uses for its present operations, Towaway also owns several units which it will use in the operation of the additional authority. (N.T. p.9) Additional vehicles can be readily obtained through leases through a Lease Agreement which Towaway already has in place with Hertz Penske. (N.T. p.9) Further, Towaway has plans to purchase an additional twelve (12) units. (N.T. p.30)

Finally, Towaway has its own service facilities and maintenance facilities along with in-house mechanics. (N.T. p.12)

The financial position of Towaway is excellent. (N.T. p.9) Any financial outlays required as a result of the additional authority can be easily met by Towaway. Towaway has sufficient lines of credit and cash reserves. (N.T. p.10)

Towaway's performance on the road is also excellent. Since Towaway first obtained authority from the Pennsylvania Public Utility Commission, it has suffered no service failures. (N.T. p.17) Further, Towaway has in place an excellent safety program. Towaway employs a full-time director of safety. (N.T. p.13) The safety manual of Towaway is used as a model by other carriers as an example

of the type of safety requirements other carriers should look for with their drivers and operators. Towaway has never been cited for any safety violations or other violations. (N.T. p.159) (N.T. p.14) Towaway has had no difficulty serving the entire state under the authority which it currently has. (N.T. p.18)

The testimony of Karl Mundis, Director of Operations for Towaway, shows that he is capable of managing the day-to-day operations which would be involved in the authority being sought by Towaway. Mr. Mundis has over twenty five (25) years experience in the computer field. (N.T. p.151) He also was Vice-President of information processing for Pennsylvania Blue Shield. (N.T. p.151) He has knowledge regarding the requirements for the transportation and storage of magnetic tapes and microfilm. (N.T. p.154) Further, he has demonstrated that he had the ability to successfully organize and run a business as he is currently operating a business which provides various services to insurance companies, law firms and other businesses. (N.T. p.146, 147, 148)

Towaway presented testimony in support of its Application from a wide range of businesses. These businesses included data processing and computer businesses.

(N.T. p.35, 54) Other businesses included the legal profession, (N.T. p.57) the communications industry, (N.T. p.75) a medical rehabilitation firm, (N.T. p.88) a manufacturing firm, (N.T. p.110) a packaging company, (N.T. p.31) and insurance companies. (N.T. p.66, 94, 119, 140) Each supporting shipper testified as to a need for the service which is to be provided by Towaway pursuant to its Application for Authority. (N.T. p.36, 54, 58, 67, 77, 90, 95, 111, 120, 134, 143) Many of these supporting witnesses have extensive knowledge not only of their own business and their own transportation needs, but also through experience, have knowledge of the transportation needs of their industries in general. (N.T. p.37, 60, 68, 97, 123)

All supporting shippers testified as to the need and desire for safe, reliable and efficient service. (N.T. p.48, 49, 59, 68, 78, 96, 111, 112, 123, 135, 143)

Each supporting shipper testified as to the geographic territory of their transportation needs. The cumulative testimony of each of the shippers demonstrates a need for transportation throughout the entire Commonwealth of Pennsylvania. (N.T. p.36, 41, 55, 58, 67, 71, 77, 84, 85, 86, 90, 105, 108, 110, 123, 133, 141)

IV. ISSUE

- A. WHETHER THE APPLICANT HAS DEMONSTRATED THAT APPROVAL OF THE APPLICATION WILL SERVE A USEFUL PURPOSE, RESPONSIVE TO A PUBLIC NEED AND WHETHER THE APPLICANT HAS DEMONSTRATED THAT IT POSSESSES THE TECHNICAL AND FINANCIAL ABILITY TO PROVIDE THE PROPOSED SERVICE AND PROVIDE SUCH SERVICE SAFELY AND LEGALLY?

(Proposed answer in the affirmative.)

V. ARGUMENT

In this case, the Applicant, Towaway Express, has the burden of establishing that it meets all the requirements in order for the authority to be granted. The requirements which Towaway must establish are those set forth in 52 Pa. Code §41.14(a) and 52 Pa. Code §41.14(b). These provisions are as follows:

(a) 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.

(b) 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.

