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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: A-00106208, E001, Am-A Application of Towaway Express, Inc. For amendment so as to permit the transportation of business records, in magnetic form and paper form between points in Pennsylvania. Initial hearing.

Harrisburg, Pennsylvania
July 21, 1992

Pages 1 to 165, inclusive

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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: A-00106208, F001, Am-A 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. Initial hearing.

Stenographic Report of hearing held in Hearing Room 3, Harrisburg, Pennsylvania

Tuesday,
July 21, 1992
at 10:00 o'clock a.m.

BEFORE

ROBERT CHRISTIANSON, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

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Appearing on behalf of Protestant

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1 JUDGE CHRISTIANSON: I'm Administrative Law Judge
2 Robert Christianson. We're here this morning for a hearing
3 concerning this application of Towaway Express,
4 Incorporated. We have Mr. Thistle here for one of the
5 Protestants. Counsel for Applicant has received
6 communication from William Casey for another Protestant.
7 Perhaps you can briefly state what his situation is. We'll
8 worry a little bit later about what we might do about it.
9 Mr. Casey is not present but I understand he just FAXED a
10 letter last night I guess to counsel.

11 MR. FICKEL: Yes, that's correct. I received it
12 yesterday afternoon. When he initially filed the protest in
13 April, I discussed the protest with my clients and we
14 forwarded to Mr. Casey a proposed restriction. We had no
15 response from Mr. Casey one way or the other and I had
16 written to him several times I believe twice since he filed
17 his protest requesting some type of response.

18 The only thing I received was the letter of yesterday
19 in which, to quote, this will advise you that my client,
20 Patburo Delivery Service Inc., will agree to the restrictive
21 Amendment contained in your letter dated April 24, 1992.
22 You may advise Judge Christianson of our position and we
23 will forth with send a withdrawal to the Commission.

24 As I previously indicated to the Judge, I did not
25 even have an opportunity to review this letter and the

1 restriction with my clients yet to determine whether that
2 was still a restriction which they would want to provide or
3 otherwise and at this point we're --

4 JUDGE CHRISTIANSON: You're thinking about it?

5 MR. FICKEL: Right. I guess basically what you said
6 we will refer to this later in the proceeding.

7 JUDGE CHRISTIANSON: Yes, we're sort of reluctant to
8 throw a party out in motor carrier cases perhaps we're a
9 little bit less reluctant than in some other cases. Mr.
10 Casey is not here and his response to you is somewhat
11 delayed. A response a couple months ago might have made
12 some difference.

13 But let me think about my view of the matter while
14 you have your witnesses and you can perhaps at some point
15 think whether you have an interest in this, well, I guess
16 there's certain territory involved.

17 MR. FICKEL: Yes, sir.

18 JUDGE CHRISTIANSON: Whether you're interested in
19 that territory or not, you've asked for statewide authority.
20 Let me just turn it over in my mind when we hear from your
21 witnesses and we'll proceed with them first and then worry
22 about the restrictive Amendment and the status of the
23 Protestant. We have one Protestant here.

24 MR. THISTLE: Your Honor, I might state that I was
25 not privies to any correspondence between Applicant's

1 counsel and Mr. Casey. So I don't know what has transpired.

2 JUDGE CHRISTIANSON: Fine. You can't be really
3 helpful in this instance.

4 MR. THISTLE: No.

5 JUDGE CHRISTIANSON: That's frequently the case. I
6 guess occasionally some Protestants don't even know about
7 the existence of other carriers. Some judges have made a
8 habit recently of sending out the service list. I don't do
9 that. I just come to the hearing and assume the parties
10 have pretty well worked things out.

11 MR. THISTLE: I find that very helpful though, Your
12 Honor, when the judges do that.

13 JUDGE CHRISTIANSON: I've debated about getting into
14 that practice myself.

15 MR. THISTLE: It's very, very helpful.

16 JUDGE CHRISTIANSON: Perhaps I will do it. I know
17 two or three judges who do it now.

18 MR. THISTLE: Yes, sir.

19 JUDGE CHRISTIANSON: It let's everybody know what's
20 going on. But in any case let's go ahead with Applicant's
21 case and go ahead call your first witness.

22 MR. FICKEL: I call Mr. Thomas Sheaffer please.

23 THOMAS SHEAFFER, called as a witness, having been
24 duly sworn, was examined and testified as follows:

25 JUDGE CHRISTIANSON: Be seated.

DIRECT EXAMINATION,

1
2 BY MR. FICKEL:

3 Q. Mr. Sheaffer, for the record would you please
4 state your full name and address.

5 A. Yes, my name is Thomas S. Sheaffer,
6 S-h-e-a-f-f-e-r, and I reside at 500 Mulberry Drive,
7 Mechanicsburg, Pennsylvania 17305.

8 Q. And how are you employed currently?

9 A. I am president and CEO of Towaway Express Inc.

10 Q. What is the nature of Towaway Express Inc?

11 A. Towaway Express Inc., is a transportation
12 company operating under the PUC and ICC authority as a
13 common carrier.

14 Q. And what type of authority does Towaway
15 currently have with the Pennsylvania Public Utility
16 Commission?

17 A. Presently Towaway has PUC authority for the
18 entire state of Pennsylvania with transportation of
19 trailers, trailer chasities, trailer -- container chasities.
20 Containers, materials, parts and supplies used in the
21 assembly, manufacturing in sales of said commodities. It
22 has several restrictions which are limited to specific
23 manufacturing points. Very limited restrictions as to wreck
24 vehicles in certain areas outside of Hollidaysburg. I have
25 a complete copy of the authority. But generally that is

1 basically the authority.

2 MR. FICKEL: I believe the authority would also be a
3 matter of record, Your Honor, as far as Towaway's current
4 operating authority.

5 JUDGE CHRISTIANSON: Yes, I can take notice of that
6 authority on file.

7 MR. THISTLE: I'd like a copy now. Wait a minute,
8 maybe he sent me a copy of that.

9 MR. THISTLE: No, I would appreciate it if I could
10 have a copy.

11 JUDGE CHRISTIANSON: I don't think we have to make it
12 an Exhibit because I can always put my hands on it. Counsel
13 can use it to see.

14 BY MR. FICKEL:

15 Q. Now, Mr. Sheaffer, what is the size of your
16 operation? Could you briefly describe as far as volume,
17 area of coverage, and that type of --

18 A. As it pertains to the PUC authority?

19 Q. Yes.

20 A. Towaway operates as I say in all counties in
21 the state of Pennsylvania. We pick up and deliver new
22 trailers, used trailers, chasities, containers, materials
23 and we use that by -- we operate with the central
24 dispatching system. We have operated, strategically located
25 in different counties, different cities and operate off of a

1 centralized dispatch and our communications with our
2 customers and contractors are through an 800 service, so
3 that we provide our customers with easy access and no
4 expense to them from anywhere within the state of
5 Pennsylvania.

6 Q. How long have you been in this business?

7 A. I've been in transportation for 22 years.

8 Q. And are you familiar with different modes of
9 operating transportation? For example, as you operate now
10 compared to a different manner of operation?

11 A. Over those 22 years, we have operated with
12 owner operators company equipment. We've tried all
13 different types of systems using local facility terminals
14 and we've basically found that the central dispatching
15 system works best and is most efficient and cost effective
16 for the customer and the company.

17 Q. And is it your intention to upright this
18 central dispatch system with the proposed amended authority
19 that we're seeking today?

20 A. Yes, it is.

21 Q. Would you describe the type of equipment that
22 Towaway currently owns?

23 A. Towaway operates power units, the type used
24 by -- to haul tractor trailers with power only. Mostly our
25 commodities moved are the trailer itself, the trailer and

1 piece of equipment so --

2 Q. How many pieces of equipment would you say you
3 own or have access to?

4 A. We have approximately 55 power units.

5 MR. THISTLE: Fifty-five what, sir?

6 THE WITNESS: Power units.

7 BY MR. FICKEL:

8 Q. Now, in the operation of authority pursuant to
9 the Amendment today, what type of equipment needs would you
10 see that you would need?

11 A. What we have planned as far as to handle the
12 courier service application is the -- or mobile van type
13 straight trucks and also automobiles.

14 Q. And how would those -- that equipment need be
15 met?

16 A. Well, we have several units of our own
17 presently. There are lease agreements to lease equipment
18 with Brezenski which is already a customer of ours and we
19 use owner operators.

20 Q. What -- let me rephrase it. Do you anticipate
21 any additional capital expenditures in this amended
22 authority?

23 A. I find whenever you do set up a new operation
24 or expand an existing facility you will have expenditures.
25 We plan -- the company is in excellent financial condition

1 as is proof that the PUC filings that we make each year.
2 And we have sufficient lines of credit set up with local
3 banks and plus we have cash reserves with the company.

4 Q. Is there any doubt in your mind that you will
5 be able to meet any financial need which arises in this
6 particular situation?

7 A. None whatsoever.

8 MR. FICKEL: Your Honor, I do have exhibits regarding
9 financial matters. They are filed of record with the Public
10 Utility Commission whether that would also be taken notice
11 of or whether you would prefer those to be exhibits.

12 JUDGE CHRISTIANSON: Probably it's better -- are you
13 talking about annual reports?

14 MR. FICKEL: I believe. Is that what they are Tom?

15 THE WITNESS: Yeah, the one is our annual PUC report
16 and the other is our tax receipt.

17 JUDGE CHRISTIANSON: If you have them, I think I
18 would prefer to have them of record. It would make it
19 easier to develop later and financial fitness is one of the
20 aspects.

21 BY MR. FICKEL:

22 Q. Tom, I'm handing you --

23 MR. THISTLE: Excuse me. Are you going to identify
24 these, counsel?

25 MR. FICKEL: Yes. We'll have the statement of

1 operating revenues identified as Number 1 and the gross
2 receipt tax report identified as Number 2.

3 MR. THISTLE: A-1 and A-2, sir.

4 JUDGE CHRISTIANSON: Right.

5 (Applicant's Exhibits Nos. A-1 and A-2 were produced
6 and marked for identification.)

7 BY MR. FICKEL:

8 Q. What's been identified as A-1 is the statement
9 of operating revenues for general assessment. Could you
10 briefly indicate what that document is, Mr. Sheaffer?

11 A. Yes. It's our 1991 Pennsylvania Public
12 Utility Commission annual report on property carrier. Now,
13 this is the latest. We've been operating under the PUC
14 licenses for the last six years and I just brought the most
15 current to today's hearing.

16 JUDGE CHRISTIANSON: That's fine.

17 THE WITNESS: The second piece is also the gross
18 receipts tax reportings that are mandatory by the PUC
19 Commonwealth of Pennsylvania and it shows it was filed
20 timely and again, it's for the current year.

21 BY MR. FICKEL:

22 Q. Now, Mr. Sheaffer, could you describe the
23 current facilities that you have as it deals with the new
24 vehicles that you would be using specifically? Do you have
25 on these facilities an on-site ability to maintain these

1 vehicles?

2 A. That's correct. We have a full-time mechanic
3 and we also have a shop facility for maintenance on the
4 premises.

5 Q. Now, part of the amendments subject to today's
6 hearing deals with the transportation of magnetic tapes.
7 Are you familiar with the requirements for that type of
8 transportation?

9 A. Yes, somewhat. I will plead ignorance to some
10 things in computers that's why I feel I have competent
11 people around. But we do -- we do have the expertise to
12 handle that type of commodity.

13 Q. Are you aware that there's some type of
14 special equipment that needs to be installed in vehicles?

15 A. That's correct. Some of the vehicles will be
16 required to have special racks and containers to transport
17 magnetic tapes.

18 Q. Does your facility have the ability to make
19 these modifications?

20 A. Yes, we do.

21 Q. Now, Mr. Sheaffer, is your -- is your company
22 involved in any type of safety programs or let me rephrase
23 that safety being a concern, would you please describe the
24 types of -- and areas regarding safety that you ensue in
25 your business?

1 A. Well, at Towaway Express our feeling is
2 safety. First step in our business and we have recently as
3 1990, won the trail-mobile safety award for small carrier
4 under eight million miles traveled in the state of
5 Pennsylvania.

6 We also in '91 won the Pennsylvania Motor Truck
7 Association Safe Carrier award. We have a director of
8 safety full-time. She has been elected two years in a row
9 to the Pennsylvania Motor Trucks Safety Supervisor Counsel
10 and we spend a lot of time in making certain that our
11 contractors and operators are safe operators and are within
12 the law.

13 We also -- we are contractors for Towaway Express is
14 the -- when the safe driver of the year for the state of
15 Pennsylvania and he is also representing the state of
16 Pennsylvania nationally with the ATA for driver of the year
17 in 1991.

18 Q. And what is the ATA?

19 A. Pardon me?

20 Q. ATA?

21 A. American Trucking Association.

22 Q. What procedures do you go through when you
23 hire drivers?

24 A. I brought with me today a copy of our drivers
25 manual and it requires -- has all the requirements in it, is

1 a manual of the safety requirements of Towaway Express. It
2 is we feel one of the best safety and driver manuals on
3 the -- in the business today and it has been used by the
4 Pennsylvania motor truck as an example to other carriers and
5 type of safety requirements that they should look for with
6 drivers and their operators.

7 MR. FICKEL: Your Honor, I'd like to get that into
8 the record as far as his manual. I don't know if I would
9 want to submit an entire copy of it for the record or have
10 him testify as to the specific elements of his safety
11 manual. But I only have one copy of it right now.

12 JUDGE CHRISTIANSON: Well, it's up to you if you only
13 want to put segments in that's acceptable, as long as you
14 have the copy there. And if necessary, give Mr. Thistle
15 time to review the whole document.

16 MR. THISTLE: May I see that first, counsel?

17 MR. FICKEL: Sure.

18 JUDGE CHRISTIANSON: We can show as an off the
19 record.

20 (Discussion off the record.)

21 MR. THISTLE: If counsel is intended through this
22 witness to put that entire safety intra-company brochure on,
23 I would object because much of it relates to interstate
24 commerce operations, compliance with Federal DOT regulations
25 and I think to the extent that it's in so much detail, I

1 think much of it is irrelevant. And I would object to the
2 material en toto being put on record.

3 JUDGE CHRISTIANSON: Okay. I think I understand
4 where you're coming from. It might be best to just have the
5 witness talk about what he was relating to rather than bring
6 the whole thing in.

7 MR. FICKEL: Okay.

8 BY MR. FICKEL:

9 Q. Tom, could you please indicate some of the
10 specifics in your manual regarding the safety of the
11 drivers?

12 A. Well, I think as far as Towaway Express is
13 concerned this manual does apply to operations in the state
14 of Pennsylvania whether it's federal regulations, whether
15 it's state PUC regulations, if it has pertinent basis on the
16 safety operation of a vehicle or an operator, for instance,
17 drug testing, MRO, requirements of physical, if that is the
18 law in any state and it's a good safety regulation, we
19 pursue it in the state of Pennsylvania when we're operating
20 in this state. So everything in this manual does pertain to
21 our operation through or in the state of Pennsylvania.

22 Q. Now, in your operation in Pennsylvania, are
23 your drivers required to strictly comply with those rules
24 and regulations?

25 A. Absolutely.

1 Q. What are the consequences for failure to do
2 so?

3 A. Termination and it states so in the manual.

4 Q. What is your employee turnover rate?

5 A. Well, on a national average, it would be high.
6 Ours is approximately 13 percent.

7 Q. Is any -- could you estimate the number of
8 employees terminated for failure to follow rules or
9 regulations?

10 A. Last year we had three.

11 Q. And how is that relative to previous years or
12 national standards or any other information?

13 MR. THISTLE: Objection. Listed background
14 established that this gentleman has investigated -- I don't
15 know if he's qualified to say what the national average is.
16 He knows his own company of course, Your Honor.

17 JUDGE CHRISTIANSON: Yes, I don't know if he's an
18 expert in safety program. Well, go ahead and respond and
19 we'll see what the response is.

20 THE WITNESS: Well, nationally, to be honest with
21 you, I wouldn't want to state what the national average is.
22 It's you know, what's relative to my company and the
23 operators I have out on the road that I'm concerned with.

24 BY MR. FICKEL:

25 Q. Okay. Then as far as the termination of last

1 year is that within your particular business within an
2 average of your particular -- of your business?

3 A. I wouldn't exactly call it an average. No, I
4 wouldn't want to see anybody terminate because of safety
5 violation or failing to operate a vehicle of safety. But it
6 does happen and we pursue it.

7 Q. But you wouldn't consider it excessive within
8 your --

9 A. No.

10 Q. Could you describe what -- are you familiar
11 with what a service failure is?

12 A. Yes, I am.

13 Q. And what is that?

14 A. It's when a carrier has authority fails to
15 supply the customer the equipment required in a reasonable
16 amount of time pertinent -- pursuant to his authority.

17 Q. Has Towaway Express every had any service
18 failures?

19 A. No.

20 Q. In the application this morning, initial
21 request was for statewide authority. Do you consider that a
22 broad area?

23 MR. THISTLE: I didn't hear the question. I'm sorry.

24 BY MR. FICKEL:

25 Q. Does he consider that a broad area of

1 coverage?

2 A. Relative to the state and being the whole
3 state, I guess it would be broad to the state we're used to
4 not only statewide authority now but also nationwide. So we
5 handle our statewide authority well now without any service
6 failures so --

7 Q. Do you estimate that Towaway would be able to
8 handle statewide authority?

9 A. We already do. With the amendment, yes.

10 Q. Could you explain the need to have authority
11 with the amendment on a statewide basis?

12 MR. THISTLE: Objection. It's obvious, Your Honor.

13 JUDGE CHRISTIANSON: Well, I'll let him respond why
14 operationally it's better to have statewide than say part of
15 the state if that is the crux of the question.

16 MR. FICKEL: Basically, it was.

17 THE WITNESS: Well, there are several factors which
18 are pertinent to having statewide authority. One is it
19 makes your operation more economical. It makes it better
20 for the customer because when you can -- when you don't
21 have, -- when you don't have the certain amount of debt in,
22 you can make it -- your rates are more in line. You also
23 have the ability to service totally your customers that
24 you're working for. If you limit your authority or your
25 scope of your authority, you can't really give the public

1 the service that they always need.

2 BY MR. FICKEL:

3 Q. Are you familiar with how this particular need
4 that's in your application is being serviced currently?

5 A. Well, I know that -- well, we found in the
6 time that we investigated the situation and we decided that
7 there was a definite need in an awful lot of the services
8 being performed are being performed by unlicensed carriers
9 or unlicensed carrier services.

10 MR. THISTLE: I'm going to move to strike that.
11 There's been no qualification of this witness as to how he
12 came to that knowledge, what investigation he made. It's a
13 very broad statement, Your Honor, without basis in this
14 record in fairness.

15 JUDGE CHRISTIANSON: Well, there isn't much basis for
16 it. That's a fairly serious allegation. I'll allow it to
17 stand subject to possible development by counsel of
18 cross-examination to see just what basis he has for it.

19 MR. FICKEL: Your Honor, I could have him go into the
20 basis for his statement now if that would --

21 JUDGE CHRISTIANSON: Perhaps -- one thing that I
22 would like to ask you since I interrupted you. This
23 is -- you're calling this a courier service. Are you
24 performing this in any other state at this point or is this
25 a new thing?

1 THE WITNESS: No, not in any other states.

2 JUDGE CHRISTIANSON: So you'll be starting it now
3 from Pennsylvania?

4 THE WITNESS: Correct.

5 JUDGE CHRISTIANSON: Okay. Fine. Go ahead.

6 BY MR. FICKEL:

7 Q. Prior to making this application, did you do
8 any investigations to this particular area of service?

9 A. Yes.

10 Q. What types of investigations did you do?

11 A. Well, I had my director of operations, Carl
12 Mundis, check areas of service. Such as we received a flyer
13 from one courier service. We contacted another locally and
14 after contacting them, we proceeded to have our attorney
15 check out to find out if they had PUC authority to operate
16 and we were informed that they had no authority filed with
17 the PUC.

18 MR. FICKEL: I believe that will be all of this
19 witness, Your Honor.

20 JUDGE CHRISTIANSON: Well, let's be off the record
21 briefly. Do you want some time before you cross?

22 MR. THISTLE: Pardon?

23 JUDGE CHRISTIANSON: Do you want some time too
24 prepare for cross?

25 MR. THISTLE: No, I think I'm all right. Perhaps I

1 better.

2 JUDGE CHRISTIANSON: Yeah, let's take about five
3 minutes.

4 (Whereupon, a brief recess was taken.)

5 JUDGE CHRISTIANSON: We can proceed then with
6 cross-examination.

7 CROSS EXAMINATION

8 BY MR. THISTLE:

9 Q. Mr. Sheaffer, you related one incidence or one
10 example of -- that you received a brochure or an
11 advertisement or solicitation printed about a courier
12 service. Remember relating that story?

13 A. Well, I don't know if it was a story, it was a
14 statement, yes.

15 Q. Or a statement, okay. Now, who made the
16 investigation?

17 A. You mean as far as the attorney?

18 Q. Pardon?

19 A. Mr. Fickle.

20 Q. Do you know what the investigation consisted
21 of?

22 A. I asked Mr. Fickle to find out if this
23 particular courier service had authority with the
24 PUC -- what -- you know, he came back and told me that it
25 did not. As far as what his investigation, you know, no, I

1 don't know.

2 Q. Did you ever see a copy of that carrier's,
3 alleged carrier's authority?

4 A. No.

5 Q. No. It was from that that you concluded there
6 were many couriers who were performing illegal service. Is
7 that what you're --

8 A. No.

9 Q. -- basis was?

10 A. No.

11 Q. How many other instances did you, yourself,
12 investigate? Any?

13 A. Yes.

14 Q. I'm talking about you yourself.

15 A. That I had my attorney check out?

16 Q. No, I asked you, yourself, did you check on
17 any?

18 A. There was two others.

19 Q. Who are they?

20 A. One is Argus.

21 JUDGE CHRISTIANSON: A-r-g-u-s?

22 THE WITNESS: Yes.

23 BY MR. THISTLE:

24 Q. And what caused you to check on them?

25 A. The fact that they were transporting tapes

1 between points in Pennsylvania.

2 Q. How did you become aware of that?

3 A. Because I was -- I know the customers that
4 they are hauling for.

5 Q. Were they customers that you were also hauling
6 for?

7 A. I don't do any transportation in that mode at
8 this time because I'm not licensed.

9 Q. And what did you do to investigate?

10 A. I called Mr. Fickel and told him.

11 Q. Well, now wait a minute, let's back up. I
12 asked you what if there were any that you personally
13 investigated by either contact with the Commission or
14 writing away for a copy of their authority, not asking
15 someone ask to do it for you. Were there any that you,
16 yourself, checked out?

17 A. That's exactly how I check something out. I
18 call my attorney and I tell him that I have information. I
19 want information relative to this. You are -- you deal with
20 the law and the PUC find out for me.

21 Q. Okay. So you don't want to answer my
22 question. Is that right?

23 A. Yes, I just answered it.

24 MR. FICKEL: If I can?

25 MR. THISTLE: Just a minute, counsel, if you have an

1 objection, make it.

2 MR. FICKEL: Objection is he's badgering the witness.
3 The witness has already answered.

4 JUDGE CHRISTIANSON: I think the witness is agreeing
5 with Mr. Thistle that he did not personally do the
6 investigation. He's saying his lawyer did it for him. So
7 the answer is no.

8 MR. THISTLE: Okay. All right.

9 BY MR. THISTLE:

10 Q. Now, again, in the other instances, did you
11 ever -- did your attorney forward you a copy of the
12 authority of these other carriers?

13 A. No.

14 Q. No. Okay. Let's look at -- do you have a
15 copy of your present authority in front of you or can you
16 get one in front of you? I believe, sir, that you testified
17 that you're operating statewide in accordance with that
18 authority. Is that correct?

19 A. Minus the restrictions, yes.

20 Q. Well, okay. Right. Okay. When was the last
21 time you had handled a shipment between one point in the
22 County of Erie to another point in the County of Erie?

23 A. Could have been yesterday. I don't know. I
24 don't run the operations day-to-day.

25 Q. Okay. Your answer is you don't know?

1 A. Basically, yes, that's right.

2 Q. Would that be true of Crawford?

3 A. That would be true of any county.

4 Q. True of any county?

5 A. Certainly.

6 Q. So when you said that you are operating under
7 your present authority statewide, you really don't know that
8 that's correct, do you? I mean, I'm trying to be fair. I'm
9 not trying to put words in your mouth.

10 A. Are you referencing yesterday or today or when
11 are you referencing, the whole year, last year?

12 Q. Well, say within the last six months.

13 A. Yes, I'm certain that we have operated between
14 points in Pennsylvania in the last two days.

15 Q. You have then?

16 A. What the specific trips were I couldn't tell
17 you.

18 Q. So within the last two days you went from one
19 point in Erie to another point in Erie?

20 A. I don't know that.

21 Q. You don't know that?

22 A. I exercised my authority within the last --

23 Q. I didn't ask you that. I asked you if you
24 went within the last two days.

25 A. I -- very possibly, and maybe not. I don't

1 know.

2 Q. You don't know.

3 A. I don't run the operations.

4 Q. How about the County of Cameron to the County
5 of Cameron?

6 A. I have no idea.

7 Q. Let me ask you this. What do you understand
8 you are authorized to perform geographically by the
9 Pennsylvania Public Utility Commission when authority reads
10 between points in the Commonwealth of Pennsylvania? What
11 geographically may you perform? Forget the restrictions
12 temporarily, but what may you perform? Where may you go?

13 A. Between points in Pennsylvania.

14 Q. All right. Can you go from a point in Blair
15 to a point in Blair?

16 A. I would assume so, yes.

17 Q. Go ahead. You may finish your answer.

18 A. I think there is a basic restriction with
19 Blair County.

20 Q. All right. Let's pick another one. Indiana.

21 A. That should be good, yes.

22 Q. Have you ever gone from Washington County to
23 Wayne County?

24 A. I can't answer whether I have or haven't or
25 Towaway has or hasn't.

1 Q. Would your answer be the same from Franklin
2 County to Bradford County?

3 A. I would say no, I do not know whether we do or
4 not or whether we have or not.

5 Q. You don't know. All right. Now, insofar,
6 sir, as this application is concerned, is it your intention
7 by supporting shipper witnesses to approve a need from one
8 point in Mercer County to another point in Mercer County?

9 A. Very possibly, yes.

10 Q. Well, don't you know, who your witnesses are
11 going to be?

12 A. Yes, I do know who they are.

13 Q. Well, do you have one that's going to testify
14 he has a need for shipments from a point in Mercer County to
15 another point in Mercer County?

16 A. I would say there are people in this room who
17 are going to have transportation throughout Pennsylvania.
18 They cannot specifically -- if they were so specific as to
19 put point to point, then that's what I would apply for. But
20 since the shippers have a general need and have statewide
21 need not knowing specifically where they are going, then it
22 is mandatory for me to apply for the whole state, like I did
23 with the trailer.

24 Q. On what basis?

25 A. On the basis that they require service and I

1 can provide it.

2 Q. Well, do they require service between points
3 in Clearfield County? Any of them?

4 A. The need may arise, yes.

5 Q. I didn't say may arise. Do they?

6 A. Today?

7 Q. Yes.

8 A. Then they're in trouble. Because I don't know
9 of anybody who could do it for them today.

10 MR. THISTLE: I didn't ask for that. I move that
11 that be stricken, Your Honor.

12 JUDGE CHRISTIANSON: I'll disregard the response.

13 BY MR. THISTLE:

14 Q. Do you have any witnesses at the present time
15 who have -- are supporting your application for shipments
16 from one point in Elks County to another point in Elks
17 County?

18 A. I can't say that for sure.

19 Q. You don't know, right?

20 A. That's what I said.

21 Q. All right. How about from Tioga to Tioga?

22 JUDGE CHRISTIANSON: I think I had enough of this,
23 counsel.

24 MR. THISTLE: All right.

25 BY MR. THISTLE:

1 Q. Looking at the Exhibit A-1, if -- do you have
2 a copy in front of you, sir?

3 A. Which one was A-1?

4 Q. That's the operating revenues for general
5 assessment.

6 A. Okay. Yes.

7 Q. Okay. Look at the one, counting the backs,
8 the fourth page. Okay?

9 A. Um-hum.

10 Q. You show no motor vehicle equipment whether
11 they be power units or trailers or semi-trailers owned. Is
12 that correct?

13 A. That's correct.

14 Q. How long are your leases?

15 A. Pardon me?

16 Q. How long are your leases? What duration?

17 A. Permanent.

18 Q. Okay. I'm not being smart. What do you mean
19 by permanent? How long?

20 A. Well, as specified by the ICC it's a 30 day
21 permanent lease. In other words, when they operate for me,
22 they cannot pull for anybody else.

23 Q. Okay. During that thirty day period?

24 A. No, no, continual. It's a continual lease.

25 JUDGE CHRISTIANSON: Well, it's a 30 day minimum.

1 THE WITNESS: Well, that's the ICC requirement, 30
2 day is a permanent lease. It's a permanent lease.

3 MR. THISTLE: In other words, it goes from 30 days to
4 30 days to 30 days?

5 THE WITNESS: Right.

6 BY MR. THISTLE:

7 Q. Okay. All right. Now, under your proposed
8 authority if granted, do you propose to have owner operators
9 and leased equipment under the same conditions at least a
10 minimum of 30 days?

11 A. That would be correct.

12 Q. Pardon? I can't hear.

13 A. That would be correct.

14 Q. Okay. And still not buy any yourself or own
15 any?

16 A. No, that's not true. We do have plans to
17 purchase equipment, yes.

18 Q. Okay. How many pieces?

19 A. We have plans to purchase 12 units.

20 Q. And approximately how many would you lease
21 then roughly?

22 A. Well, that would depend on the market customer
23 requirements.

24 Q. Well, what do you anticipate?

25 A. That's very, very difficult to say. I, you

1 know, it's whatever the market -- whatever the customer
2 requires.

3 Q. And this authority that you're applying for
4 would be in the same name as the present authority that you
5 have? In other words it's Towaway Express, Inc., right?

6 A. That's correct?

7 Q. If you'll turn, sir, please to A-1 again and
8 look at the fourth page which is headed balance sheet there.
9 You have an item which is accounts receivable from Trade and
10 Interline 29,000 or \$293,085.00. What is that -- who are
11 they from generally? I don't mean the individual names or
12 anything but what categories is that due from?

13 A. You mean our shippers or our receivers are --

14 Q. Oh, is that what --

15 A. Our receivers or our shippers, yeah. Freight
16 bills are still withstanding, they weren't COD or something
17 like that.

18 Q. Okay. Look at item 16 which is non-carrier
19 property. What is that, sir?

20 A. I have an accounting firm that handles this
21 and I'm not really -- I'm going to assume, okay, on this
22 without relying greatly that would probably be property we
23 own possibly. It's under non-carrier property -- it might
24 be -- it's -- I believe it's property, land.

25 Q. Okay. All right. You mentioned, sir, about

1 the vehicles for magnetic tapes and they had certain special
2 features, did I understand correctly that at this point you
3 weren't certain of what all those special features were?
4 Did I understand that correctly?

5 A. That's my operations people's field.

6 Q. Okay. All right.

7 MR. THISTLE: I believe that's all I have, Your
8 Honor.

9 JUDGE CHRISTIANSON: Fine. Any redirect?

10 MR. FICKEL: Just one question.

11 REDIRECT EXAMINATION ..

12 BY MR. FICKEL:

13 Q. Tom, could you estimate how many thousands of
14 trips you take within Pennsylvania each year?

15 A. How many thousands of trips we run in
16 Pennsylvania in a year, several thousand.

17 Q. You don't recall the nature of each one, do
18 you?

19 A. No.

20 MR. THISTLE: I can't hear, counsel.

21 MR. FICKEL: I asked him if he can recall the nature
22 of each particular trip and your response was?

23 THE WITNESS: No.

24 MR. FICKEL: Nothing further, Your Honor.

25 JUDGE CHRISTIANSON: Any follow up on that?

1 MR. THISTLE: No.

2 JUDGE CHRISTIANSON: Then the witness is excused.

3 MR. FICKEL: Your Honor, I would move for the
4 admission of the exhibits.

5 JUDGE CHRISTIANSON: Any objection to the exhibits?

6 MR. THISTLE: One and two, no objection, Your Honor.

7 JUDGE CHRISTIANSON: Fine. They're both accepted.
8 A-1 is actually the assessment report along with the annual
9 report and A-2 is the gross receipt tax report. So those
10 two Exhibits are accepted into the record.

11 (Applicant's Exhibits Nos. A-1 and A-2 were admitted
12 in evidence.)

13 JUDGE CHRISTIANSON: Go ahead.

14 MR. FICKEL: At this time, Your Honor, I would like
15 to begin calling our supporting shippers. I do have another
16 witness for the Applicant, Carl Mundis. I spoke to Mr.
17 Thistle and because of some of the time restraints of our
18 witnesses he agreed to let them go subject to recall after
19 Mr. Mundis has testified.

20 JUDGE CHRISTIANSON: Fine. That's certainly
21 acceptable to me as well.

22 MR. THISTLE: May I just ask counsel the purpose of
23 Mr. Mundis's testimony in addition to this gentleman?

24 MR. FICKEL: Mr. Mundis is the director of the
25 operations of the authority.

1 MR. THISTLE: Oh, I see. Sure, I have no problem
2 with that.

3 JUDGE CHRISTIANSON: Fine. Let's get some of these
4 people out of here and back to their real world.

5 MR. FICKEL: First of all I'd like to call Terry
6 Brode.

7 MR. THISTLE: Do you know what would be helpful,
8 counsel, is tell me if they are on the list?

9 MR. FICKEL: That one is Mr. Brode.

10 TERRY BRODE, called as a witness, having been duly
11 sworn, was examined and testified as follows:

12 JUDGE CHRISTIANSON: I gather counsel furnished a
13 witness list.

14 MR. FICKEL: It was a supporting shipper list in the
15 area of their home base operations.

16 MR. THISTLE: Interrogatories.

17 MR. FICKEL: Yeah, interrogatories, specific names of
18 the witnesses I don't think were provided yet.

19 JUDGE CHRISTIANSON: Okay. Fine.

20 DIRECT EXAMINATION

21 BY MR. FICKEL:

22 Q. For the record, could you state your full name
23 and address.

24 A. Terry Brode, 2923 Lincoln Street, Camp Hill.

25 JUDGE CHRISTIANSON: Could you spell your last name.

1 THE WITNESS: B-r-o-d-e, Brode.

2 BY MR. FICKEL:

3 Q. And what is your occupation?

4 A. I work for data processing operation over in
5 Camp Hill, Solution Technologies. I'm responsible for sales
6 and marketing for the company.

7 Q. Okay. What type of business is this?

8 A. We do professional services for various
9 companies throughout the state of Pennsylvania; data
10 processing projects. We work for major corporations and in
11 the state of Pennsylvania, however, we only work for the
12 data processing department within those companies.

13 Q. Okay. How long have you been in this
14 particular field?

15 A. Twenty-five years.

16 MR. THISTLE: I didn't hear that.

17 THE WITNESS: I've been in the field for
18 approximately twenty-five years.

19 BY MR. FICKEL:

20 Q. And how long have you been at this current
21 position?

22 A. Four years.

23 Q. Could you describe the type of needs that you
24 have for transportation of property and what type of
25 property it is that needs transported?

1 A. We try to do the majority of our work by
2 communications networks since it's data processing.
3 However, we get into situations where we have various medias
4 that required to be transported to and from our data center
5 from our client's sites such as magnetic media, disk tape.

6 We also support our Arab clientele with other
7 services that we sub. We can't do everything for everybody.
8 But once our presence is in our organization many times they
9 ask us to do things that we don't do. So rather than not
10 assist those clients, we use subcontracting services for
11 those projects.

12 Q. Okay. What type of requirements for shipping
13 would you have as far as frequency?

14 A. We're at -- currently, we're probably at
15 around 45 various companies in the state of Pennsylvania. I
16 would say daily for something or another specifically and
17 routinely there's weekly projects but there are needs that
18 occur daily. If you can't retrieve the data via network,
19 then we need some kind of service in place.

20 Q. What type of area geographically would we be
21 having this need?

22 A. Well, we one of our major contractors, we're
23 doing work for in four states presently in Pennsylvania, New
24 Jersey, Delaware, Northern Virginia and Washington DC.
25 However, the majority of our work is done in Pennsylvania.

1 Geographically in Pennsylvania is as far West as Altoona, as
2 far North as Williamsport maybe further, as far East as
3 Allentown and as far South as York and Baltimore in
4 Maryland.

5 Q. Do you anticipate this need to be continuing
6 indefinitely?

7 A. I hope so.

8 Q. Based on your 25 years experience in this
9 industry, are you familiar with the needs of other companies
10 similar to yours?

11 A. Yes, I've worked for various large companies
12 myself in the area. And I was director of MIS operations,
13 DP manager of companies. Yes, I am familiar with many of
14 their needs.

15 Q. And are those needs similar to the ones you
16 described for you?

17 A. Yes, a lot of those companies are trying to
18 get out of that environment and sublet that work out and
19 those are the things that we're trying to offer those
20 companies.

21 Q. Now, how did you come in contact with Towaway
22 Express and their proposed authority?

23 A. Through a person that's not here that's doing
24 one of the functions that we were trying to offer service
25 for an off-site storage and through him and Mr. Mundis, the

1 two of them are familiar with our company and the service
2 that we're offering. And I was dealing directly with a
3 gentleman that has off-site storage and he doesn't have a
4 means of getting data to and from my clients. And I think
5 through contact with Mr. Mundis the three of us got together
6 and decided if that service we're available, we would
7 consider using Mr. Mundis's company.

8 Q. Were there any particular factors that led to
9 your decision to support Towaway Express?

10 A. Well, since contact with the two gentlemen,
11 I've found some other things out. Safety, I was given some
12 information about Towaway that gives me some more
13 information on basing it -- basing a decision that our
14 clients are concerned with safety, reliability and so forth.

15 Q. And how would you and your firm benefit and
16 your client benefit with the issuing of authority to
17 Towaway?

18 A. Hopefully they are there with the service that
19 we need when we need it. Our reputation in data processing
20 in the area is quite good and we try to use independent
21 contracting services that will retain our reputation, help
22 us retain our reputation.