See also Seaboard Tank Lines, Inc. v. Pennsylvania Public Utility Commission, _____ Pa. Cmwlth. _____, 502 A.2d 762 (1985).

The undisputed testimony of Thomas Sheaffer clearly indicates that Towaway has operated under its current license from the Pennsylvania Public Utility Commission for over six (6) years and has done so in exemplary fashion. Towaway Express has not suffered a single service failure in over six (6) years of operation. Further, Towaway has never

been cited by the Pennsylvania Public Utility Commission for any violations at all. (N.T. p.159) Towaway has complied with all P.U.C. Rules and Regulations and has always filed all required documents on a timely basis.

Towaway has an impeccable service and safety record as evidenced by the fact that it employs, on a full-time basis, a Director of Safety. This particular Director has been elected to serve on the Pennsylvania Motor Truck Safety Supervisor Council for two (2) years in a row. Towaway has won Pennsylvania Motor Truck Association's Safe Carrier award and a driver of Towaway represents the Commonwealth of Pennsylvania on a national level in the American Trucking Association's Driver of the Year Program for 1991. (N.T. p.13)

Finally, testimony shows that the driver manual which Towaway has created and developed is used as an example for other carriers in Pennsylvania as a model for safety requirements which other carriers should employ. (N.T. p.14) Each and every one of these aspects of safety as it pertains to Towaway is undisputed and uncontradicted and is evidence of Towaway's ability to operate safely with the additional authority which it seeks.

After considering the above uncontested testimony, Towaway has clearly established that it has met its burden of proof regarding safety and legality. Towaway clearly possesses the propensity to operate safely and legally. It has operated safely and legally in the past under its current authority and will operate safely and legally in the future under the additional authority.

Another aspect which must be established by Towaway is its financial ability to operate under the authority which it seeks. Again, Thomas Sheaffer, President of Towaway, testified as to the financial condition of Towaway. As was stated, the company is in excellent financial condition. (N.T. p.9) In addition to the strong financial position of Towaway as shown on its annual filings with the Public Utility Commission, Towaway also has various lines of credit and cash reserves available to it. (N.T. p.10) In the tough and uncertain economic times facing businesses today, it is especially important that a carrier be financially sound and that it is financially able to expand its operations. As the testimony in this matter clearly shows, Towaway's financial condition satisfies these requirements with ease.

Another factor which must be established by Towaway is that it has technical ability to provide the service which includes having the equipment necessary to fully comply with the demands put upon it by the authority which is issued. In its current operations, Towaway operates with approximately fifty five (55) units. (N.T. p.9) For the current Application, Towaway will need various types of automobiles of vans. Towaway already has several of these units. (N.T. p.9) In addition, Towaway has a Lease Agreement with Hertz Penske, (N.T. p.9) whereby any additional equipment needed will be able to be obtained immediately. Further, Mr. Sheaffer testified that there are currently immediate plans to purchase twelve (12) additional vehicles.

Owning all the equipment necessary to provide service, however, is meaningless if the equipment is not operational. Thus, in order to repair any mechanical problems which the vehicles may have, Towaway has full-time mechanics on site. (N.T. p.12) Further, Towaway has a shop facility for maintenance of the vehicles so that any vehicle which needs repaired does not need to be sent out, thus, wasting valuable time for the repair of the vehicles. That Towaway

has experienced no service failures in the past six (6) years shows that this method of operation works. This high quality service record shows that Towaway has the ability to similarly operate in the future under the amended authority requested herein.

Part of the authority requested in this Application is transportation of magnetic tapes and microfilm. In order to transport these types of property, special modifications must be made to the vehicles. Towaway has indisputably established that it has the ability to make the modifications, (N.T. p.12) and with the experience of Karl Mundis, has the knowledge to make such modifications and transport such property. (N.T. p.151, 154)

Towaway has shown its experience in the management and operation of transportation services. Mr. Sheaffer testified that he has been in business for twenty two (22) years and has had experience with many types of transportation services. Through his experience, he has found that a central dispatch system works most efficiently. (N.T. p.8) It is with this experience that Towaway will be able to efficiently operate its transportation services under the authority which it seeks.