23 Q. Are you familiar with Courier Unlimited at
24 all?

25 A. No. I hadn't done any work at all

1 researching. That's just one of the many things I'm
2 responsible for.

3 MR. FICKEL: No other questions.

4 JUDGE CHRISTIANSON: Partly curiosity to develop the
5 record. Do you have traffic that you're going to offer to
6 this Applicant? How did this traffic move now?

7 THE WITNESS: We send a secretary out or we ask a
8 client to have one of their people that may be coming into
9 the area bring a tape, bring data. Sometimes we wait a day
10 or two that we may be in the area to pick up media. We do
11 not have a facility at all in place. It's just anybody
12 sitting around eating a sandwich or doing whatever we may
13 ask them to go out to pick up. We may have a person on-site
14 today that's being billed at a high rate and we have to
15 knock them off of a building situation to have them bring
16 media into our data center. So that's --

17 JUDGE CHRISTIANSON: That's sufficient for me. Fine.
18 Do you want to cross?

19 MR. THISTLE: Yes, pleas.

20 CROSS EXAMINATION

21 BY MR. THISTLE:

22 Q. Now, Mr. Brode, your place of employment is
23 where, sir?

24 A. Six thirty-five North 12th Street, Lemoyne,
25 Pennsylvania.

1 Q. Six thirty-five --

2 A. North 12th Street.

3 Q. North Broad Street, where?

4 A. North 12th, Lemoyne.

5 Q. Oh, Lemoyne, okay. Now, where -- is that your
6 company's base headquarters?

7 A. Yes, sir.

8 Q. Now, what I'm going to try to do with a series
9 of questions -- if I may stand, Your Honor -- is to try to
10 determine from where and to where you make these shipments.
11 All right?

12 A. Okay.

13 Q. Now, I think you said the great majority and
14 where you can --

15 A. Yes, sir, maybe one statement I can answer
16 your question.

17 Q. Well, I think it's easier if it's question and
18 answer. Okay. I think you said that the great majority you
19 do through your communications network?

20 A. Yes.

21 Q. Okay. That's the business you're in?

22 A. That's right.

23 Q. Okay. Now, insofar as -- oh, strike that.
24 What are the individual items that you have a need for a
25 motor carrier? Now, you mentioned a disk tape and what

1 else?

2 A. Today we are -- most recently we just signed a
3 contract with a very large company here in the area to do
4 processing for physicians throughout the state of
5 Pennsylvania. Every county in the state falls within this
6 project.

7 Q. Every what?

8 A. Every county. These are physician practices
9 that have to get data into a process. We've signed a
10 contract with that client to do this work for them which
11 requires getting claims in from -- Medicare claims in from
12 67 counties in the state of Pennsylvania. We don't know
13 what we're in for in that project. So we need some comfort
14 to make sure that we can deliver our service as the contract
15 states. It doesn't exist today.

16 Q. Okay. But I think, sir, you said that you
17 don't know what's going to be involved?

18 A. Well, we know what's going to be involved. We
19 don't know where our problems lie. We know we're going to
20 have to get software out to these hospitals and these
21 physician practices in an eight hour time frame, be it a
22 working day or what have you.

23 Q. Who's going to pay the transportation charges
24 or shipment charges for the software?

25 A. Solution Technologies.

1 Q. Okay. Now, where will that software -- where
2 will that originate?

3 A. In our office in Lemoyne.

4 Q. In Lemoyne?

5 A. Yes, sir.

6 Q. Okay. That's what I want to get, originate in
7 Lemoyne office, okay, to -- now, that's something you can't
8 do with your communications network right?

9 A. We're hoping that we can.

10 Q. Oh?

11 A. We're hoping that we can. However, we get
12 into problems where there's requirements to get software on
13 site at within an eight hour period that we can't
14 communicate out. We do not have the state of the art, it
15 would be too costly to install this software to receive
16 these programs in such -- electronically when you may or may
17 not have the problem, the requirement.

18 Q. Oh, okay. So but it's possible that you might
19 be able to communicate these by a communications network?

20 A. Yes, sir, we're hoping that is.

21 Q. Now is that your preferable method of getting
22 it?

23 A. Yes.

24 Q. You're working on that problem?

25 A. Well, we don't have a problem.

1 Q. I'm not looking for any company secrets.

2 A. We don't have a problem today. However, if we
3 have a problem, I don't have ten people or eight people to
4 make those trips, so I need to turn on a dime.

5 Q. I see. Okay. But at this point, are you
6 progressing according to schedule insofar as your
7 communications network for the --

8 A. Yes, sir.

9 Q. You are?

10 A. Yes.

11 Q. All right. Let's stay with that outbound
12 movement for a moment. Have you made any investigation or
13 contacted, pardon me, any existing motor carrier who's a
14 courier to see if they want it, desire and had the ability
15 to perform the service in case you might need it?

16 A. Just Mr. Mundis and the other gentleman.

17 Q. I see.

18 A. I didn't go out soliciting bids because we
19 don't know -- we don't know what our needs are. It would be
20 very hard to do that.

21 Q. Right. Now, so much for that one. Now, what
22 else, sir, do you at the present time do you not move by
23 your communications network?

24 A. Documents that require keying, hard copied
25 documents that may -- that you can't use. You need the

1 physical document to key it. If you had it electronically,
2 you wouldn't need to key it. So these are hard copied
3 documents that you must key from.

4 Q. I see. Now when you say -- excuse my computer
5 ignorance -- I wish I were up to date but I'm a little
6 ignorant when it comes to computers. What do you mean you
7 can't key? What does that mean?

8 A. That you must key from the hard copy that you
9 must key from. If it was in magnetic media already, you
10 wouldn't need to key it.

11 Q. Okay. I see.

12 A. We're putting it into magnetic media. But you
13 need the physical document to have something to refer to.

14 Q. Okay. So you're saying that you have a need
15 to get those documents out?

16 A. To get them in.

17 Q. Oh, to bring them in?

18 A. Yes.

19 Q. Okay. And when you say in, are you talking
20 about getting them into your Lemoyne base?

21 A. Yes, sir.

22 Q. All right. That's in-bound then?

23 A. Yes, sir.

24 Q. And where do they come from?

25 A. They would come from existing clients as of

1 today.

2 Q. An existing client or clients?

3 A. Clients.

4 Q. Okay. From existing clients. All right.

5 Roughly, how many would you say?

6 A. Clients?

7 Q. Yes.

8 A. Sixty.

9 Q. Okay.

10 A. Roughly 60 clients active today.

11 Q. I see. Now, in those instances, sir, who pays
12 the transportation charges for that in-bound hard copy?

13 A. The client pays for that today.

14 Q. The client does?

15 A. Yes, sir.

16 JUDGE CHRISTIANSON: Let's be off the record for a
17 minute.

18 (Discussion off the record.)

19 JUDGE CHRISTIANSON: I just took us off a minute to
20 clarify something.

21 MR. THISTLE: Yes, sir. That was my next question.
22 Who do your clients -- who are they using now?

23 THE WITNESS: Either the mail service or Federal
24 Express.

25 BY MR. THISTLE:

1 Q. I see. Is that one of the least expensive
2 alternatives to your clients?

3 A. We haven't really pursued that. Federal
4 Express seems to be expensive. However, it gets -- it fills
5 a need for today.

6 Q. Okay. Regardless -- is this statement
7 correct -- I want to be fair with you, say yes or no
8 whatever is correct. Regardless of what happens in this
9 application since your customer pays the transportation or
10 the mailing expense for this hard copy to get to your
11 Lemoyne place, they have the right to choose or chose
12 whatever means they wish to get it to you?

13 A. For the incoming?

14 Q. Yes, for the incoming. Is that correct?

15 A. Yes.

16 Q. Okay. Sir, now, what else? Is that it?

17 A. That's all I have.

18 Q. Okay. I appreciate it. Thank you very much,
19 sir.

20 JUDGE CHRISTIANSON: Any redirect?

21 MR. FICKEL: No, nothing further, Your Honor.

22 JUDGE CHRISTIANSON: Okay. Fine. Go ahead.

23 MR. THISTLE: Thank you very much, sir.

24 JUDGE CHRISTIANSON: You're excused.

25 MR. FICKEL: Okay. Next, Your Honor, is Bill Dags.

1 WILLIAM DAGS, called as a witness, having been duly
2 sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. FICKEL:

5 Q. For the record, Mr. Dags, your name and
6 address?

7 A. Bill Dags, William Dags. I live at 77
8 Pleasant View Terrace, New Cumberland. My company is
9 computer results and it's 3607 Rosemont in Camp Hill,
10 Pennsylvania and that's the card that I gave him.

11 Q. Now, Mr. Dags, I understand you are pressed
12 for time I will try and proceed quickly for you. You were
13 here previously for the testimony of Mr. Brode, correct?

14 A. Yes.

15 Q. Now, you know the areas that I'm going to be
16 asking you about. Would you state as far as your shipping
17 requirements and include in that, if you will, what's
18 produced, what needs to be shipped, frequency and duration
19 of this particular need?

20 A. Okay. Thank you. My company is considerably
21 smaller than Terry's. I'm familiar with his company and his
22 size. We are primarily a hardware broker, a used car dealer
23 of computers if you will. We buy and sell equipment
24 throughout the nation and we use, I guess, I'm not familiar
25 but big trucks and trailers and things like that to bring in

1 computers out of the area or do a drop ship. We don't have
2 an inventory. We don't have a warehouse. And if I buy
3 something in Portland, Oregon and sell it in Harrisburg, a
4 truck company that's arranged by the seller delivers it and
5 I don't get involved.

6 My primary concern right now is those items smaller
7 items, proposal contracts. We use FAX simile machines now
8 to transmit diskettes, magazines, the magnetic media that
9 Terry talked about, I say smaller than a briefcase that
10 could go from my office to a customer, from a customer to my
11 office, from one site to another in the case of a purchase
12 of an item in one customer to another. That's what I would
13 address. Does that answer it?

14 Q. Yeah. Now, as far as this type of
15 transportation is that a daily requirement for you or --

16 A. It's upon demand. Right now we don't really
17 have a structure or schedule back up routine every day or
18 something like that. Everything is on demand.

19 MR. THISTLE: I'm sorry. Everything is what?

20 THE WITNESS: Upon demand, upon request. I don't
21 have regularly scheduled requirements.

22 BY MR. FICKEL:

23 Q. And as far as a geographic location for this
24 need, would you briefly testify as to what that would be
25 within Pennsylvania?

1 A. Okay. I'm in eight states in Canada with
2 equipment. Anything that's outside of the 50 or 100 mile
3 radius we use overnight Federal Express. Inside that 50
4 mile radius depending on the timeliness requirement, I use
5 my own employees and our own vehicles to deliver it or pick
6 up. Yesterday we went to Millersburg. Last week we went to
7 work, those type of things.

8 Q. Would your company benefit with the service to
9 be provided by Towaway?

10 A. As I understand it and I must -- I'm going to
11 be straight. I don't know Towaway. I know Carl Mundis and
12 I know his record management service concept. I'm not
13 familiar with Towaway. I'm not familiar with any of their
14 principles. Carl and I have talked about the possibility of
15 a courier service. I don't care if he comes in with a
16 Chevette or some little Volkswagen to pick up my package to
17 send it to my customer in York. That's the service that I'm
18 interested in.

19 Q. And that would benefit you?

20 A. Yes, it would because I have four employees
21 and depending on the situation right now I send my employees
22 and I would contract with Carl as a situation in demand.

23 MR. FICKEL: I believe that will be all for this
24 witness, Your Honor.

25 JUDGE CHRISTIANSON: Fine. Then cross.

1 THE WITNESS: No.

2 MR. THISTLE: Okay. For the obvious reasons and I'm
3 sure Your Honor is familiar with those cases, I'm sure Your
4 Honor. And on that basis, Your Honor, I would object to
5 testimony of this witness and move to strike the testimony.

6 JUDGE CHRISTIANSON: I don't think he said a broker
7 in those precedence to talk about. He's not a broker of
8 passengers or freight. I understand he's more of a
9 middleman between the buyer and seller of the computer. So
10 I'll not strike his testimony.

11 MR. THISTLE: All right. Well, then may I continue
12 my cross?

13 JUDGE CHRISTIANSON: Yes.

14 THE WITNESS: Can I volunteer something?

15 MR. THISTLE: Yes, sir.

16 THE WITNESS: I consider myself exactly what he said,
17 that I am a middleman.

18 MR. THISTLE: All right.

19 BY MR. THISTLE:

20 Q. As I understand, Mr. Dags, the only shipping
21 origin -- correct me if I'm wrong -- the only shipping
22 origin that you have would be from your office or your place
23 of business at Camp Hill?

24 A. I'm going to say no. My shipping origin can
25 be from my office a majority of the time but my customer's

1 office back to me and in some extreme cases from one
2 customer site to another customer site.

3 Q. All right. Let's break that down. The
4 majority of your shipping requirements would be from your
5 office in Camp Hill? Majority?

6 A. Okay. I'm going to object to the term
7 shipping and substitute messenger. I don't ship anything
8 from my office unless it's a mistake. I buy and sell
9 equipment and I use carriers, you know, whatever trucking
10 companies it is from my supplier to the customer. I
11 don't and I don't think that's what we're addressing here.
12 I don't think we're addressing trucks with machines in the
13 back of them or anything like that. What I ship from my
14 office is paperwork, contracts, documentation, books, that
15 kind of thing. Probably nothing bigger than a box.
16 Shipping to me is a truck.

17 Q. Oh, well, okay. We're talking about the same
18 thing. We're talking about the use of a courier for the
19 transportation of these documents, proposals, that type of
20 thing. We're talking about the same thing.

21 A. Okay. Good.

22 Q. Now, what I -- am I correct in saying that the
23 majority of that transportation is from your facilities in
24 Camp Hill to your customers? Now, I'll cover the other
25 points where you have other --

1 A. Okay. I'll agree with majority.

2 Q. Okay. Now, then the next category is where
3 you say then they come from your customers back to you.
4 That's another category?

5 A. Yes.

6 Q. But that's less than from you to them?

7 A. Right.

8 Q. Okay. Now let's take -- and I haven't
9 forgotten the third category. Okay. Let's take the first
10 category, from you to your customers. In those instances,
11 sir, who pays the courier charges?

12 A. Probably our company, Computer Results. My
13 employee that delivers it or if it's Federal Express, I'll
14 eat the Federal Express charges and yeah, we pay it.

15 Q. You pay it. All right. Who would pay the
16 transportation charges from your customers to you?

17 A. It depends on the circumstance but a majority
18 of the time we would also pay that. That's why I use
19 Federal Express because number one, they are very reliable
20 and number two, I can have an origination at another site at
21 a builder name so I would say a majority of the time we pay
22 them also.

23 Q. I see. Now, what would be the occasion for
24 your transportation from a customer to a customer? Under
25 what circumstances would that occur?

1 A. I'd buy something from location A and sell it
2 to location B for instance and that's a majority of the
3 time. Or in some cases there's a -- that would be the
4 situation. I'd buy it from one location and I would sell it
5 to another person. So that would be the majority of it.

6 Q. Well, who would pay that transportation?

7 A. B would pay it, the receiving customers.

8 Q. B would pay that the receiving customer. All
9 right. Now, how, often do you have what I will call
10 outbound -- okay -- transportation from your office to your
11 customers?

12 A. Again, it's upon demand but two to three times
13 a week.

14 Q. All right. What occasions the transportation
15 from your customers back into your Camp Hill facility? What
16 would occasion that?

17 A. Turn around document where I ask them to sign
18 something and send it back to me. We also do some
19 programming work and if he has an error situation he may
20 printout, create a documentation of a problem, send it to us
21 to fix it and we also have communications setup for the
22 customer. So I'm talking about the people that do not have
23 the communications, again, upon demand. An error
24 correction, a turn around document that sort of thing.

25 Q. And how often does that happen?

1 A. Again, two to three times a week.

2 Q. All right. Now, you've already stated what
3 your total geographical area is that you cover. But let's
4 try to find out, sir, if we can where your heaviest area of
5 concentration of the transportation that you use for your
6 proposals and your other items is from your Camp Hill as far
7 as Pennsylvania is concerned, what would that be?

8 A. I would say 90 percent of it is within a 50
9 mile radius with the exceptions of Baltimore; Allentown and
10 Philadelphia. That probably sums up 90 percent of our
11 areas.

12 Q. Allentown, Baltimore and what?

13 A. Philadelphia suburbs.

14 Q. Have you ever had occasion, sir, to call upon
15 Courier Unlimited Inc., for this kind of service?

16 A. No.

17 Q. Did you get the no? Well, had you heard of
18 them, sir?

19 A. No, I had not.

20 Q. Have you heard of any other courier service
21 that might be able to meet your needs as you have described
22 them?

23 A. Only Mr. Gopher from Carl Mundis.

24 Q. I mean other than --

25 A. No. We're content to use our own people right

1 now.

2 Q. Oh, you are?

3 A. Yes. It's getting to be a strain and that's
4 why we're even evaluating something else. But right now we
5 use our own people.

6 Q. Well, if the Applicant gets this authority --

7 A. Would you repeat that? I didn't hear you.

8 Q. Okay. I'm sorry. If the Applicant gets this
9 authority he's asking for, would you completely discontinue
10 using your own people or what would be the situation?

11 A. Cost, I don't even know what his services are
12 going to cost. But from a delivery point of view, I would
13 evaluate the timeliness involved. Not, again, it's upon
14 demand. If I could call and get a pick up delivery that day
15 or in a time frame and compare it against my -- we measure
16 cost as if we weren't doing one thing what would we be
17 doing. And right now we have a gentleman that has
18 disposable time that can deliver that, thank goodness is
19 getting press. And if Carl doesn't get this thing, I'll
20 probably call somebody else or I would spend more money with
21 Federal Express.

22 Q. Said you would or wouldn't?

23 A. Would.

24 Q. Now, I use Carl because I've known him for 20
25 years and quite honestly, you trust your vendors. I don't

1 have time to be looking around for a lot of other stuff.

2 MR. THISTLE: That's all I have, sir. Thank you.

3 THE WITNESS: Thank you.

4 JUDGE CHRISTIANSON: Any redirect?

5 MR. FICKEL: No redirect, sir.

6 JUDGE CHRISTIANSON: Then the witness is excused.

7 MR. FICKEL: Your Honor, I'd like to call Ron Butler.

8 JUDGE CHRISTIANSON: Fine. We'll take this witness
9 and then see if we need to take a break.

10 RONALD D. BUTLER, called as a witness, having been
11 duly sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. FICKEL:

14 Q. Mr. Butler, for the record your name and
15 address please.

16 A. Ronald D. Butler, home address is 3524 Grown
17 Street in Harrisburg. Office address is at 300 North Second
18 Street in Harrisburg.

19 Q. And what is your occupation?

20 A. I'm an attorney.

21 Q. And how long have you been an attorney?

22 A. I've been an attorney in Harrisburg about 22
23 years.

24 Q. Okay. And you're familiar with the authority
25 that's being sought in today's hearing?

1 A. Yes, I am.

2 Q. Could you describe please the shipment needs
3 and requirements which you would have and you have in your
4 profession?