Another factor which needs to be considered, especially in cases of amending authority such as this one, is whether the Applicant has previously complied with the Pennsylvania Public Utility Commission's Rules and Regulations. As Mr. Sheaffer testified, Towaway is current with all required filing with the P.U.C. Further, as was the testimony, at no time as Towaway ever been cited for any violation. Strict and prompt compliance with all Regulations and Rules of the Commonwealth of Pennsylvania and the Public Utility Commission of Pennsylvania will be followed and complied with by Towaway in the future, as well.

All of the above evidence shows that Towaway has clearly met its burden of demonstrating that it possesses the technical and financial ability to provide the proposed service. No evidence has been presented which would permit any other conclusion. With over six (6) years of perfect operation, Towaway has shown, beyond any doubt, that it has the technical and financial ability to continue providing excellent service and will be able to carry its past performance into its future additional authority.

Towaway must, in addition to the above, show that the approval of the application will serve a useful public purpose, responsive to a public demand or need. The public need was clearly established by the supporting witnesses.

The supporting shippers who were present and testified on behalf of Towaway all testified as to an immediate need for transportation services of the type which Towaway is seeking authority for. Each shipper has indicated that it intends to use Towaway for its shipping needs once the Applicant has been granted its authority. The supporting witnesses' testimony demonstrates that there exists a public demand and need for the services proposed to be provided by Towaway. And the need is not just that of the shippers who were present and testified. Many of the witnesses have been in their field for numerous years and have vast expertise and experience in their field. They have full knowledge of the needs of all similar businesses in their particular business sectors, and so testified. The needs demonstrated and to be served by Towaway are common not just to the individuals who testified, but to all similar businesses throughout the state. The testimony of these witnesses sufficiently demonstrates the need for service. See Purolator Courier Corporation v. Pennsylvania Public Utility Commission, 51 Pa. Cmwlth. 377, 414 A.2d 450 (1980).

Certainly, the Applicant did not establish that a need exists in every square mile within the Commonwealth of Pennsylvania, however, such requirement is not the law. It

is only necessary that the necessity within the area generally be established. B. B. Motor Carriers, Inc. v. Commonwealth of Pennsylvania, Public Utility Commission, 36 Pa. Cmwlth. 26, 389 A.2d 210 (1978). The area is the Commonwealth of Pennsylvania. The necessity within this area generally has been adequately and substantially established by Towaway.

The evidence showed that the transportation need exists in every county of Pennsylvania. Mr. Terry Brode, of Solution Technologies, needs service in every county. (N.T. p.41) Mr. James Bower needs service for the middle and eastern part of the state. (N.T. p.123) Mr. Michael Cleary needs service for all of eastern and middle Pennsylvania. (N.T. p.90) Mr. Thomas Rimby needs service for all of the middle and western part of the state. (N.T. p.141) The other supporting shippers testified as to similar needs. Again, this testimony clearly establishes the public demand and need for the services to be provided by Towaway. And the evidence also shows that Towaway will serve that need.

Protestant, Courier Unlimited, Inc., has suggested that there are many carriers in this particular industry. Protestant proceeded to name several during the hearing. However, stronger proof of the existence these shippers and

their possible concerns would have been if those shippers themselves protested Towaway's application for authority. Of all the carriers named by Protestant, only the Protestant and one other carrier saw fit to file protests. Due to the lack of protests from other carriers, the allegation that there are numerous carriers in the market and that the services provided by these carriers is sufficient, must be strongly discounted. Further, that there are other carriers in the same business does not, in and of itself, require that the authority requested by Towaway be denied. The law does not guarantee any carrier freedom from competition. Railway Express Agency, Inc. v. Pennsylvania Public Utility Commission, 195 Pa. Super. 394, 171 A.2d 860 (1961).

Also, Protestant has testified that it operates not only in Pennsylvania, but only throughout the forty eight (48) contiguous States. Operating within Pennsylvania, and throughout the remaining States of the country, including California, spreads its services extremely thin. Further, the majority of Protestant's work force is located in Southeastern Pennsylvania. To handle the immediate transportation needs within the State as established by Towaway would be impossible for Courier to accomplish.