5 A.. My firm is a small professional corporation.
6 I'm the only attorney. There's several secretaries and
7 receptionists. I represent -- basically have a business
8 practice -- I represent several hundred small businessman.
9 The practice -- I have clients in the Philadelphia area,
10 Lehigh Valley area, in the Sunbury Selingsgrove area, up in
11 Lock Haven. I have a major client in Altoona. I have
12 clients in Chambersburg. But the bulk of my clientele is
13 within a 25 or 30 mile radius.

14 I have a need to move legal documents and business
15 documents to my clients, from my clients on occasion and
16 from my office to various places to file documents. And I
17 have up until now, we've been handling it in-house as best
18 we can and it's very, very inefficient. On occasions I find
19 myself being the courier and at my hourly rate, it's
20 certainly not cost effective. For a while, I had my son
21 working in my office and that worked out great.

22 But it's not cost effective for us to hire a
23 messenger. We're not that big enough of a firm. So we
24 definitely have a need for courier service and I would
25 anticipate that there are times when no other methods

1 available today to us such as FAX machines, Federal Express,
2 whatever where none of these would suffice and that you have
3 to have a courier service to make delivery either because of
4 the nature of the documents of the time constraints involved
5 and this would certainly be at a minimum, several times a
6 month as a minimum. Although, there would be no -- there
7 would be no set amount of times. It would just be as needed
8 on demand.

9 Q. In the type of service described by Towaway
10 and Carl Mundis in this particular case is that the type of
11 service that would fulfill these needs for you?

12 A. That's exactly what I'm looking for, somebody
13 trustworthy and reliable that I can entrust these documents
14 to knowing that they will safely arrive at their destination
15 or know that they will be picked up and brought to me
16 safely. In the legal profession, there's not a lot of room
17 for error. The responsibility will ultimately rest with me
18 if the delivery was not made. So I need somebody that I can
19 trust and I trust Carl Mundis.

20 Q. Being a -- how long have you been -- you say
21 you're the only attorney in your firm?

22 A. I have been the only attorney in my firm since
23 1981. So for the last 11 years I practiced as a solo
24 practitioner.

25 Q. Are you familiar with these types of needs of

1 other solo practitioners in your area?

2 A. I work with a lot of attorneys in the area and
3 delivery of documents is crucial. I know -- I deal with
4 several other attorneys who are litigators and they are
5 constantly faced with filing documents. And if they are
6 dealing in Courthouses that aren't local, you know,
7 sometimes if you wait until the last second, you know, next
8 day delivery isn't sufficient. It's got to be delivered
9 today. So you have to send somebody from your office or you
10 go yourself or you use a courier service.

11 Q. And you did mention several geographic areas
12 certainly as an attorney in Pennsylvania is it possible that
13 every county can be considered for you?

14 A. At any one particular time I could have
15 something in a county. Even though I don't have clients in
16 every county, the business clients that I do have tend to
17 operate in the counties that they are involved in plus
18 surrounding counties. So I would say over the past 20
19 years, I've probably had business dealings in most of the
20 counties in Pennsylvania, probably not all of them.

21 MR. FICKEL: Okay. That would be all I have with
22 this witness, Your Honor.

23 JUDGE CHRISTIANSON: Okay. Cross.

24 CROSS EXAMINATION

25 BY MR. THISTLE:

1 Q. Would you in the last -- would you say in the
2 last two years you've had occasion to ship to 67 counties?

3 A. No.

4 Q. Okay. Are you aware that there are existing
5 authorized courier carriers authorized by the Pennsylvania
6 Public Utility Commission who presently have authority to
7 offer the service that the Applicant is proposing here?

8 A. I am now. I wasn't before today.

9 Q. All right. Being in the profession you are
10 in, was there any reason why you didn't inquire as to
11 whether or not there was any reliable courier system that
12 could serve your company, your profession?

13 A. From one fellow attorney to another, I think
14 sometimes we just get too busy to take care of what we
15 should be taking care of perhaps.

16 Q. Have you particularly heard of Courier
17 Unlimited, Inc?

18 A. I have not heard of them prior to today.

19 Q. Do you have a particular or a special phase of
20 the law that you practice?

21 A. Mainly business areas, I represent businessman
22 with their buying, selling, leasing. Obviously, they ring
23 in other types of cases and other types of matters. But the
24 heart and soul of my practice is the businesses that I
25 represent.

1 Q. Have you used other types of sending documents
2 and so forth, not necessary for filing purposes but sending
3 documents to clients to other counsel?

4 A. Yes, we have.

5 Q. What have you used?

6 A. We've used FAX machines, we've used various
7 forms of overnight delivery, Express delivery.

8 Q. For example?

9 A. Federal Express, UPI, Airborne.

10 Q. If the Applicant were to receive the authority
11 it is seeking, would you discontinue the use of those
12 available services?

13 A. Certainly, if it was cost effective, I would
14 prefer to have the documents hand delivered. In certain
15 circumstances where you need same day delivery, there's no
16 alternative. Where you need next day delivery, I would
17 prefer courier service just because of the confidence that I
18 have that the documents will be there when they're supposed
19 to be there and picked up when they're supposed to be picked
20 up.

21 Q. If I may ask you, sir, how did you gain
22 confidence in the Applicant's courier service when it has
23 not yet performed any courier service?

24 A. I have known Carl Mundis. I have utilized the
25 services that he now has available through my Mr. Gopher

1 business.

2 Q. Through what business?

3 A. He has a business Mr. Gopher. And I have come
4 to trust and rely upon him and I feel very confident with
5 him and the fact that he would be associated with his
6 business is what I base my opinion on.

7 Q. What's this Mr. Gopher? Have you say you used
8 that? What is that?

9 A. It's just a -- basically a business where he
10 provides gopher services that, you know, that you might not
11 be able to do otherwise. If there's an errand you have to
12 run or something like that, that type of thing.

13 Q. I didn't hear that. What?

14 A. Errand, errands that type of thing.

15 Q. Does he use his own private automobile in
16 those instances?

17 A. Not to my knowledge. I have no idea.

18 Q. Well, you how does he get about?

19 A. I have no idea, sir.

20 Q. And what's the name of this operation?

21 A. Mr. Gopher.

22 Q. Mr. Gopher. What kind of service has Mr.
23 Gopher given to you, sir? Give me an example.

24 A. I'm trying -- if you just bare with me.

25 Basically, it's as I recall, it's just a -- if something has

1 to be -- if I have to pick up something or at this point I
2 don't really recall. I know we've utilized it but I don't
3 really recall the exact circumstances, you know, my
4 secretary is basically the one that would deal with it.

5 Q. Do you have any recollection as to whether it
6 involved the pick up and then delivery of papers, business
7 papers?

8 A. I couldn't say personally. It might -- I just
9 couldn't say. I'd have to check with my secretary as to
10 exactly what it was.

11 Q. And what's the gentleman's name that you're
12 talking about?

13 A. Carl Mundis.

14 Q. Carl, K or C, you don't know?

15 A. C-a-r-l.

16 Q. Mundis?

17 A. Right.

18 Q. Is he -- is Carl Mundis -- is he presently,
19 when I say presently within the last week or two, has he
20 performed some of this Mr. Gopher work for you?

21 A. No.

22 Q. No.

23 A. Actually, sir, in fact, I do recall the one
24 instance that I did utilize his service that I do recall is
25 that there were -- there were records that I needed

1 photocopied up at Commonwealth Court and I didn't have time
2 to have somebody stand there and photocopy all these
3 records, there were hundreds and hundreds of pages. So I
4 called Carl and he went up there and stood there and had
5 them photocopied and had them brought to me. That's the
6 type of errands and there are other circumstances like that.
7 But that's the one I remember sufficiently because there
8 were so many pages and I just didn't have time for somebody
9 to stand there for hours and wait for them to copy. But
10 it's basically those types of errands.

11 MR. THISTLE: I have no further questions. Thank
12 you, sir.

13 MR. FICKEL: Nothing further, Your Honor.

14 JUDGE CHRISTIANSON: The witness is excused. Let's
15 be off the record just for a moment.

16 (Discussion off the record.)

17 JUDGE CHRISTIANSON: Be back on the record.

18 MR. FICKEL: Dave Shiner, please.

19 JUDGE CHRISTIANSON: We'll take this witness then
20 decide where we go after this witness.

21 DAVE SHINER, called as a witness, having been duly
22 sworn, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FICKEL:

25 Q. Mr. Shiner, for the record, please, state your

1 full name and address.

2 A. David C. Shiner, S-h-i-n-e-r, 60 Commonwealth
3 Avenue.

4 MR. THISTLE: What was the last name, sir?

5 THE WITNESS: Shiner, S-h-i-n-e-r.

6 BY MR. FICKEL:

7 Q. Your occupation and position please?

8 A. I'm a sales manager of Shiner Insurance
9 Agency.

10 Q. And generally that type of business is what?

11 A. We have a family run agency about ten
12 employees, thirty years old. It's family owned and
13 operated.

14 Q. And how long have you been in this business?

15 A. Twenty years.

16 Q. And the business itself has been in operation
17 how long?

18 A. Thirty-two years I believe.

19 Q. Okay. What type of documentation do you
20 require? What type of transportation needs do you have in
21 this business?

22 A. We currently run into an on slot of not really
23 problems but in settlements with commercial and residential
24 properties, the banks have recently required original
25 policies out solded which was something that was really not

1 a problem before. So currently the agents that I have are
2 basically running these policies out to either the
3 policyholder or to settlements if they can't settle them.
4 It seems that many institutions are telling them Wednesday
5 that they are settling Friday. This is the sore thing that
6 we would need.

7 We also have a satellite office up in Mansfield,
8 Pennsylvania which is Tioga County which currently if there
9 is something real important that has to go up there in it's
10 original form, somebody has to take it up.

11 Q. Now, how often would these transportation
12 requirements come up on a weekly, daily, monthly basis?

13 A. We've been averaging I'd say five to seven a
14 week. Fortunately, a lot of them -- the policyholder
15 themselves can pick up a document in our office. But trying
16 to be a service oriented organization, you hope not to rely
17 on the policyholder and receive them yourself. So it would
18 help us out probably about half those times.

19 Q. Do you have requirements from your office as
20 well as to your office, transportation documents, shipping
21 requirements?

22 A. We have very few to our office. Most would be
23 our us going -- out other than maybe something coming down
24 from the Tioga office. Our main office that we deal with
25 Erie Insurance is out of Erie, Pennsylvania. Occasionally,

1 things have to go to Erie. We never really had a real
2 problem with that in the past. But it -- with the on slot
3 of all of this modern communication people expect things to
4 happen yesterday. So it's getting more and more prevalent
5 that the original documentation has to get to places, that
6 before we had time to get to. Now, they want it tomorrow.
7 There's good things about FAX machines and bad things.

8 Q. Being in the business 20 years, are you
9 familiar with these types of needs throughout your industry?

10 A. Oh, yes.

11 Q. How, would you characterize them as compared
12 to yours?

13 A. All agents have been complaining about the
14 same thing that all the sudden it's become a total rush
15 operation. It used to be we could fill out a paper in our
16 old office and we had weeks to work with and now all of a
17 sudden we find out on Wednesday that Friday is the day
18 things are due. And it's put us in a position with time
19 problems.

20 Q. Again, without any transportation service, how
21 are these needs being met?

22 A. Right now I'm utilizing the agents and girls
23 in my office. Unfortunately, you find out how valuable they
24 are.

25 Q. How is it that you came into contact with

1 Towaway and Carl Mundis and the authority that's being
2 considered today?

3 A. Actually he came to me about the insurance
4 agents operation. And I am his personal insurance agent and
5 in talking to him, I realized it's something that I also
6 have a problem with too.

7 Q. Then are you familiar in anyway with any other
8 services in the area that would provide for you?

9 A. Other than Federal Express and UPS, no.

10 MR. FICKEL: Okay. No further questions, Your Honor.

11 JUDGE CHRISTIANSON: Cross counsel.

12 BY MR. THISTLE:

13 CROSS EXAMINATION

14 Q. Have you used the services of Mr. Gopher?

15 A. No, I have not.

16 Q. Okay.

17 A. No, I better clarify that before I go on. All
18 the agents at my office have information of the availability
19 of Mr. Gopher.

20 Q. Say that again. I'm sorry.

21 A. All the agents at my office have information
22 basically a business card of Mr. Gopher. I don't think
23 anyone has used it. It's been possible that one of the
24 other agents in the office may have. I'm not sure.

25 Q. Oh, wait a minute. Maybe I -- let's find out

1 about that.

2 A. Can I volunteer our need for Mr. Gopher was
3 not for transferring documents. We are required to get a
4 picture of all of our buildings which we insure now, which
5 let's face it, we don't want to send an agent out just to
6 get pictures of a building. So that's the one thing I told
7 him we might use the service for. As I said, I'm not sure
8 if it's been used or not.

9 Q. You say one of the other agents in the office,
10 would you explain that? What do you mean by one of the
11 other agents in the office?

12 A. Well, I have five employees that are insurance
13 salesman. Our firm is agents, they are salesman.

14 Q. Oh, okay. I thought there was some magic to
15 the word other agents.

16 A. No, they are just insurance salesman employed
17 by me. We like to refer to ourselves as agents.

18 Q. And I don't mean to demean the word insurance
19 salesman either. I just wondered if there were any
20 significance to insurance agents?

21 A. No.

22 Q. Okay. So as I gather what you're here talking
23 about is the insurance policies being taken to the
24 settlement?

25 A. That's correct or given to the policyholder

1 for him to take to the settlement. But basically getting
2 into somebody's hands for the settlement.

3 Q. Okay. And where are your settlements held?

4 A. Most of them within I guess four or five
5 county area around here. And like I say also in Tioga
6 County and Bradford County area. That's where our other
7 office is.

8 Q. Okay. Who pays for -- well, strike that. How
9 do you get the policies there now?

10 A. Either the agent or one of the people in the
11 office delivers it or the policy owner may come to the
12 office if it's convenient for them. Once again, we're a
13 service organization so we try to make the policyholder do
14 as little as possible.

15 Q. Who do you anticipate would pay for the
16 transportation charge if you use the Applicant for this
17 service?

18 A. That would be our expense.

19 Q. And how soon would you expect a pick up if
20 you're sitting around the settlement table and you say, oh,
21 the insurance policy, and you call and you want it. How
22 soon would you expect the carrier to pick it up at the
23 office and bring it right to the settlement?

24 A. That is very rare that that would be the case.
25 Usually it's when as I said we find out on a Wednesdays the

1 settlement is Friday and it takes us about a day to generate
2 the policy. So we basically have one day to deliver it.
3 It's very -- although it has happened, it's very, very rare
4 that we would have to go into a settlement table and deliver
5 a policy because of stuff like that.

6 Q. Well, isn't it so that don't you or your agent
7 involved, don't you appear at the settlement?

8 A. Excuse me?

9 Q. Don't you appear at the settlement?

10 A. No, no. We're just the insurance agents.
11 We're usually not there. That was a long time. We normally
12 are not in settlement.

13 Q. How about the purchasers either the broker or
14 agent, do you call him and say here we have the policy?

15 A. Occasionally, yes. In fact, there are a
16 couple real estate brokers in the area that prefer that I
17 deliver the policy for him to take to settlement. That does
18 occur.

19 Q. In those instances you wouldn't call the
20 applicant where the agent prefers to take it?

21 A. Well, we call the Applicant and explain that
22 we're delivering the policy to him, yes. Our policyholders
23 is our policyholder not the real estate agent.

24 Q. Right. So you would ship it by the Applicant
25 even though the real estate agent said I would like to take

1 it or the purchaser's agent said I would like to take it
2 with me to the settlement. You would say you can't have it
3 we're going to deliver it by vehicle?

4 A. Oh, no. A lot of people especially in this
5 area are coming in from out of town, buying properties and
6 they are really coming in just for settlement. So it's
7 easier for us to deliver a policy to the realtor and have
8 them take it and sell it to the individuals and our contact
9 with the policy at that point is one-on-one with him. It's
10 just, you know, I don't know this area very well but we have
11 a lot of IBM transits there that are constantly coming in
12 and leaving.

13 Q. Have you been advised by the Applicant what
14 the charge would be for the transportation service?

15 A. Not at this point, no.

16 Q. Pardon?

17 A. No, I have not.

18 Q. Have you made any investigation or called any
19 existing courier service to at least discuss with them the
20 possibility of their rendering this service for you?

21 A. No. Actually, I never realized there was even
22 courier services. As I said in talking to Mr. Mundis I
23 found out that this service does exist and when I say found
24 it, it might work for us.

25 Q. And what?

1 A. Found it might work for us. But I never
2 spoken to anyone or, you know, solicited it at all.

3 Q. I presume that includes my client Courier
4 Unlimited Inc., have you ever heard of them?

5 A. No, sir.

6 Q. If you made an investigation or a check and
7 found reputation to be satisfactory, would there be any
8 reason why you wouldn't utilize this service?

9 A. I can't see of any, no.

10 MR. THISTLE: No further questions.

11 MR. FICKEL: Nothing further, Your Honor.

12 JUDGE CHRISTIANSON: Okay. The witness is excused.
13 Let's be off the record again for a moment.

14 (Discussion off the record.)

15 JUDGE CHRISTIANSON: Let's get back on the record.
16 Then we'll try two more witnesses before lunch if we can get
17 them in.

18 MR. FICKEL: Next would be Rod Swank.

19 RODNEY SWANK, called as a witness, having been duly
20 sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FICKEL:

23 Q. For the record please, Mr. Swank, your name
24 and address.

25 A. My name is Rodney H. Swank, S-w-a-n-k. I

1 reside at 637 Cedar Ridge Lane, Mechanicsburg, Pennsylvania.

2 Q. Where?

3 A. Mechanicsburg. My business address is 214
4 Summit Avenue, Camp Hill, Pennsylvania.

5 Q. And what is your occupation?

6 A. I'm a major account manager for Sprint
7 Communications Company. I'm a sales representative.

8 Q. And in this position are you aware of the
9 transportation and shipping needs that are subject to the
10 authority application here today?

11 A. I am.

12 MR. THISTLE: Excuse me, Your Honor, I don't want to
13 raise an objection but I will unless the Applicant is
14 requesting to state whether he's authorized to appear here
15 on behalf of his company.

16 JUDGE CHRISTIANSON: Well, let's check that.

17 MR. FICKEL: That's what I was getting into as far as
18 his knowledge.

19 BY MR. FICKEL:

20 Q. And for the record, are you authorized by your
21 company to appear here and testify on his behalf and commit
22 on behalf of Sprint?

23 A. I'm not an official officer of the company,
24 no, if that's your question?

25 Q. I guess you're not an officer. I mean, are

1 you authorized to require transportation services for your
2 branch?

3 A. I am.

4 Q. Okay. Is that satisfactory as far as
5 you're --

6 MR. THISTLE: I'm not satisfied, Your Honor. I'm not
7 really sure he testified that he's authorized to commit for
8 his -- for what he -- where he works.

9 JUDGE CHRISTIANSON: Did you have to get permission
10 from anybody to come here today?

11 THE WITNESS: No.

12 JUDGE CHRISTIANSON: Well, I'll allow it to proceed.
13 I understand the objection and the authorization is the
14 problem I guess he's authorized to provide courier
15 transportation. So I'll listen to the witness.