VI. CONCLUSION

WHEREFORE, for all the foregoing reasons, the application of Towaway Express, Inc., to and its authority to allow for the transportation of business records in magnetic, microfilm and paper form within Pennsylvania must be approved in its entirety.

Respectfully submitted,

FARR & CUNNINGHAM, P.C.

Date: 10/16/92

By: 

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(Attorneys for Applicants)

IN RE: : PENNSYLVANIA PUBLIC
: UTILITY COMMISSION
APPLICATION OF :
TOWAWAY EXPRESS, INC. : NO. A-00106208, F001 Am-A

CERTIFICATE OF SERVICE

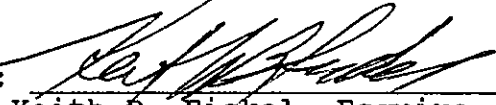
I, Keith B. Fickel, Esquire, do hereby certify that a true and correct copy of the Brief of Applicant in Support of Application in the above-captioned matter was placed in the United States Mail, First Class delivery in Harrisburg, Pennsylvania on October 16, 1992, on the following:

Raymond A. Thistle, Esquire
206-B Benson East
100 Old York Road
Jenkintown, PA 19046

The Honorable Robert A. Christianson
Administrative Law Judge
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

FARR & CUNNINGHAM, P.C.

Date: 10/16/92

By: 
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November 3, 1992

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(215) 576-0131

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MLS

Honorable John G. Alford, Secretary
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

SECRETARYS OFFICE
Public Utility Commission

Re: Application of Towaway Express, Inc.
Docket A-00106208, F.1, Am-A
Reply Brief of Protestant
Courier Unlimited, Inc.

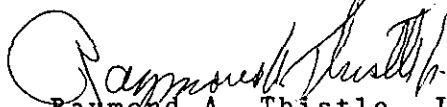
Dear Secretary Alford:

Enclosed herewith for filing are an original plus nine (9) copies of a Reply Brief of Protestant, Courier Unlimited, Inc., in the above referenced application proceeding.

Proper service has been made as per the Certificate of Service. This filing is by receipted mail dated as indicated above, and is therefore timely filed.

Please acknowledge receipt on that provided.

Very truly yours,


Raymond A. Thistle, Jr.
Attorney for Protestant

RAT:mt

cc: Courier Unlimited, Inc.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: APPLICATION OF TOWAWAY EXPRESS, INC.
DOCKET NO. A-00106208, FOLDER 1,
AMENDMENT-A

REPLY BRIEF ON BEHALF OF PROTESTANT
COURIER UNLIMITED, INC.

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NOV 3 1992
SECRETARYS OFFICE
Public Utility Commission

Raymond A. Thistle, Jr., Esquire
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100 Old York Road
Jenkintown, PA 19046
Attorney for Protestant

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: APPLICATION OF TOWAWAY EXPRESS, INC.
DOCKET NO. A-00106208, FOLDER 1,
AMENDMENT-A

REPLY BRIEF ON BEHALF OF PROTESTANT
COURIER UNLIMITED, INC.

AND NOW COMES COURIER UNLIMITED, INC., by its attorney,
Raymond A. Thistle, Jr., and files this its Reply Brief to the
Initial Brief of Towaway Express, Inc.

1. Applicant states that the needs demonstrated and to be served by applicant are common not only to the witnesses but to all similar businesses through the state (applicant's brief, page 15). What a unsubstantiated generalization and broad sweeping statement this is. Some witnesses may have stated something similar as to their own particular field, but without qualification of the witness and without supporting data. The Administrative Law Judge is requested to give little or no weight

to such unsupported conclusion on part of the applicant. Note that applicant gave no references to the notes of testimony to support the gratuitous allegations (see protestant's analysis of supporting shipper testimony).

2. A similar situation exists as to the argument of applicant that Solution Technologies needs service in every county without defining whether such statement includes Erie to Erie, Crawford to Crawford, Lehigh to Perry, Perry to Juniata. In fact, no representative points were given by Solution Technologies (applicant's brief, page 16) (See protestant's brief 4, 5, 21).

3. Reference to Michael J. Cleary is used as support for eastern and middle Pennsylvania (applicant's brief, page 16). The only points mentioned were the most western points to which he goes, Altoona, Bedford (N.T.91). Note, these were not necessarily points to which shipper shipped. In fact, shipper has not had a need yet (N.T.92). This is because the shipper (and witness) is not authorized yet to use applicant. It is not clear that he will be so authorized (see protestant's brief at page 9).

4. Applicant's brief refers to the testimony of James Bower (page 16 of applicant's brief) as supporting the middle and eastern part of the state. Again, this statement is without clarification. The testimony, at best, supports from Camp Hill to Harrisburg, Cumberland County, York, Lancaster and the

surrounding areas of those cities and vice versa (N.T.122,123). Although witness stated most clients would be in a 50 to 70 mile radius of Harrisburg area, he failed to give any other representative points than those mentioned above (see protestant's brief at page 12).

5. Reference to Thomas Rimbey (page 16 of applicant's brief) to support all of middle and western part of the state, falls short of convincing evidence under Blue Bird Coach Lines, Inc., which requires evidence of representative points. This witness's testimony is only that his business activity goes as far east as Oneysburg. No other representative points whatsoever were given (see pages 13 and 14 of protestant's brief).

CONCLUSION

A thorough reading of applicant's brief demonstrates that it follows the vagueness and generality of the testimony of most all of the witnesses. The brief did not specifically address the issue of proof of "between points in Pennsylvania" for which no proof was offered anyway. The brief did not address the failure of most of the witnesses' lack of testifying to representative destination or origin points in contrast to the requirements of Blue Bird Coach Lines, Inc.

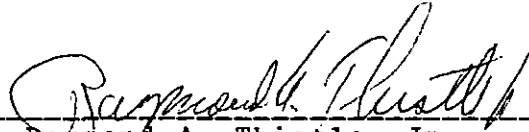
A summary of the cumulative testimony of the witnesses whose testimony was of probative value is found at pages 22-25 of protestant's brief.

If any authority is granted in this application, it should, in fairness, equity, balance and economical feasibility, be limited to the proof offered in support of such application.

Respectfully Submitted

COURIER UNLIMITED, INC.

By



Raymond A. Thistle, Jr.
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Attorney for Protestant

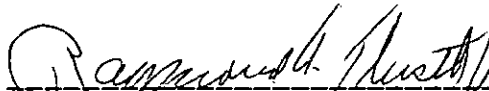
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served copies of the foregoing Reply Brief upon all parties of record at their proper addresses as indicated below, by placing such copies with the United States Postal Mail Service, postage prepaid:

Honorable Robert A. Christianson
Administrative Law Judge
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265
(2 copies)

Keith B. Fickel, Esquire
Farr & Cunningham P.C.
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2320 North Second Street
Harrisburg, PA 17105
(2 copies)

Dated at Jenkintown, PA, this 3rd day of November, 1992.



Raymond A. Thistle, Jr.
Attorney for Protestant

DUE DATE OF REPLY BRIEF:
November 5, 1992
DATE POSTED WITH POSTAL
RECEIPT FORM #3817
ATTACHED TO ORIGINAL:
November 3, 1992

IN RE: : PENNSYLVANIA PUBLIC
: UTILITY COMMISSION
APPLICATION OF :
: TOWAWAY EXPRESS, INC. : NO. A-00106208, F001, Am-A

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RECEIVED

Nov 5 1992

REPLY BRIEF OF APPLICANT,
TOWAWAY EXPRESS, INC. Public Utility Commission
SECRETARY'S BUREAU
Information Control Division

DOCUMENT
FOLDER

DOCKETED
NOV 12 1992

Submitted by:
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Applicant, Towaway Express, Inc, currently operates under authority issued by the Pennsylvania Public Utility Commission. On February 10, 1992, Towaway filed an Application for Motor Carrier Certificate Authority seeking to amend its current authority to transport business records in magnetic, microfilm and paper form within Pennsylvania. Two (2) protests were filed to the Application. One protest was resolved by agreement, the other protest could not be resolved and hearings were held. Initial Briefs were submitted. This Brief is submitted to reply to the initial Brief filed by the Protestant, Courier Unlimited, Inc.