16 BY MR. FICKEL:

17 Q. Thank you. What type of document and
18 transportation needs do you experience in your business?

19 A. I deal primarily with state government in
20 Pennsylvania and the state universities where contract
21 documents have to be passed back and forth from me to the
22 university or the state government agency and conversely
23 back to my office in Camp Hill. Occasionally, delivery of
24 RFP's which are in response to proposals that have deadlines
25 by virtue of state procurement laws. Magnetic media from

1 those same agencies back to my office for analysis.
2 Primarily on a, you know, as need basis on an occasion maybe
3 two -- three -- four times a month. There's no set time.
4 It's only a demand basis.

5 Q. Okay. And what type of geographic location
6 does this entail?

7 A. Well, since I deal with the state universities
8 within the state, the entire state because there are remote
9 towns all over the state of Pennsylvania from Erie to close
10 to Pittsburgh to North Mansfield, Lock Haven all over the 14
11 main campuses to the state universities and I deal with them
12 frequently.

13 Q. How is this service currently being met?

14 A. I do a lot of it myself. Sometimes I use
15 Federal Express, or Airborne or one of the other night
16 services such as that. I've found them on an occasion not
17 to be reliable where I lost a \$50,000.00 bid because
18 overnight service didn't deliver the documents on a timely
19 basis. So I'm very sorry for using them.

20 Timely RFP information that requires, you know,
21 something being there on time and I might need a receipt for
22 that so it can cost me money if something is not delivered
23 on a timely basis.

24 Q. Would the issuing authority in this particular
25 case to Towaway, would that benefit your needs and benefit

1 you?

2 A. Absolutely.

3 Q. How did you come in contact with Towaway and
4 Mr. Mundis in this operation?

5 A. I've known Carl Mundis from previous business
6 dealings in the past years and most recently I've known Carl
7 in his business of Mr. Gopher that we've talked about. I
8 haven't had an occasion to use but I've known Carl for a
9 long time and I trust his business.

10 Q. Just if I can, one other point you say you
11 have transportation needs both to and from your facility?

12 A. That's correct.

13 MR. FICKEL: Nothing further of this witness, Your
14 Honor.

15 MR. THISTLE: What was that last question and answer?

16 JUDGE CHRISTIANSON: Let me just paraphrase it. Do
17 you have transportation needs to and from your facility?
18 And the answer is yes.

19 CROSS EXAMINATION

20 BY MR. THISTLE:.

21 Q. Mr. Swank, who's your superior?

22 A. My superior is William Sill, S-i-l-l.

23 Q. What is his title?

24 A. He's the branch manager.

25 Q. I take it from what you said on your direct

1 examination that you didn't ask him whether you could appear
2 here and represent Sprint, did you?

3 A. That's correct.

4 Q. That's correct. You did not?

5 A. That's correct.

6 Q. If the Applicant were to receive the authority
7 it is seeking, would you have to say anything to Mr. Sill or
8 could you just go ahead and use whoever you wanted including
9 the Applicant for transportation?

10 A. I could use the Applicant or anyone else for
11 transportation as on an as need basis. Maybe I should
12 clarify quickly, our office in Camp Hill is a remote office
13 to our main branch office in Towson, Maryland in the three
14 representatives there plus office staff and we pretty much
15 on as our needs are require have the authority to utilize
16 whatever services are necessary to do our business. If it
17 requires getting a document from point A to point B, and we
18 look at cost, we look at timeliness and in my case because
19 timeliness is paramount and certainly within reasonable cost
20 constraints, I can use whatever means necessary.

21 Q. So in other words, your answer is no, you
22 would not have to consult or even tell Mr. Sill that you're
23 using some carrier?

24 A. I would not.

25 Q. Completely independent?

1 A. That's correct.

2 Q. Has Mr. Sill given you such blank authority?

3 A. Our company based on the responsibilities that
4 I have and the other account people in my office because we
5 are remote, we have the authority within reasonable cost to
6 do whatever -- whatever is necessary for us to do.

7 Q. Who makes the determination as to reasonable
8 cost?

9 A. We do in our office. Our company -- I've been
10 working for the company for five years and I have a
11 knowledge of what they consider reasonable cost. Quite
12 frankly, if I had to have a document delivered and it was a
13 situation such as where I lost a \$50,000.00 bid, I would
14 have a courier deliver that. And if the company would not
15 reimburse that as an expense, I would have no problem paying
16 that out of my own pocket.

17 In other words, if the company would say we don't
18 consider this a justified expense, it would come out of my
19 own pockets and I certainly would not have a problem with
20 that. In -- conversely, my counterparts feel the same way.

21 Q. Do you have any duties at your Camp Hill
22 office beyond the state government contracts between the
23 universities and Sprint?

24 A. No, I do not.

25 Q. You're limited just to that?

1 A. It's more than I can handle, sir, not only do
2 I have that responsibility in Pennsylvania but I have
3 Maryland and Pennsylvania and Virginia also.

4 Q. Who else is in your office there at Camp Hill?

5 A. We have two other sales representatives; an
6 account consultant who handles technical installs and that
7 sort of thing for us for telecommunications. I'm trying to
8 keep it simple because you might not be oriented. We have a
9 secretary and I'm just dealing directly with our -- what we
10 consider our national counsel division.

11 We also have a small business division there within
12 the same office facility that that division employs ten
13 people and there would be an occasion where they could also
14 use the service but not as on a demand basis or as critical
15 basis as I would.

16 Q. Where -- are you responsible to anyone on the
17 company or are you completely independent?

18 A. Could you clarify that?

19 Q. To report to anybody?

20 A. Yes, William Sill, my branch manager.

21 Q. Okay. What was your relationship with Gopher?
22 Were there any services provided for Mr. Mundis -- Mr.
23 Gopher for your phase of the operation of Sprint there at
24 Camp Hill?

25 A. No, I have not used the service. However, I

1 am aware of the services that are available. And on
2 occasion, they have need for, for instance, within the state
3 government of picking up house bills or senate bills at
4 the -- downstairs in the main capital and delivering them
5 back to me. Some things local just basically gopher kind of
6 things within a local basis. Getting copies of documents or
7 something of copying large files that maybe I would have Mr.
8 Gopher hand carry an RFP to 2221 Forster Street where the
9 telecommunications office resides and that would save me
10 time from doing that. Those sorts of things.

11 Q. But you haven't to date?

12 A. I have not.

13 Q. How are you presently communicating with these
14 documents and the universities?

15 A. As far as getting that information to them and
16 back to me, I generally do it myself or I'll use the
17 overnight Federal Express, UPS delivery.

18 Q. When you do it yourself, is it in connection
19 with either a sales representation by you or a consultation
20 by you with them? In other words, a -- something that goes
21 along with performance of other duties in relationship to
22 Sprint and your universities?

23 A. What I would contract the courier service to
24 deliver for me?

25 Q. No, that's not what I asked you.

1 MR. THISTLE: Your Honor, may I ask the reporter to
2 read back what I -- I tried to carefully phrase what I said.

3 JUDGE CHRISTIANSON: Go ahead. Can you read back
4 that last question for Mr. Thistle?

5 (The question was read back by the Court Reporter.)

6 THE WITNESS: If I were to personally deliver an RFP
7 in response to a proposal that would not be an opportunity
8 to do any sort of sales presentation. It's a styled
9 document delivery to a purchasing officer or a procurement
10 officer and it's basically a delivery to get a receipt and
11 use.

12 But there are occasions that in totally away from the
13 context of this hearing that certainly I would deliver a
14 proposal that is an unsolicited proposal and present it to a
15 group of people, yes. To answer your question directly,
16 yes, but indirectly to the context of this hearing, no, it
17 would not be.

18 Q. All right. Is it your testimony, sir, that
19 the need of which you have spoken here is in relationship to
20 Sprint documents to state universities?

21 A. In relationship to state universities.

22 Q. Well, all right. In your performance for
23 state that's in relationship to documents to and for state
24 universities?

25 A. Yes.

1 Q. Okay. And are my notes correct when I have a
2 notation here that you said there are 14 state universities?

3 A. There are 14 main campuses.

4 Q. Main campuses, did you say?

5 A. That's correct.

6 Q. Are you able to -- now this may be a task. If
7 you can't, that's all right -- are you able to name those
8 14?

9 A. Oh yes.

10 Q. And where are they located?

11 A. Well, let's start in the Western part of the
12 state up to Erie, Edinboro University.

13 Q. And where is that Edinboro?

14 A. Edinboro, Pennsylvania.

15 Q. What county?

16 A. It might be Erie County.. I'm not that
17 geographically inclined. In the West, South of that is
18 Slippery Rock University.

19 Q. Which is?

20 A. Slippery Rock, Pennsylvania.

21 Q. Okay. You don't know the county?

22 A. No.

23 Q. Okay. That's all right.

24 A. South of that is California University which I
25 think is in Washington County.

1 Q. Okay.

2 A. Coming back up toward the Central part of the
3 state, Indiana University.

4 Q. Indiana County?

5 A. Yeah, North of Indiana is Clarion University.

6 Q. Clarion County, right?

7 A. I would assume so. South and East would be
8 Lock Haven.

9 Q. Right.

10 A. North of that Mansfield. And all the way
11 South in the same line would be Shippensburg University,
12 Bloomsburg University which is North and East and toward the
13 Poconos near Hazleton.

14 Q. Bloomsburg, and after that?

15 A. Bloomsburg and East Stroudsburg University in
16 East Stroudsburg, Pennsylvania. To the South would be West
17 Chester University, Cheney University, coming back across
18 the state to the South in West would be Millersville
19 University.

20 Q. Where?

21 A. Millersville, which is in Lancaster County.

22 Q. That's thirteen.

23 A. I missed one. Did I get Mansfield?

24 JUDGE CHRISTIANSON: Is there one in Harrisburg?

25 THE WITNESS: No, there is not. There is a

1 University Center in Harrisburg and a chancellor's office
2 resides in Harrisburg.

3 BY MR. THISTLE:

4 Q. Temple?

5 A. Temple is not. Kutztown which is in Berks
6 County, sorry about that. Additionally, I have
7 responsibilities at Penn State University, Bucknell,
8 University and Dickinson University in Carlisle.

9 Q. Okay. All right. One last question I guess.
10 How did you become aware of Mr. Gopher not Mr. Gopher, well,
11 okay, that was the name you used Carl Mundis. How did you
12 get to know him or get to know his service?

13 MR. FICKEL: Your Honor, if we have a clarification
14 of that question. I mean, the Applicant is -- what's
15 relevant and I'm not sure what his question is.

16 JUDGE CHRISTIANSON: Well, I'm assuming it's
17 referring to Applicant. The gentleman is essentially acting
18 as front man or contact for Applicant.

19 MR. FICKEL: Right.

20 JUDGE CHRISTIANSON: So how did you get to know the
21 Applicant?

22 THE WITNESS: In conversation that Mr. Mundis was
23 considering this authority in Pennsylvania with Towaway and
24 they were teaming to create that entity and asked, you know,
25 would I have a need for those types of services and if I

1 did, would I use them.

2 MR. THISTLE: Okay. I think that's all. Thank you,
3 sir.

4 MR. FICKEL: Nothing further.

5 JUDGE CHRISTIANSON: Then the witness is excused.

6 MR. FICKEL: I do have one other witness that does
7 have to go to a meeting this afternoon.

8 JUDGE CHRISTIANSON: We've had one. Since we said
9 two, we have another one.

10 MR. FICKEL: Okay. One other one, Mike Cleary.

11 MICHAEL J. CLEARY, called as a witness, having been
12 duly sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. FICKEL:

15 Q. For the record, your name and address please?

16 A. Michael J. Cleary, C-l-e-a-r-y, home address
17 is 17 Edgewood Drive, Mechanicsburg, Pennsylvania 17055.

18 Q. Thanks for hanging in there. I know we're
19 trying to get through this as expediently as possible.

20 Could you please -- I know you've been here probably for
21 some other testimony. Is that correct?

22 A. Yes.

23 Q. You have a general idea as to what the nature
24 of the testimony would be. Based on the fact that you're
25 pressed for time, if you could go through and explain and

1 testify as to the nature of your business, your shipping
2 needs and frequency etc., in that nature and proceed that
3 way.

4 A. Yes, I am president of Cleary, the same name,
5 Rehabilitation Services Incorporated, street address is 507
6 North York Street, Suite 3, Mechanicsburg, Pennsylvania
7 17055. My business, --we basically are insurance
8 rehabilitation, consultants. I employ, nurses, vocational
9 job placement people who work from their house, homes
10 throughout the state and we also have clerical staff in the
11 Mechanicsburg office which is our soul office.

12 We primarily work as independent consultants for
13 insurance carriers who assign us worker's compensation
14 claims and we are asked to get involved with the injured
15 party, his or her attorney, physician, any other outside
16 agency that maybe involved in the claim process and our goal
17 is to help these people get back to work sooner either in
18 their present employment or their previous employer or a new
19 employer so the claim can be resolved in a quicker fashion
20 than had we not been involved.

21 Q. Now, what type of documents are generated that
22 need transportation in your area?

23 A. We receive numerous doctor's reports,
24 physician reports, x-rays on occasion that we would
25 transport to physicians. We receive a number of legal

1 documents. Our people in the field generate quite a bit of
2 paperwork in the form of job notification letters.
3 Interviews with employers, letters to physicians in setting
4 up appointments, asking physicians questions regarding the
5 status of the individual, whether they can work at their
6 jobs, how soon they could go back to work, the injured party
7 that is that they refer to the claimant, since they're
8 receiving claim benefits from the worker's compensation.
9 And we also get involved in the litigation process on
10 worker's compensation claims.

11 The need we would have for an agency such as Towaway,
12 Mr. Gopher is how we first came to know this type of
13 operation we're talking about the carrier service is that we
14 on occasion set up independent medical exams with
15 physicians. We write the physician, we send the various
16 reports that we have from other physicians and on occasion
17 the physician in 24 or 48 hours his office will call up and
18 say we need something else, sometimes we need the x-rays.

19 So we would have to run down to the hospital and use
20 the sign -- medical professional authorize that we have that
21 was to be signed from a claimant prior to this sequence of
22 events, pick up the x-rays and bring them to the doctor's
23 office so he could review the x-rays prior to his
24 examination.

25 That would also involve us transporting some doctor

1 reports that maybe we didn't include that we didn't think
2 the doctor wanted and now he says he wants them at the last
3 minute.

4 The other need we would have and it just occurred
5 yesterday is that attorneys sometimes get off their
6 schedule. We had a case yesterday that we could have used
7 Mr. Gopher but I was out of the office that the attorney
8 said he needed our file materials for a worker's
9 compensation hearing that was coming up I believe Wednesday
10 or Thursday this week. It was our first notice of hearing.
11 We had to get all our documents together. We sent them to
12 the attorney and the attorney utilized the same in the
13 hearing process.

14 Q. Generally your frequency of these needs is
15 that a daily, weekly basis?

16 A. No, it's not. It would be based on an
17 emergency basis. It could be three times a week. It could
18 be two times a month.

19 Q. And is there any counties within the state
20 that are not served by you and your business?

21 A. Yes, we only go as far West as Altoona,
22 Johnstown, Bedford area. We handle the rest of the state.
23 East of that we go into northern Maryland, we go into the
24 Pennsylvania side of New Jersey, Western New Jersey, and on
25 occasion Elmira, E-l-m-i-r-a, New York right on the state

1 line.

2 Q. How are these needs being met currently if at
3 all?

4 A. On a very -- on a rush basis we're using air
5 overnight Express that type of thing, Airborne Express.

6 Q. And you've been in this business how long?

7 A. I've been in the business since 1976. I've
8 been operating my own company as President of Rehabilitation
9 since October 17th of 1983.

10 MR. FICKEL: No other questions, Your Honor.

11 JUDGE CHRISTIANSON: Okay. Cross.

12 MR. THISTLE: Oh, I'm sorry.

13 CROSS EXAMINATION

14 BY MR. THISTLE:

15 Q. I just found something interesting. You say
16 you owned your own trucking business?

17 A. No trucking no, rehabilitation.

18 Q. I'm sorry. I misunderstood you. That's why I
19 was so involved here. What were the other two counties you
20 said Altoona or points rather?

21 A. We go as far West as Altoona, Bedford that
22 area. We do not go into the Pittsburgh area in that part of
23 the state. And by the way, I authorized myself to come
24 here.

25 Q. Okay. Thanks. I think you said you were

1 president.

2 A. Yes, sir.

3 Q. All right. Sir, have you used Mr. Gopher or
4 Mr. Gopher's service?

5 A. No, I have not.

6 Q. You have not. How did you hear about it?

7 A. Mr. Mundis was a former business associate
8 with a very good friend of mine a Mr. Buhler, B-u-h-l-e-r.
9 They are very good friends professionally. I met Mr. Mundis
10 socially golfing with Mr. Buhler and became aware of them
11 leaving a former employment and became aware of Mr. Mundis
12 forming Towaway, Mr. Gopher, etc. I expressed an interest
13 because it struck me that we could have a need for such
14 service on an emergency basis as I just described. But we
15 have not used them to date.

16 One of the reasons we have not is that we have our
17 people living in areas that are spread all through the
18 state. So I saved his material and presented it at a
19 presentation on June 24th when we had all of our people in
20 for a quarterly meeting. We have not used it to date but I
21 encourage all our people to go through our supervisor if
22 they have a need for sale.

23 Q. So have you heard from all your people yet?

24 A. I discussed it with several people. We have
25 not had a need yet. We would have yesterday but I was not

1 involved to authorize. We have not used it. I know we have
2 not.

3 Q. Would that be one of the determining factors
4 that your people -- how they responded?

5 A. It would be, yeah. They would have to go
6 through their supervisor who I also supervise people in the
7 field and we would have to see, well, what the time frame
8 was and what the situation was for us to authorize that.

9 Q. Okay. Have you heard, sir, of or have you
10 investigated any existing authorized courier services?

11 A. I never considered it. I didn't even know of
12 any such service existed. I really did not, not until I was
13 introduced to Mr. Gopher.

14 MR. THISTLE: Okay. No further questions. Thank
15 you, sir.

16 MR. FICKEL: Nothing further.

17 JUDGE CHRISTIANSON: The witness is excused and let's
18 be off the record.

19 (Whereupon, at 12:55 p.m., the hearing recessed, to
20 reconvene at 1:45 p.m., the same day.)

21 MR. FICKEL: We call Gary Torcaso.

22 JUDGE CHRISTIANSON: Counsel has called his next
23 witness and please step forward.

24 GARY TORCASO, called as a witness, having been duly
25 sworn, was examined and testified as follows:

1 disability.

2 Q. And where's this business located?

3 A. Lancaster, PA.

4 Q. Okay. And could you explain the types of
5 property shipment requirements that you have in this
6 business?

7 A. Yes. Basically as insurance agents we've been
8 bogged down lately. We're getting a lot of dock reports to
9 and from insurance companies, a lot of documentation to and
10 from the clients once the documents come in from the
11 respective insurance companies. And for an agent to keep on
12 going out after doctor reports, receiving them and coming
13 back it's getting too time consuming. So a lot of us are
14 looking for another way out. We did a lot of Federal
15 Express but when you're starting to deal with individual
16 basis, it starts to get expensive when your mailing out a
17 lot of one per shipment.