Protestant, at the beginning of its Brief, suggests that two (2) concepts must be borne in mind. It mentions the commodity description, the territorial scope and the restrictive amendment which resolves the protest of Hatboro Delivery Service. Of these three (3) concepts, Protestant never again mentions the restrictive amendment. The reason, of course, is that the restrictive amendment entered into between Towaway and Hatboro is totally irrelevant to this present matter. A restriction resolving a protest in no way diminishes Towaway's evidence, negates the statewide need for the service, or permits an inference that Towaway cannot or has not established the need for statewide

service. Towaway has sustained its burden of establishing a public need for the services within the territory requested. The remaining two (2) concepts addressed by Protestant will be discussed hereafter.

Protestant, in its Brief, mischaracterizes, or misinterprets the testimony on numerous occasions. Towaway will attempt to clarify these misinterpretations. Protestant, on Page 2 of its Brief, states that "there are a number of shipper and type service restrictions. (Courier Unlimited, Inc. Brief, hereafter 'CUI Brief', p.2)" In fact, Mr. Sheaffer testified that there are only "several restrictions" and "very limited" restrictions. Again, on Page 2 of its Brief, Protestant states that the service which Towaway wishes to provide is a new type of operation. Towaway's response to this statement is that such comment is wholly irrelevant. The Protestant was new to this type of operation before it received its authority. Further, nowhere in the Pennsylvania Statutes, Codes or other regulations is the fact that the Applicant may be a new entrant a relevant or deciding factor in determining whether authority should be granted. In fact, that Towaway already has statewide authority is to be given more weight than if the Applicant was a totally new entrant into regulated transportation.

Protestant next states that Thomas Sheaffer could not substantiate movements which would support his request for statewide authority. (CUI Brief, p.3) It is not true that the cross-examination demonstrated that the Applicant does not serve between points in Pennsylvania. (CUI Brief p.3) What is true is that Mr. Sheaffer testified that during the course of a year, his company runs several thousands of trips within Pennsylvania. (N.T. p.32) Under no circumstances could Mr. Sheaffer be expected to remember every trip which his company runs. A review of each trip record would show that Mr. Sheaffer does serve all points within Pennsylvania under his current authority. Nevertheless, even if Mr. Sheaffer does not serve all points within Pennsylvania under his current authority, such is not relevant since Towaway has demonstrated the need to serve all points within Pennsylvania under the amended authority requested. And it is this evidence which is relevant and which sustains the Applicant's burden of proof.

Protestant cautions the Applicant regarding regulations on leasing. (CUI Brief, p.3) Such comment is superfluous, wholly inappropriate and must be disregarded in its entirety. It has no bearing on the issues at hand and, given Towaway's exemplary service record in the past, there is absolutely no reason for Protestant to mention it.

Protestant suggests that Terry Brode has no need for outbound service. (CUI Brief, p.5) To the contrary, however, Mr. Brode testified that there is a need for outbound service. (N.T. p.41)

Protestant states that David Shiner testified to no representative points other than Mansfield. (CUI Brief, p.7) To the contrary, Mr. Shiner also testified as to transportation needs from his office in Mechanicsburg, Cumberland County, to points within Pennsylvania, including Tioga, Bradford and Erie Counties. (N.T. p.71) Ronald Butler testified as to his need as a sole practitioner. He testified that in addition to his transportation needs within a thirty (30) mile radius of Harrisburg, he has transportation needs in Philadelphia, the Lehigh Valley, Sunbury, Selinsgrove, Lock Haven, Altoona and Chambersburg. (N.T. p.58) In addition, however, being a sole practitioner for over eleven (11) years, Mr. Butler is well qualified to speak on behalf of sole practitioners similarly situated throughout the state. The needs testified to by Mr. Butler are representative of the needs of all attorneys throughout the Commonwealth of Pennsylvania.

Rodney Swank testified that his transportation needs are both to and from his facility in Camp Hill. Points of origin for Mr. Swank are throughout the Commonwealth of Pennsylvania. (N.T. p.78) Specifically, Mr. Swank testified that he has transportation needs in Berks, Butler, Chester, Clarion, Clinton, Columbia, Delaware, Erie, Lancaster, Monroe and Washington counties. (N.T. p.86) Further, contrary to that stated by Protestant that only paper form of business records are involved, (CUI Brief, p.8), Mr. Swank testifies that his transportation needs include magnetic media from various agencies to his office. (N.T. p.76-77)

Protestant misinterprets the testimony of Michael J. Cleary, President of Cleary Rehabilitation Services, Inc. The statement by Protestant regarding Mr. Gopher on Page 9 of its Brief is misinterpreted and irrelevant. Protestant states that Mr. Cleary said he "could have used it yesterday, but he was not authorized". (CUI Brief, p.9) Protestant interprets the "he" as Cleary. The correct interpretation is that Cleary could have used Towaway, but Towaway was not authorized. The testimony of Mr. Cleary is completely misinterpreted by the Protestant. Mr. Cleary is

the president of his company and does not need to be authorized by anyone to do anything. He authorizes himself to run his company any way he wishes.

Finally, the whole summary of Mr. Cleary's testimony as presented by the Protestant is inaccurate since the Protestant fails to distinguish Mr. Cleary's testimony regarding Mr. Gopher, a wholly irrelevant entity which happens to be owned by Mr. Mundis, and Towaway Express, the Applicant herein, which employs Mr. Mundis. The use of Applicant's proposed service by Mr. Cleary's company does not depend upon any person other than Mr. Cleary. He will use the Applicant's service and his testimony is to be given substantial weight.

Protestant states that Gary Torcaso cannot recall any transportation needs in several listed counties. (CUI Brief, p.10) While it is true that Mr. Torcaso could not remember whether his needs took him into various counties recently, it is also true that the witness may very well have gone into those counties. Just because he cannot remember whether or not he went to each county recently does not mean that he did not. He testified that, as an independent insurance agent, his business is statewide. Thus, his transportation needs are statewide as well. Just

as with the testimony of Mr. Sheaffer, this witness cannot be expected to remember each and every location in which he conducts business. The key point is that he has transportation needs throughout the Commonwealth of Pennsylvania and his testimony has sufficiently established this need.

Protestant again misconstrues the testimony by stating that the cross-examination of James Bower demonstrated an evasiveness to answer questions. (CUI Brief, p.12) A brief review of the testimony identified by the Protestant reveals that the witness was not evasive. If anything, the witness merely did not understand the questions directed to him. It is clear that the witness answered the questions addressed to him, or at least, the witness thought that he had answered the questions. If the answers were unclear or were not the answers to the questions, Protestant had the responsibility to clarify the responses.

Protestant goes on to state that no witness testified as to the need to transport magnetic tapes. To the contrary, Mr. Terry Brode and Mr. Rodney Swank both testified as to the need for this type of transportation.

Protestant, next, on Page 15, expresses some "negative thoughts". Protestant itself questions the significance of such thoughts. In truth, these comments are wholly irrelevant and must be disregarded in their entirety. Such comments are not appropriate and have no place in Protestant's Brief.

The first two (2) "thoughts" are the same. However, they are irrelevant and illogical. If Towaway had authority, this application would not be necessary. Next, all witnesses had contact with Towaway, either through its Director of Operations, Mr. Mundis, or its President, Mr. Sheaffer. Protestant's comment regarding "Mr. Gopher" is irrelevant. Finally, Mr. Mundis will be working in conjunction with and for Mr. Sheaffer. (N.T. p.150)

Protestant next reviews its own testimony. Despite naming numerous other carriers, none protested this application. Protestant testified regarding the grant of the application as it applies to and affects the public. (CUI Brief, p.18) There is no evidence to support this testimony other than Protestant's own self serving statement. To the contrary, the evidence actually shows that the granting of this application would have no effect

on the Protestant's business. None of the Applicant's supporting shippers testified that they would be taking service away from Protestant. The cumulative effect of the testimony clearly shows that the granting of the authority requested in the application will, in no way, cause any cumulative effect which would adversely impact the Protestant, impact other businesses or the public in general. Finally, Protestant again presents thoughts, not on record, regarding other industries. (CUI Brief, p.19) This discussion is totally irrelevant and must be summarily disregarded.