18 Q. What type of frequency have you experienced
19 with this need?

20 A. Basically daily. You're out to see a client
21 and nine times out of ten, you're required to get a doctor's
22 report. So you must get a doctor's authorization form
23 signed and then you have to go see the doctor and then when
24 they get done with the report it can take anywhere from a
25 few days to a few weeks.

1 They will call you up, you get it, go hand pick it
2 up, bring it back. The longer you wait to get the doctor's
3 report the more time goes by and the individual that you're
4 treating might be out of insurance for a specific period of
5 time. So time is of the essence.

6 Q. Do your requirements entail both receiving to
7 your office in Lancaster and also shipping from that point?

8 A. Yes.

9 Q. And what is the geographic location that you
10 deal with and that you would have needs for?

11 A. All of Pennsylvania every area.

12 Q. Are there specifically any particular areas of
13 which you know you do not deal with?

14 A. No. I'm licensed in the state of
15 Pennsylvania. I can go anywhere.

16 Q. Okay. How is this need currently being
17 served?

18 A. Basically what's happening is the agents
19 themselves have to do all the work and it's time consuming
20 when you can be seeing someone else. You're losing a lot of
21 time. You're losing a lot of clients and it's just too cost
22 effective to do it on your own time. So we're looking at a
23 way of going out and receiving additional help by getting a
24 carrier.

25 Q. The cost of this transportation is that born

1 by you?

2 A. Yes, and the other agents that are in office,
3 also.

4 Q. Okay. How is it that you came in contact with
5 Towaway Express in this current application for this
6 particular authority?

7 A. By -- I've known Carl Mundis for a few years
8 and we talked about it. And when I was going over some
9 insurance needs with him, the subject came up and I was
10 looking into it.

11 Q. What did you say the size of your office is?

12 A. There's my partner and myself and also we have
13 seven other agents in the office.

14 Q. And how long have you been in this business?

15 A. Eight years.

16 Q. Do you come in contact with other individuals
17 and agents and businesses similar to yourself in this?

18 A. Yes, I've been running into a lot of agents
19 from other companies. What we like to do is on a
20 professional basis if I can help the client in a specific
21 area of insurance needs, what I end up doing is calling
22 somebody from another company that could come in and maybe
23 help them out. So agents talk to each other on an
24 individual basis and you're running into more and more of
25 the needs because it's too --

1 MR. THISTLE: I'm sorry. Go ahead. Finish your
2 sentence.

3 THE WITNESS: It's too time consuming to take care
4 of.

5 MR. THISTLE: I move to strike the last part as
6 strictly hearsay. He's talking about other agents and other
7 parts of the state and about the troubles that they have.
8 Really that's too much, Your Honor. First part is all
9 right.

10 JUDGE CHRISTIANSON: I'll disregard the hearsay about
11 what other agents are concerned with.

12 MR. FICKEL: I would have no other questions, Your
13 Honor.

14 JUDGE CHRISTIANSON: You're getting quicker.

15 MR. FICKEL: Not purposely. But if the Court
16 appreciates it, certainly.

17 CROSS EXAMINATION

18 BY MR. THISTLE:

19 Q. We're going to explore your statement that you
20 ship to every point in Pennsylvania. Okay. We're going to
21 check that out. Okay. Within the last six months, have you
22 shipped to Erie?

23 A. Yes.

24 Q. All right. Approximately when?

25 A. Two months ago for a client.

1 Q. All right. How about Crawford?

2 A. Not in the last couple of months.

3 Q. Now, the Erie shipment was that for one of
4 your direct clients?

5 A. For a client, yes.

6 Q. All right. Was that someone who placed the
7 insurance with you from Erie?

8 A. Yes.

9 Q. How about in Mercer?

10 A. Not in the last two months.

11 Q. I don't want to go through all 67 but that's a
12 pretty broad statement that you shipped to every point in
13 Pennsylvania and I don't know how long --

14 A. Can I clarify very easily for you?

15 Q. Well, all right. What?

16 A. I'm an individual agent. I can go to anywhere
17 I want in Pennsylvania to sell insurance. The need arises
18 constantly for referrals. I was just in Pittsburgh two days
19 ago. So the need arises because I can sell in the state of
20 Pennsylvania for me getting back contracts and I'm seeing so
21 many people, I have hundreds of clients. It's too hard for
22 me to run back and forth to get information especially
23 doctor's reports.

24 So basically I'm trying to find a carrier that I know
25 can handle these things for me. I can't say that I've been

1 in all 67 or how many counties there are in Pennsylvania
2 today. I'm saying because of I work on a big referral
3 basis, I can be there tomorrow. I can be there in a week
4 from now. And I've been to a lot of places already in the
5 eight years that I've been in business.

6 So to clarify, I can't sit down and say yes, because
7 I might have sold somebody three years ago that I can't
8 remember because my clientele is too big. So I would have
9 to go back to the records and find out exactly where I would
10 have been.

11 Q. You don't have any shipping documents with you
12 to indicate where you have and where you haven't?

13 A. No. I used a lot of Federal Express and UPS
14 on the items.

15 Q. You'll discontinue those if this application
16 is approved?

17 A. Pardon me?

18 Q. You will discontinue using that service if
19 this application is approved?

20 A. On the basis pretty close, yes, because if I
21 run into a few clients that are in the same vicinity and
22 cost effective it's a lot easier for the carrier to pick up
23 and transfer documentation and everything to that specific
24 area rather than going UPS or Federal Express for each
25 individual case.

1 Q. How would you go about and for what would be
2 the occasion that you would have a client in Fayette County?

3 A. They call me up, they need my services.

4 Q. From Fayette County they call you at your
5 office here?

6 A. Yes, I have people call me from California but
7 then they realize that I only have a license in the state of
8 Pennsylvania. I had to refer them to someone else. When
9 you deal with special individual insurance there's large
10 families involved and they refer you to someone in their
11 family and friends and that's how you can spread up real
12 far, very fast.

13 Q. You have some counties in which there's
14 nothing but bear. Let's take McKean County. Have you had
15 anybody from McKean that you can remember?

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

22 Q. Yeah, I understand that. Same as attorneys we
23 can practice in any county.

24 A. Right.

25 Q. I don't happen to have anybody in Warren

1 County that I represent. There's nothing there. But anyway
2 how about -- I think you've answered the question. Let's go
3 a little South here, Perry?

4 A. Pardon me?

5 Q. Perry? Same answer?

6 A. Not that I can recall in the last few months.

7 Q. All right. Have you used the services of Mr.
8 Gopher?

9 A. No, I haven't.

10 Q. You have not. Has your situation become
11 intolerable, the transportation situation?

12 A. No, but I'm losing a lot of time and effort
13 trying to keep up with getting especially doctor reports is
14 the main thing that's tying me down. I can be seeing one
15 client but now I have to drive maybe 50 miles because that's
16 where the individual I saw last week and I have to go get a
17 doctors report because they in turn didn't send me one
18 through the mail and I have to hand pick one up. There are
19 certain documents through FAX machines that they won't
20 accept either.

21 Q. I just want to be clear. If the Applicant
22 gets the authority, you would use the Applicant to the
23 exclusion of all other means of transportation and
24 communication?

25 A. Not to all exclusions. I would do some

1 locally where I'm going to another appointment that I have
2 to pick up documents for and I'd just pick that up myself.
3 But if I'm supposed to be in one town and I have to -- the
4 doctor's office gives me a call and I have to pick up the
5 report in another town, I would use that carrier.

6 Q. Who pays -- who's going to pay for this
7 transportation?

8 A. I do.

9 Q. You do?

10 A. Yes.

11 Q. Are you using the service now?

12 A. Yes.

13 Q. Well, that's what I'm talking about, who will
14 pay for this service of the Applicant?

15 A. I will.

16 Q. Are you going to absorb that?

17 A. Yes.

18 Q. Do you have any idea how much that's going to
19 cost you?

20 A. From looking at what I've been doing with UPS,
21 hopefully less expensive.

22 Q. Have you discussed that with the Applicant?

23 A. Not fully as of yet.

24 Q. Now, these seven other agents, are they really
25 agents or are they employees of yours?

1 A. They are individual. They are agents but I
2 don't employ them.

3 Q. Say that again.

4 A. They are agents that work for us but we do not
5 employ them. They are independent contractors. They work
6 specifically for my agency.

7 Q. Have you included them in your description of
8 the territory you serve?

9 A. Yes.

10 Q. If I've already asked this I don't mean to be
11 repetitive. Have you checked to see if Courier Unlimited
12 could perform the transportation which you say that you
13 would like to have?

14 A. Truthfully I haven't. This is the first I
15 ever heard of them and in my business because I'm constantly
16 going out seeking individuals to sell insurance to I rely
17 heavily on advertising or people coming to me because I
18 don't have the time to go out and look for people to take
19 care of some of the duties or else I can be doing them on
20 my free time. So I first got the notion of the idea when I
21 heard of Mr. Gopher on the advertisement and that's how I
22 got into contact with Carl Mundis.

23 Q. Where did you see the advertisement?

24 A. Radio.

25 Q. Radio?

1 A. Yeah.

2 Q. What did the -- I'm interested. I haven't
3 heard it myself. What did the advertisement say?

4 A. It says about any type of Gopher services that
5 he would need to perform when you're too busy to get things
6 done yourself to give him a call.

7 Q. Did it give a telephone number?

8 A. I think it did.

9 Q. Do you remember what that was?

10 A. No, I just heard a few advertisements and
11 that's what clicked in my head instead of using UPS or
12 Federal Express.

13 Q. What station did you hear that on?

14 A. I couldn't tell you which one. I listen to a
15 few different ones so I can't pinpoint exactly which one.

16 Q. Was it in your office area or at home or --

17 A. I heard it in the car driving through
18 Harrisburg area.

19 Q. Okay. I'll have to listen in here. And was
20 advertised as Gopher -- Mr. Gopher?

21 A. Mr. Gopher.

22 Q. Oh, that's interesting. What else did the ad
23 say? Do you remember?

24 A. Nothing really sticks in my mind. It's just
25 what sparked my --

- 1 Q. And you called that number?
- 2 A. No, because I don't -- I didn't write it down.
- 3 I just heard a few advertisements.
- 4 Q. Well, then how did you ever make the contact?
- 5 A. I knew Carl for a couple of years.
- 6 Q. Oh, I see and you knew that Carl was Mr.
- 7 Gopher?
- 8 A. Yes.
- 9 Q. Oh, I see. How long ago was that, sir?
- 10 A. Pardon me?
- 11 Q. How long ago was that, sir?
- 12 A. What?
- 13 Q. How long ago did you hear that on the --
- 14 A. -- radio?
- 15 Q. Yeah.
- 16 A. I would say about half a year ago.
- 17 Q. Six months. Okay. Did you ever receive any
- 18 of his literature?
- 19 A. No.
- 20 Q. I presume from your answer when I asked you if
- 21 you had ever called on Carrier Unlimited then you gave an
- 22 answer I presume from that answer your answer was no to that
- 23 question?
- 24 A. Yes, that's correct.
- 25 Q. About any other carrier?

1 A. No. That's what I was saying. I didn't
2 hear -- what sparked my interest is when I heard on the
3 radio Mr. Gopher -- I never heard of any other courier
4 advertisement.

5 Q. Did you ever look in the phone book?

6 A. No.

7 Q. Well, look in the phone book for a courier is
8 what I meant to ask you.

9 A. No.

10 Q. I presume you have looked in the phone book
11 otherwise?

12 A. No.

13 Q. Okay. I didn't want to mislead you. I
14 presumed you looked in the phone book and the yellow pages
15 for other things but I didn't want to mislead you. Is that
16 correct?

17 A. Not as often.

18 Q. No, but you have?

19 A. Yes.

20 MR. THISTLE: That's all the questions I have. Thank
21 you, sir.

22 JUDGE CHRISTIANSON: Fine, thank you.

23 MR. FICKEL: Just a couple follow up.

24 REDIRECT EXAMINATION

25 BY MR. FICKEL:

1 Q. Do you have many references and referrals from
2 the western part of the state?

3 A. Yes, I do.

4 Q. Would you be able to estimate a percentage of
5 your business if that's possible?

6 A. I would say approximately anywhere between 20
7 to 30 percent. I'm originally from New Kensington,
8 Pennsylvania. My family is from there so I have a big
9 clientele in the Pittsburgh area.

10 MR. FICKEL: Nothing further, Your Honor.

11 MR. THISTLE: May I?

12 JUDGE CHRISTIANSON: Go ahead.

13 RECROSS EXAMINATION.

14 BY MR. THISTLE:

15 Q. Twenty, thirty percent of what?

16 A. My business clientele.

17 Q. Is referral from the western part of the
18 state?

19 A. That's correct.

20 Q. When you say referral, referral by whom or
21 from whom?

22 A. From my clients that I have existing now.

23 Q. Oh --

24 A. They talk to their friends and the needs for
25 insurance rises so they give me a call.

1 MR. THISTLE: Okay. I see. Okay. That's all I
2 have.

3 JUDGE CHRISTIANSON: And the witness is excused.

4 MR. FICKEL: Your Honor, we call Martin Lowy.

5 MARTIN LOWY, called as a witness, having been duly
6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. FICKEL:

9 Q. Mr. Lowy, please give your full name and
10 address?

11 A. Martin Lowy, L-o-w-y, 1112 Eric Drive,
12 Harrisburg, PA 17110.

13 Q. And what is your occupation?

14 A. I'm a financial vice president of the Lemoyne
15 Sleeper Company.

16 Q. And where is this business located?

17 A. The corporate offices are in Lemoyne,
18 Pennsylvania.

19 Q. And are there other offices or locations?

20 A. There are eight locations actually seven
21 because one of the locations is Lemoyne attached to the
22 corporate offices so they're seven outlined locations and
23 there will be an eight very shortly.

24 Q. And where are they located?

25 A. They are retail establishments selling our

1 product Colonial Park, Harrisburg, York, Pennsylvania,
2 Lancaster, Lebanon, Carlisle, Chambersburg, Reading, and
3 shortly within a month in Selingsgrove. Is that eight of
4 them, seven?

5 MR. FICKEL: I think so.

6 BY MR. FICKEL:

7 Q. And what exactly is the nature of this
8 business?

9 A. Lemoyne Sleeper Company is a manufacturer of
10 bedding products, mattresses and related furniture products
11 and they're wholesaled dealers throughout the state of
12 Pennsylvania and they are retailed throughout the eight
13 stores, the eight Lemoyne Sleeper stores.

14 Q. Are you familiar with the nature of the
15 authority amendment that's subject of this hearing today?

16 A. Somewhat, yes.

17 Q. Could you describe the shipment needs that
18 Lemoyne Sleeper would have that you would be requiring
19 services at Towaway Express?

20 A. Basically what we have is a situation where we
21 need information from all of our remote stores to
22 manufacture the bedding. And what we need is when an order
23 is taken in a store location, a ten part form is prepared
24 for the order. And it's from that order that we actually
25 manufacture the bedding back at the factory.

1 Right now the way we get those forms back to our main
2 location where the factory is is once a week these stores
3 get delivery of product and at that time those forms come
4 back. Once a week is not enough. So one other time during
5 the week or if necessary, a second time during the week an
6 employee from one of the stores has to drive in with the
7 documentation.

8 Also we get from these people financing contracts
9 that we turn over to a finance company and then we get the
10 cash up front to a manufactured product. But at any rate,
11 one time a week from the driver, one time a week from the
12 employee, the company is very much against having an
13 employee, a retail person take their own car and drive from
14 Lebanon to Harrisburg or from Carlisle to Harrisburg because
15 of the insurance exposure etc. But that's the way we had
16 been accomplishing it twice a week.

17 We're updating our computer system. We're going to a
18 bar code system and we're going to need the material coming
19 in from the stores more frequently we'd like to have it
20 every other day. And it's in this area that we think that
21 Towaway Express can help us. We have the drivers going once
22 a week to bring it back. But we'd like to have at least two
23 other times a week somebody else bring the stuff back.

24 And again we figured that it would cost us almost
25 \$30,000.00 to hire an employee, have a vehicle, pay for the

1 insurance and all the fringe benefits to have them go out to
2 do the two to two and a half times a week for us and we're
3 hoping I feel confident that Towaway Express not having all
4 that overhead just for us could do that service at a lower
5 cost.

6 Q. What was it that impressed you to offer
7 support for Towaway's application in this case?

8 A. Well, Mr. Mundis is a long time friend of the
9 president of our company. And Mr. Mundis either in a
10 sociable context met the president of our company and told
11 him what he was planning to do and the president of the
12 company came to me as the person responsible for finances
13 said, you know, I think this may be a way to solve the
14 problem we have, you know, we're working toward doing this
15 every day maybe Mr. Mundis is the solution. So I became
16 aware of Mr. Mundis that way and, you know, determined that
17 that would be a possible solution.

18 Q. Are these shipping requirements both from the
19 main office to the, lack of better expression, satellites
20 and also from them back to the main office?

21 A. Really it's just one way coming in.

22 Q. Now, if we had somebody going out on a regular
23 basis that had to come to us, we probably could find things
24 for them to hold onto and take out, you know, on the outside
25 trip because a lot of times, you know, we have to wait for

1 the one time a week when the driver goes out. I don't talk
2 about taking betting. I mean, paperwork or changing prices.
3 We could possibly use that. But it hadn't been in my mind.
4 We were just mainly talking about coming in.

5 Q. So the points of origin are all these eight
6 different locations?

7 A. They were outside of us coming in.

8 MR. FICKEL: Nothing further of this witness, Your
9 Honor.

10 JUDGE CHRISTIANSON: Cross then.

11 MR. THISTLE: Yes, sir.

12 CROSS EXAMINATION

13 BY MR. THISTLE:

14 Q. Mr. Lowery, what is your position with the
15 company?

16 A. I'm the financial vice president. I'm a CPA
17 and the -- I handle all the finances of the company.

18 Q. Okay. What is the name, sir, of the
19 president?

20 A. The name of the president is Gerald Pearlman,
21 P-e-a-r-l-m-a-n.

22 Q. Did he authorize you to appear here today?

23 A. Yes, indeed.

24 JUDGE CHRISTIANSON: He probably compelled you to
25 appear here.

1 THE WITNESS: He was of the impression that I would
2 be back at 11:30.

3 MR. THISTLE: Well, those things happen. Well, I'll
4 try not to keep you.

5 THE WITNESS: That's okay. He'll forgive me.

6 BY MR. THISTLE:

7 Q. Let me ask you this. Are these stores of
8 yours, are they directly owned and operated by Lemoyne
9 Sleeping Company or are they kind of put out on concession
10 type of thing?

11 A. All right. The Colonial Park and the Lemoyne
12 store are corporate owned. The others are captive dealers.
13 In other words, they have authorized to use our name and
14 they follow our procedures and they buy all of their
15 products from us. We don't call them franchises but they
16 are completely under our control. They have our name out
17 and they sell the product with our name on it.

18 Q. But they are individually owned by others?

19 A. Right.

20 Q. Subject to your control for the use of Lemoyne
21 Sleeping Company?

22 A. In the sale of our product exclusively to our
23 status which we deliver to them every week.

24 Q. Right. Well, then that leads me to
25 the -- that is except Colonial Park and Lemoyne?

1 A. Right.

2 Q. Okay. That leads me to the naturally to the
3 next question. If the Applicant gets this authority,
4 who -- and when I say who I'm speaking of what entity,
5 whether it's Lemoyne Sleeping Company or the organization at
6 York, Lebanon, etc., who will pay those transportation
7 charges?

8 A. We will pay for that.

9 Q. You will?

10 A. It's our responsibility to do that.

11 Q. Okay. All right. How, sir, have you been
12 having the transportation performed now? A, has it been
13 limited to those occasions once a week on which the drivers
14 bring the shipment of the goods?

15 A. It's -- as I indicated earlier it's twice a
16 week. It's once the driver from the main factory going out
17 to deliver goods and bring stuff back. And then the second
18 time during the week, it's an employee from the respective
19 stores coming in.

20 Q. Oh, I see.

21 A. And as I indicated earlier that's
22 inappropriate because we're concerned with our liability
23 exposure by they are people coming to us with their personal
24 cars at night and whatever and we don't really want that.

25 Q. Now, the employees who come for that

1 second -- at the present time -- who come for that second
2 trip, are they coming back to Lemoyne for other reasons
3 other than delivering of those orders or among other
4 reasons?

5 A. No.

6 Q. Or just solely for that?

7 A. That's the only purpose.

8 Q. All right. Now, do I understand your
9 testimony to be that you would want how many additional
10 trips?

11 A. It would be two and a half trips a week is
12 what it would work out because we are updating our computer
13 system and we want the new bar code data in every other day.
14 So on a 14 day week that's -- every other day is seven times
15 and once a week for the driver is two times so that leaves
16 five. Five divided by two weeks is approximately two and a
17 half times a week outside service.

18 Q. Okay. All right. Have you discussed with the
19 Applicant what his charge would be for this service?

20 A. No, I haven't. I just assumed it would be
21 less than what it would cost me to hire somebody full-time
22 or have somebody do this.

23 Q. Okay. You're assuming that?

24 A. Yeah.

25 Q. All right. Have you -- let's say within a

1 reasonable time, within the past two years -- have you tried
2 other means of having these orders sent to you by the stores
3 to your headquarters your, manufacturing headquarters?

4 A. Not really. We're running now in the process
5 of changing our computer system. It wouldn't have done us
6 any good to get it more frequently because we couldn't
7 absorb it. We didn't have enough corporate staff to process
8 it.

9 Q. Okay. In other words, what you're saying then
10 is that you haven't changed that not because the
11 unavailability of transportation but because your computer
12 system wasn't at the present time or just immediately past
13 wasn't set for a change of your operation?

14 A. Previously it wasn't. Now, we're ready. We
15 can take it more frequently now.

16 Q. Okay. I see. All right.

17 A. It depends on how far you want to go back. In
18 other words, we're trying to get it in every day if we can
19 afford it.

20 Q. Yeah. Have you checked with any or concerning
21 any existing authorized carriers as to whether or not they
22 would be able to furnish your company with this
23 transportation that you want?

24 A. No, not at this point mainly because most of
25 the personal services we get we try to get through personal

1 referrals or people who have used services that we need. So
2 we would probably ask other people in a similar situation of
3 companies and since we -- we would probably go to people
4 that we had some relationship of or that we knew of. Since
5 we knew Mr. Mundis that would be our first place to go.

6 Q. Well, if you found a courier service that's
7 been in business for 20 years with a good reputation for
8 service as well as honesty, sir, is there any reason why you
9 wouldn't use that service?

10 A. Well, if they were local, we might.

11 Q. All right. Have you used the service of
12 Gopher?

13 A. No.

14 Q. Okay. It's a catchy name Gopher.

15 A. Yeah.

16 Q. One other thing. The items, sir, that you're
17 speaking of from the stores to your facility at Lemoyne they
18 are what, orders?

19 A. Yeah, completed sales.

20 Q. Pardon?

21 A. Completed sale orders taken at the store. The
22 sale in a multiple part form.

23 Q. I'm just trying to get a line on paperwork.
24 But it's really an order?

25 A. Yeah.

1 MR. THISTLE: Okay. I believe that's all I have,
2 sir. Thank you.

3 THE WITNESS: Sure.

4 JUDGE CHRISTIANSON: Any redirect? Then the witness
5 is excused.

6 MR. FICKEL: Your Honor, next, I would call Jim
7 Bower.

8 JAMES BOWER, called as a witness, having been duly
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. FICKEL:

12 Q. For the record please would you state your
13 full name and address?

14 A. James O. Bower, Jr., 2017 Continental Drive,
15 Harrisburg.

16 MR. THISTLE: Is he on the list?

17 MR. FICKEL: I think that was omitted for some
18 reason. I don't think he's on the list.

19 MR. THISTLE: All right. Okay.

20 BY MR. FICKEL:

21 Q. Mr. Bower, your occupation and your address of
22 your employment?

23 A. I'm an insurance broker and my address is 2145
24 Market Street, Camp Hill, Pennsylvania.

25 Q. And what type of insurance is this?

1 A. We're a general insurance brokers agents.

2 MR. THISTLE: Where was the location, sir?

3 THE WITNESS: Twenty-one forty-five Market Street,
4 Camp Hill.

5 BY MR. FICKEL:

6 Q. And how long have you been in this business?

7 A. Thirteen years.

8 Q. And could you explain the types of shipment
9 needs that your business has?

10 A. Yeah, the best example that I would have would
11 be shipping homeowner's policies to customers for settlement
12 purposes, original documents are required in order to settle
13 on a home and often times because of the late notice of such
14 settlement dates, they have to be hand delivered
15 person-to-person. And typically we've been doing that
16 ourselves and using overnight carriers when that is
17 permitted or what have you. But we would prefer to
18 subcontract that to another business.

19 Q. What type of frequency do you have for this
20 need?

21 A. Well, that's not the only need. There's an
22 awful lot of needs in my business that's just one example.
23 It would be several times a month I would say.

24 Q. And could you testify as to other needs which
25 you have?

1 A. Yes, we're always getting information from our
2 clients, from our companies that we represent. There's all
3 kinds of examples; claims information, there maybe Court
4 documents that because of the timetable connected with those
5 documents, they need to get those to our office. There
6 maybe late payments that it's critical that it arrives that
7 day in order for their insurance coverage to be continued.
8 Photographs, the nature of my business requires photographs
9 from clients, claims photographs, or photographs of
10 buildings that we're insuring or special property that we're
11 insuring and often times, if it's a distance to travel, I
12 will have them take the photographs and send them to me.

13 I may not be able to buy coverage until they are
14 received. Drawings, architect drawings, I frequently will
15 ship out proposals, renewal information we just, you know,
16 we deal on paper. So there's all kinds of paper that needs
17 shipment also we need documents with an original -- a fresh
18 signature on them. I can see a need sometimes where we
19 would have to have a courier send a document out, have it
20 signed by the client and brought back to our office and it
21 would be more convenient to have somebody other than an
22 agent handle that kind of work force.

23 Q. You have requirements both from outside your
24 office to and then from your office to other points?

25 A. That's right. Many times my client will call

1 us up and say how's the best way we can handle getting this
2 to you and I might be able to refer to them a carrier. In
3 some cases, I would even pay for that carrier. Many times
4 because of the nature of coverages that I'm placing, it's
5 required to get coverage placed that day and therefore, we
6 need someone that can promise to deliver the service on that
7 day.

8 Q. Now, the cost, are costs for shipment from
9 your office born by you?

10 A. Mostly, yeah.

11 MR. THISTLE: I'm sorry, I didn't hear you.

12 BY MR. FICKEL:

13 Q. Costs from shipment from his office who pays
14 for that and the answer was?

15 A. I can't think of any exception where it would
16 be by anybody else.

17 Q. What about shipments from other points to your
18 office?

19 A. Many times we pay for those as well, if we're
20 the one requiring the information. Sometimes they're paid
21 by our client. Obviously it's their benefit to pay whatever
22 the cost is to keep their insurance in force or given the
23 underwriting data that I need to make the decision.

24 Q. Could you describe the geographic locations of
25 these transportation needs that you have?

1 A. Yes. I -- I'm an agent licensed in the state
2 of Pennsylvania. I do have clients all over the state.
3 However, the majority of my clients would be in a 50 to 75
4 mile radius of the Harrisburg area. Most of my clients
5 would be in Harrisburg, Cumberland County, York, Lancaster,
6 and the surrounding suburban areas of those cities.

7 Q. And the -- and for the duration or the
8 frequency -- did I ask you regarding the frequency of these
9 needs?

10 A. Yes, it -- it would be at the very least a few
11 times a month. And at the very most, it might be a few
12 times a week.

13 Q. Okay. What was it that impressed you that you
14 decided to support this particular application?

15 A. One is the integrity of the company. I'm
16 dealing with very serious documents sometimes cash, money,
17 whatever the case maybe. So I don't want any carrier
18 representing the business to my client. I want one that I
19 know is going to do a good job and one that I am going to
20 put a lot of trust in. My business is very much a
21 reputation business.

22 People don't know anything about me but what they see
23 on paper and by the messenger that represents me. So I will
24 spend more money to have someone that I know is going to
25 represent me in accordance to my standards.

1 Also the nature of my business is such that I really
2 spend my Commission. Everything I make in the first year
3 when I acquire business and my profit is made in consequent
4 years. So in other words, it may cost me more money up
5 front to acquire a piece of business which may need this
6 kind of handling. But in subsequent years, I won't need to
7 do that. Things will be done by my carrier or what have
8 you. And those are the years that are the profitable years
9 for me. So I don't mind overspending for that kind of thing
10 and the image that it will project.

11 MR. FICKEL: I would have no other questions, Your
12 Honor.

13 JUDGE CHRISTIANSON: Cross-examination.

14 CROSS EXAMINATION

15 BY MR. THISTLE:

16 Q. Perhaps Mr. Bower, what is the name of your
17 insurance business?

18 A. James O. Bower, O. is the middle initial.

19 Q. Right.

20 A. Insurance Incorporated.

21 Q. Inc., or incorporated spelled out?

22 A. Inc., sir.

23 Q. All right. Mr. Bower, what you have described
24 sir -- strike that. Are the majority of your clients
25 individuals? Are they commercial or industrial accounts or

1 a combination? Explain please.

2 A. Okay. Let me give you a cross section of my
3 business. About half of our business would be with
4 individuals for their homeowners insurance, their automobile
5 insurance, other types of insurance that they buy. The
6 other half of our business would be primarily institutional
7 related, churches. We deal with a good number of churches,
8 and various non-profitable institutions and other general
9 businesses. It could be any kind of business. That's
10 pretty much it.

11 Q. Okay. All right. Now, is the one half that's
12 individual clients, are you saying that you would utilize
13 the services of the Applicant to run away in his
14 vehicle -- I don't mean that interrogatorily it sounded bad
15 -- to utilize his vehicle in picking up late payments of
16 individuals?

17 A. It's possible if the account is worthwhile to
18 do that. Often this is a every day occurrence with us we
19 would have a situation where a client will call us and say
20 that they intend to make their payment on their policy they
21 want to keep it in force. There maybe consequences if they
22 don't financially. And we would say to them it's their
23 responsibility to get the payment to our office. That's the
24 requirement.

25 Usually the next -- the next problem that you have to

1 deal with is, well, I can't get there until such and such a
2 time. You'll be closed or, you know, I'm not going to be
3 able to do that. And if we had a service to recommend to
4 them that we could trust that we would know about we would
5 have an idea of their cost and what have you, we could refer
6 that service to them for the same purpose.

7 Q. Well, doesn't your -- pardon me -- doesn't
8 your office follow a -- has a procedure that you call a
9 client and say we received a copy of a notice you received
10 from your insurance company that your insurance policy has
11 been cancelled, however, it will remain in effect if you pay
12 your premium within the next 30 days. Isn't that the normal
13 procedure?

14 A. Well, no, you can't call everyone that gets a
15 notice of cancellation. The way companies bill today when
16 they get their reminder notice it is in effect a notice of
17 cancellation.

18 Q. Yes.

19 A. Not just a reminder notice and often times
20 companies, you know, I have 12 different companies that I
21 deal with. Every company may have a different procedure.
22 Some companies all they need to do is contact me and I just
23 have to pick up the phone and call the company and say, you
24 know, they're going to be a few days late on the payment.
25 Was that all right? And they'll say, sure, we'll give them

1 a few more days. And other companies are more strict and
2 will say, no, it has to be postmarked by such and such a
3 date or we'll have to have your payment in the office today
4 or we won't reinstate you. In other words, it's a judgment
5 call. But notices of cancellation go out every day from
6 carriers and my clients. And I couldn't afford to have
7 somebody sit there and call each one. That wouldn't be
8 impractical.

9 Q. In other words, that's not part of your
10 service for your clients?

11 A. No, can't do it. That's part of the billing
12 service. We don't get paid to call our clients on that kind
13 of billing.

14 Q. And yet you're willing to arrange for motor
15 carrier to pick up a late payment for them?

16 A. When it's critical. In some situations they
17 don't know how critical it maybe. If they lose their
18 coverage, they may not be able to obtain it again at nearly
19 the same cost if they had to reapply.

20 Let me give you another example of that. Say you
21 have automobile insurance with a carrier and it's \$1,000.00
22 a year, yet you've had some problems on your record and as a
23 result of those problems if you were to reapply due to those
24 new situations it might be \$2,000.00. And you call me up
25 and say, hey, my insurance is due today. And I say, look,

1 I'll tell you about the consequences basically. Then it
2 becomes more critical that you get that payment in there and
3 you're willing to spend whatever the cost is to get it there
4 and avoid having to reapply for that situation.

5 Q. But I think maybe you haven't answered my
6 question or maybe my question is wrong as a basis. Is it
7 under the law of Pennsylvania insurance wise, aren't they
8 required to give you a 30 day notice?

9 A. Oh, yeah, but people always wait until the
10 last minute. Clients are always waiting until the last day.
11 I get called frequently the day before it cancels,
12 frequently.

13 Q. See, what I'm trying to find out from
14 you -- I'm not trying to lead you into anything. I'm just
15 trying to find out what in your own mind constitutes an
16 emergency situation for a late payment that you would go to
17 the extent of calling the carrier to pick up a late payment,
18 to pick up photographs; this is what I'm trying to find out
19 from you. Is this -- this wouldn't seem to me to be a daily
20 occurrence or something that you would bother with since you
21 wouldn't bother calling people and say, hey, your policy is
22 going to expire because you don't have the time to do that.

23 A. Well, the occurrence would be in many
24 situations for a new business if it's going to be a new
25 client. I mentioned about the homeowner policies for

1 settlement. That's usually how you hook up with a client on
2 the homeowners insurance. And like I said, we're willing to
3 spend more money to do that. Many times I wouldn't care if
4 they use the carrier or not because of the fact if they
5 don't pay it, they don't have insurance.

6 Q. Right.

7 A. And all I'm doing is trying to put my best
8 foot forward and trying to give them the opportunities and
9 the facilities to do their thing and get their payment to
10 me. It depends, you know, each client situation could be a
11 different one. It maybe someone that I want to maintain
12 their insurance because I care for the client. It maybe a
13 situation where I'm not as concerned and, therefore I, you
14 know, it doesn't matter to me if they keep their insurance
15 or not. They've been given their legal notice and the
16 company has the right to cancel it.

17 Q. And I think that you need to give us the
18 impression that in those instances where it's for the
19 client's benefit that they get their premium there on time
20 or they get photographs back to you or something of that
21 nature to substantiate a claim and an accident or so forth
22 that you expect them to pay the transportation charges
23 normally?

24 A. If I'm requesting the information, usually
25 they are helping me out. For example, if they are taking

1 pictures and they are saving me a trip to wherever it may
2 be, then I would probably pay the transportation costs of
3 having it shipped to me.

4 In other situations I wouldn't need to do that. So
5 you can't say one way or another clear cut that it would be
6 paid by me or paid by them. But I generally -- we pick up
7 the tab for most of the expenses that involve our business.

8 Q. How have you become aware of the -- I think to
9 use your words -- the integrity of Towaway?

10 A. I know Tom Sheaffer. I've had dealings with
11 Tom over the years and I know his people that work for him.
12 Some of them are my clients and I know they are good people.
13 I know that they do what they say, they are going to do and
14 they are the kind of company that I wouldn't have any
15 trouble representing my company to my clients.

16 Q. Do you insure Towaway?

17 A. No. At one time I did three -- four, years
18 ago I had the majority of Towaway's business. But today I
19 have a few bonds, small bonds, a couple hundred of total
20 premium. So they are very small accounts for our agency.

21 Q. Do you have any relationship with Mr. Gopher?

22 A. No, I don't have any relationship with Mr.
23 Gopher.

24 MR. THISTLE: That's all the questions I have, Your
25 Honor.

1 MR. FICKEL: Nothing further, Your Honor.

2 JUDGE CHRISTIANSON: Okay. The witness is excused.

3 MR. FICKEL: Next, Your Honor, we would call Allen
4 Bloom.

5 MR. THISTLE: Can we take a five minute break?

6 (Whereupon, a brief recess was taken.)

7 JUDGE CHRISTIANSON: Go ahead and call your next
8 witness.

9 MR. FICKEL: I call Allen Bloom.

10 ALLEN BLOOM, called as a witness, having been duly
11 sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. FICKEL:

14 Q. For the record please your full name and
15 address.

16 A. My full name is Allen J. Bloom, A-l-l-e-n, J.
17 B-l-o-o-m. My address is 2617 Pennwood Road, Lancaster,
18 Pennsylvania, area code 17601.

19 Q. And what is your occupation?

20 A. I'm the owner and CEO of MCI Packaging Company
21 located at 1501 South 19th Street, Harrisburg, Pennsylvania,
22 zip 17104.

23 Q. And what type of business is this?

24 A. We are basically a military, the MCI stands
25 for military commercial and industrial packagers. But I

1 would say 90 percent of the work is military.

2 Q. And what is -- what is the work that you do?

3 A. We basically package for people who sell to
4 the United States government. We interpret military
5 packaging codes and pack the product to be shipped to
6 government installations for basically machine shops,
7 distributors, manufacturers and so forth.

8 Q. How long have you been in this business?

9 A. Twenty-six years.

10 Q. Now, as you've been here all day and hearing
11 the testimony, I'm sure you're familiar with the nature of
12 the authority requested by Towaway. Could you testify
13 please as to the nature of your shipment and your
14 transportation requirements?

15 A. Well, basically we are the end item to the
16 people we service. We're the last people between them and
17 their money to build a government. So we run into
18 situations where sometimes we will get parts in and we find
19 surfing boards or we find -- that have been damaged in
20 transportation to us. We notify the contractor that if he
21 wants these things to ship and then basically we only have
22 inspection one day a week, that's every Wednesday we have a
23 government quality insurance representative in our plant.

24 Now, if he wants to meet a deadline of that on
25 Wednesday, we will call them and ask them if they want to

1 replace that part and how fast they want to replace it. And
2 basically sometimes it is on a matter of we've already gone
3 to Pittsburgh on a four hour drive out and back to pick up
4 parts to bring, you know, to bring back. And then same
5 thing with loads of transistors, you'll find one of the
6 leads are broke off and so forth and we'll call contractors
7 and find out that they want to send it by Fed-Ex, they want
8 to wait, they're going to miss the inspection dates.