All the supporting shippers of the Applicant testified as to the need. The cumulative effect of the testimony demonstrates a need for transportation between points within Pennsylvania. The purpose of Applicant in presenting the testimony from the various industries was to demonstrate the need throughout the Commonwealth. Applicant has demonstrated that the various supporting shippers have a need for the type of transportation service requested in Towaway's application, and that the need exists throughout the state. Further, as was set forth in Applicant's main Brief, many of the supporting shippers have been in their

field for such a long period of time that they can be considered fully knowledgeable of the other businesses within their field. The testimony as to their need translates into testimony as to the need of the entire industry throughout the state.

Applicant has requested authority to transport magnetic tape and microfilm as well as business records in paper form. Protestant's attempts to argue that no evidence has been presented regarding magnetic and microfilm form. To the contrary, however, two (2) witnesses directly testified as to such need. Further, Protestant has not in any way indicated that transportation of this form of property in any way infringes upon its authority. Protestant did not contradict in any way the specialized manner in which this type of property needs to be transported. Protestant did not indicate that it had equipment or vehicles which could transport this property. Protestant did not testify as to any current transportation of this type of property. As such, the Applicant's request for this type of authority must proceed pursuant to 52 Pa. Code §3.381. The application as to magnetic and microfilm transportation must be viewed as an application where no protests have been filed. Since Protestant did not challenge Applicant's request for authority to transport this type of property,

but merely presented testimony regarding the transportation of business records in paper form, Applicant must be granted authority for points within Pennsylvania for this type of property. The only matter at issue is the scope of authority for the transportation for business records in paper form. And, despite Protestant's testimony and argument, Applicant has demonstrated the need for authority to be granted to it for points within Pennsylvania.

Protestant refers, on several occasions, to the Bluebird Coach Lines, Inc. case. That case held that an applicant for a motor carrier certificate is not required to establish a public demand or need for the proposed transportation in each and every point of the requested operating territory. Bluebird holds that an applicant may sustain its burden of proof by establishing a public demand and need for the applicant's proposed service, generally throughout the territory encompassed by the application. In this case, there is no question that the Applicant has met its burden establishing the public need generally throughout the territory requested in its application.

The testimony presented by Towaway has fully and completely satisfied the requirements as set forth in Bluebird. The supporting witnesses identify Pennsylvania

origin and destination points between which they require transportation and these points correspond with the scope of the operating territory specified in the application.

Upon review of all of the testimony, exhibits and briefs, it is clear that the Applicant has adequately and substantially met its burden and has shown the need for the service to be provided. Towaway has also established its ability and fitness to perform such service. The Protestant has not been able to provide testimony which would allow for the limiting of the authority in any manner. Accordingly, the authority requested by the Applicant, Towaway Express, Inc., must be granted in its entirety.

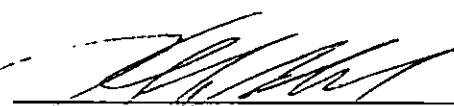
Respectfully submitted,

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IN RE: : PENNSYLVANIA PUBLIC
: UTILITY COMMISSION
APPLICATION OF :
TOWAWAY EXPRESS, INC. : NO. A-00106208, F001 Am-A

CERTIFICATE OF SERVICE

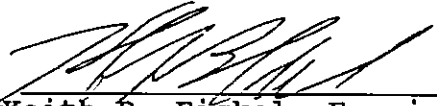
I, Keith B. Fickel, Esquire, do hereby certify that a true and correct copy of the Reply Brief of Applicant in the above-captioned matter was placed in the United States Mail, First Class delivery in Harrisburg, Pennsylvania on November 5, 1992, on the following:

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The Honorable Robert A. Christianson
Administrative Law Judge
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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