9 Q. Are these documents that you're dealing with
10 are they government contracts or --

11 A. Right, they are basically government
12 contracts. And we occasionally have contracts where we deal
13 with Reading, Pennsylvania which is the decast
14 representative for our area and there are times when we have
15 documentation that they will not allow you to FAX because
16 they want the authentic signature in their hands or they
17 just will not execute it.

18 Q. Are your needs both with documents originated
19 at your facility and also from facilities outside your area
20 to your facility or one way, both ways?

21 A. Yeah, they would be documents that we receive
22 when we receive the product. We don't have the contracts in
23 hand until the product is received and then basically what
24 we do is we scrutinize the contract, if we find any mistakes
25 with it, we contact the contractor or we will contact

1 Mechanicsburg that that is the issuing agency and find out
2 what corrections they want to make or what they want to do
3 with it.

4 Q. What requirements of quality insurance do you
5 have that you need?

6 A. Well, basically you have to have what
7 the -- basically, the kind of condition. The condition of
8 the item has to be new unless specified otherwise and very
9 seldom do you ever see that they buy refurbished items and
10 the condition has to -- as I said -- has to be new and it
11 has to be the type and kind that the government has ordered
12 in accordance with the description kind adding the contract.

13 Q. Are there documents of proof that go along in
14 connection with this?

15 A. Yes, normally a contractor may send you
16 certificates of conformance and basically it's working
17 ability would be considered certificates of compliance. It
18 complies to what the governments require.

19 Q. Okay. What type of frequency of this need do
20 you experience?

21 A. You might not see this once in six months and
22 then sometimes you can see it five times in one day. And it
23 depends on the flow of work. Up until the beginning of July
24 we were going at an average of 15 contracts every other day.

25 Q. How were those transportation needs met at

1 that time and currently?

2 A. Basically with people in our facility.

3 Q. Do you find that efficient?

4 A. No.

5 Q. What -- how is it that Towaway approached you
6 and that you had -- how is it that Towaway and you came into
7 contact regarding this particular authority application?

8 A. Well, I had known Mr. Sheaffer. I think Mr.
9 Sheaffer knows that my business applications. I think a few
10 times I might have complained to him about the facts of some
11 of the conditions where I had done a next day air with UPS
12 was to be delivered by 10:00. The expense to UPS was \$48.00
13 just in my cost to ship it and they shipped late. I got
14 credit for it. But it took about two weeks until they
15 finally credited the account. They delivered it late and I
16 heard about it from the government.

17 Q. As far as the cost of this transportation, who
18 would be paying for that?

19 A. Well, it's basically -- I would say who is at
20 fault. Most of the time it's going to end up that you're
21 going to pay for it or everybody in this room because the
22 Federal Government is paying for it and it's coming out of
23 tax dollars. If it's a contractors fault, then he's going
24 to take the responsibility. If he doesn't want to send the
25 part or whatever to me, I will send somebody to him if

1 that's what he requires. But he's going to pay for it.

2 Q. And then are there other documents or
3 transportation needs that you have that you pay for
4 yourself?

5 A. Very seldom. We do not get involved in it
6 because basically we do not know what the end item is going
7 to weigh when we're shipping it. So we basically --
8 transportation is always the contractor's responsibility
9 unless it is a government bill of lading. Then the
10 government pays for it.

11 Q. And who's responsibility is it to arrange for
12 this transportation? Is that your responsibility?

13 A. It is, yes. The government specifies carriers
14 of that type.

15 MR. FICKEL: Nothing further, Your Honor.

16 JUDGE CHRISTIANSON: Okay, cross-examination.

17 CROSS EXAMINATION

18 BY MR. THISTLE:.

19 Q. Yes. Mr. Bloom, did I understand you just to
20 say that the government specifies the carriers we use?

21 A. On a government bills of lading. In other
22 words, if we were going to a foreign military sale --

23 Q. Right.

24 A. -- if it's a foreign military of sale and it's
25 destined for Saudia Arabia or so forth, they have an export

1 drop point and there's no way you can figure the
2 transportation because we don't know where they're going to
3 drop it at. Now, if we're going to a military base or
4 depot, San Diego, Norfolk, Jacksonville, then the contractor
5 can designate or will be designated to pay the
6 transportation.

7 Q. I see. Mr. Bloom, did I also understand you
8 to say that seldom you pay the freight? It isn't very often
9 that you pay the freight?

10 A. Really never.

11 Q. Pardon?

12 A. Never. If we can help it. In other words,
13 it's designated when we quote to the contractor that we do
14 all of their paperwork, their markings, their crating, their
15 boxing whatever it is and transportation is always an
16 additional cost to them.

17 Q. I see.

18 JUDGE CHRISTIANSON: Let's be off the record for a
19 moment.

20 (Discussion off the record.)

21 JUDGE CHRISTIANSON: I was off just to clarify about
22 his organization arranging for transportation and then
23 billing back. It wasn't clear to me what he said right at
24 the end of his direct examination. Go ahead if you want
25 more cross.

1 BY MR. THISTLE:

2 Q. Well, all right. When you bill out to the
3 contractor, any transportation charges that were incurred,
4 are they segregated as transportation charges?

5 A. Yes.

6 Q. So that your invoice to the contractor clearly
7 designates that so much was for transportation?

8 A. That's correct.

9 Q. And the contractor pays that?

10 A. That's correct.

11 Q. And from what I understand, sir, that
12 situation is true to shipments within the Commonwealth of
13 Pennsylvania?

14 A. Yes.

15 Q. As well as outside of the Commonwealth of
16 Pennsylvania?

17 A. Right. Basically like I said, if it is a
18 repair item -- if we get an item that is damaged when we
19 receive it or it was not made properly -- we've already
20 gotten items when you lay them down on the table, you have
21 50 of them, 48 of them look alike and two of them don't and
22 we call the contractor back and say, you know, what has
23 happened here and then we designate with them do you want us
24 to -- do you want to come get them? Do you want us to bring
25 them to you? But basically we try to always make it at

1 their expense.

2 Q. I see.

3 A. Because we feel it's their error. It's their
4 responsibility.

5 Q. Right. Well, you've been talking, sir, about
6 defective parts, right?

7 A. Well, it happens in paperwork also. We'll
8 have documentation.

9 Q. That are defective?

10 A. Basically, we get documentation where they do
11 not have the proper signatures applied. And if they want
12 these items moved by a certain time day --

13 Q. That's still up to them?

14 A. That's exactly right.

15 MR. THISTLE: I see. I have no further questions,
16 Your Honor.

17 JUDGE CHRISTIANSON: Fine.

18 MR. FICKEL: Nothing further, Your Honor.

19 JUDGE CHRISTIANSON: Fine. No redirect. The witness
20 is excused.

21 MR. FICKEL: We have our final support would be Mr.
22 Tom Rimbey.

23 THOMAS RIMBEY, called as a witness, having been duly
24 sworn, was examined and testified as follows:

25

1 JUDGE CHRISTIANSON: Yes, certainly. And we'll come
2 back and try to rearrange and set a date.

3 MR. THISTLE: Okay. I think that's all right. Let's
4 proceed with that.

5 BY MR. FICKEL:

6 Q. And how long have you been employed in this
7 matter?

8 A. Twenty years.

9 Q. Okay. And what is the exact nature of your
10 business?

11 A. I have a personal lines and a commercial
12 agency with clients as far East as Oreysburg. I have
13 clients, commercial clients probably 50 percent of my
14 business is commercial.

15 Q. Okay. And what type of transportation needs
16 do you have in your business?

17 A. Well, like the other agents that were here a
18 growing problem is the fact that you have to have physical
19 policies in the lienholder's hands. They use to take
20 binders. You could mail them. You could do anything and of
21 course, in closing them usually give you a one or two day
22 notice and they do want the physical policy in their hands.

23 This presents a problem because you're constantly
24 running and you have to take the policy and physically take
25 a trip which one of girls in my office would do that or

1 myself depending on the situation and depending on whether I
2 was there or not. So in turn this service is very
3 advantageous to me because my time is worth more than to
4 just deliver the policy.

5 I also have commercial accounts where I have quoted
6 the business. There's times that I need facts brought back
7 to me to bind the policy. After the policy is bound, I have
8 to deliver the policy or we have to deliver MCS 90's. We
9 have to deliver no fault carts and the nature of the
10 business is this doesn't happen where they give you a lot of
11 lead time. So in turn, we then will use the carrier service
12 to deliver this personally to the customer.

13 Q. What requirements do you have for records and
14 documents, other items of that nature to be delivered to
15 your business location?

16 A. That's not a great need. It's more of the
17 business coming out of our office is the greater need. On
18 occasion you'll need information that will be needed for
19 binding and of course in a case like that, if it's bound,
20 then it has to be bound on a certain day then of course this
21 is urgent and the customer will have to get that back to us
22 or we at times will go out and get it. But the courier
23 service would definitely be to our advantage.

24 Q. What frequency do these needs arise in your
25 business?

1 A. On occasion it's sometimes sporadic. It could
2 be every day. It could be as much as six or seven times,
3 eight times a month, sometimes every day. It depends on how
4 the flow of business is.

5 Q. Okay. And this need is being currently met
6 how?

7 MR. THISTLE: I didn't hear that.

8 BY MR. FICKEL:

9 Q. Their need is currently being met how?

10 A. At the present time I am either doing it
11 myself or I'm having one of the girls in my office running
12 this. And it's -- it is very uneconomical right now to do
13 this. You're only in -- you're dealing in time. You're
14 dealing in money and it's just not advantageous right now.

15 Q. Okay. You mentioned the town as far as a
16 reference point East. Could you describe a little more in
17 detail either by mileage or county wise or geographic area
18 that you would be serving?

19 A. Well, Oreysburg is just south of Pottstown.
20 It's about a six hour drive, five and a half hour drive. So
21 in terms for me to take the time it would be much more
22 economical to have a courier service pick that up or deliver
23 it to them.

24 Q. Okay. What is it that was presented to you
25 for you to offer your support for Towaway?

1 A. Well, I know Tom Sheaffer. I met Tom Sheaffer
2 years ago at the truck driving championships and we talked
3 and we became friends or associates and we talked back and
4 forth. And he has the same interests as I do. And we
5 talked back and forth and he called me and asked me if his
6 service would be advantageous to me and I informed him that
7 it would.

8 Q. Just one final question. These -- the cost of
9 getting these papers to be at the time they need to be is
10 that paid for by you?

11 A. Ninety percent of the time it would be paid
12 for by me. This is information that I requested or
13 delivering of these policies. It's a service -- we are a
14 service orientated business and so the cost would be born by
15 me.

16 MR. FICKEL: Nothing further, Your Honor.

17 JUDGE CHRISTIANSON: Then cross.

18 ... CROSS EXAMINATION ...

19 BY MR. THISTLE:

20 Q. Have you ever used the services of Mr. Gopher?

21 A. I'm not familiar with it at all.

22 MR. THISTLE: No further questions.

23 JUDGE CHRISTIANSON: Okay. I presume there's no
24 redirect then.

25 MR. FICKEL: No, sir.

1 JUDGE CHRISTIANSON: The witness is excused.

2 MR. THISTLE: Thank you, Your Honor. I hate to --
3 may I have one minute -- let's take a one minute.

4 (Whereupon, a brief recess was taken.)

5 JUDGE CHRISTIANSON: Call I presume your last witness
6 for your case.

7 MR. FICKEL: I call Karl Mundis.

8 KARL MUNDIS, called as a witness, having been duly
9 sworn, was examined and testified as follows:

10 ...DIRECT EXAMINATION...

11 BY MR. FICKEL:

12 Q. For the record please, Karl, state your full
13 name and address.

14 A. It's Carl with a K, my middle initial is J.,
15 and my last name is Mundis, M-u-n-d-i-s, and I live at 2201
16 East Coventry Lane, Enola, PA 17215.

17 Q. And how are you employed?

18 MR. THISTLE: Well, wait a minute. Would the Court
19 Reporter read back his address.

20 (The answer was read back by the Court Reporter.)

21 BY MR. FICKEL:

22 Q. And how are you employed?

23 A. I run a company called Mr. Gopher.

24 Q. If I may, just I think you have to keep your
25 voice up a little bit for everybody here. Could you repeat

1 that please?

2 A. I run a company called Mr. Gopher.

3 Q. And could you indicate what Mr. Gopher is
4 please?

5 A. Mr. Gopher does two things. The one side of
6 the Mr. Gopher business per se is an errand service. We do
7 clerical work for clients, legal real estate, accounting,
8 medical professions of all types. The other side is a
9 division named insurance billing associates. What we do
10 over there is we assist medical professionals and private
11 citizens in getting health insurance claims problems
12 resolved through direct interaction with health insurance
13 claims or health insurance companies and through
14 consultation.

15 Q. Okay. Could you briefly detail that
16 particular part of it as far as the basic operation?

17 A. Which part?

18 Q. Of the medical.

19 A. Okay. We have claims specialist who work in
20 physician's offices or in their homes to prepare health
21 insurance claims for processing by insurance companies. We
22 train physician office staff in the preparation of claims
23 for processing by insurance companies. And we provide
24 consulting services to physicians and to law firms in the
25 resolution of various kinds of health insurance problems.

1 Questions of the kind of health insurance firms ought to
2 buy, questions of relations between doctors and Blue Shield
3 as an example. So those are the two primary thrusts we
4 either get it involved in the claim processing itself or
5 secondarily do consulting services for physicians and
6 attorneys.

7 Q. Okay. Now, on the Mr. Gopher side, could you
8 explain what the exact nature of that particular area is?

9 A. We call Mr. Gopher a value added errand
10 service. What Mr. Gopher does is clerical work to free
11 professionals to do the more expensive things they were
12 trained for. We do I guess -- can I do it by example?

13 Q. Sure.

14 A. We install lock boxes and sale signs for real
15 estate agents. We take pictures of properties for real
16 estate agents for appraisers and for insurance agents. We
17 do mini appraisals for insurance agents which entails our
18 taking pictures of properties, measuring them to determine
19 exact square footage and filling out a general condition
20 assessment statement.

21 Several of the witnesses alluded to those kinds of
22 requirements now by insurance companies. They want to see a
23 mini appraisal when they write a new homeowner policy or
24 redo one. We do many of those appraisals. We do all manner
25 of clerical work for all sorts of companies and

1 professionals. We will go to the social security
2 administration and make machine copies of Medicare patients
3 files to provide to legal firms in conjunction with
4 litigation about whatever the case happens to be.

5 Let me think of other examples. We go to the
6 Courthouse and get copies of deeds and property descriptions
7 for use and real estate transactions and other kinds of
8 transactions like that. We gather settlement packages where
9 we will need to go to the sometimes the county Courthouse
10 and the local municipal office to get copies of tax
11 receipts, make machine copies of tax receipts, find them and
12 make the copies of the tax receipts, sewer bills and trash
13 bills and things like that. Get machine copies to provide
14 for people who have settlement. Those are the kinds of
15 things we do.

16 Q. Now, in this particular business, do you
17 operate under Pennsylvania -- any type of Pennsylvania
18 Public Utility Commission authority?

19 A. No, sir, we don't.

20 Q. And is there a reason for that?

21 A. Yes, there is.

22 Q. And what is that?

23 A. When I set the business up and we were
24 incorporated last year. We started operations officially
25 January 6th between and sometime before January 6th, I

1 called the Pennsylvania Public Utility Commission described
2 to a gentleman I looked -- I spend about 20 minutes a while
3 ago looking in my file to see if I had the name and date of
4 that particular conversation. I don't have it in this file.
5 I had a discussion with a gentleman at the Public Utility
6 Commission, PUC, whose reaction to my description of our
7 services was that the clerical work is really what we're
8 doing and any transportation in conjunction with that is
9 incidental, therefore, there's no need for a PUC authority
10 for that work.

11 Q. Have you had any other publicity regarding
12 this particular business?

13 A. Yes.

14 Q. And what was that?

15 A. The Harrisburg Patriot News did a feature
16 article on us in a feature section a while back where they
17 described my career change and the services offered by the
18 company, Mr. Gopher.

19 Q. Did they interview you or inquire of you as to
20 any particular PUC requirement that you might have needed?

21 A. There was no part of that -- there was no part
22 of that interview entailed anything about the PUC.

23 Q. But you did investigate this on your own as
24 far as the PUC's concern?

25 A. I absolutely did. I will add that I called

1 the PUC on several occasions to find out what the position
2 was to make sure that we stayed in the lines. And in some
3 cases, to find out whether someone who was -- our
4 compensation was inside or outside the lines.

5 Q. Now, are you also associated with Towaway
6 Express?

7 A. Yes.

8 Q. And your position I believe is Chief --

9 A. -- Director of Operations for the division of
10 Towaway which will do -- what this authority will provide.

11 Q. So will you be the individual overseeing the
12 day-to-day operation of this authority?

13 A. Yes. In conjunction with Mr. Sheaffer of
14 course.

15 Q. Okay. And what will you be doing? What will
16 your duties entail?

17 A. Primarily marketing.

18 Q. And how will that be accomplished?

19 A. Well, we will -- we'll pursue a -- I'm
20 not -- I wasn't aware that this was what was called a
21 coordinated multi-media program. More to the point, we will
22 advertise in or via direct mail. We will advertise in trade
23 journals and trade publications. We will use radio and
24 possibly some TV advertising and we will do direct follow
25 up.

1 Q. What types of property in some detail do you
2 anticipate this particular authority is allowing you to
3 transport?

4 A. Well, I see it in having a couple aspects.
5 The first of which is the courier aspect, that's the
6 standard legal courier work we've talked about with simply
7 moving business materials, contracts, bids so on and so
8 forth from point A to point B. Other kinds of
9 similar -- I'm going to call it similar courier work. And
10 then the other side involving the transportation and
11 eventually the storage and magnetic media where we will
12 transport and provide storage facilities for back up tapes,
13 and other magnetic media for computer centers.

14 Q. How is it that you came to develop an
15 understanding of this need for this particular area?

16 A. Okay. I have 25 to 30 years experience in the
17 computer years. The last three or four of those I was vice
18 president of information processing for Pennsylvania Blue
19 Shield. I ran the data centers for Pennsylvania Blue Shield
20 and in that connection was responsible for identifying and
21 implementing a program of data security for Pennsylvania
22 Blue Shield.

23 Pennsylvania Blue Shield's corporate data which
24 entailed identifying the alternative and the means deciding
25 a means to transport back up tapes to off-site storage

1 facilities for their security that we again -- I was
2 responsible for that for some three years. In that
3 capacity, I was also responsible for the transportation and
4 safe storage of paper records and microfilm of the
5 corporation and oversaw those programs, off-site storage of
6 those programs.

7 That experience led me to believe that there was
8 not -- that there was a market there. There were not a lot
9 of people in that business. There were certainly not a lot
10 of people in that business from the expertise we could bring
11 from the standpoint of the systems and the records
12 management that we had over some two decades.

13 As I indicate in the second part of that was as we
14 began to do work with clients of Mr. Gopher it became
15 crystal clear that there were -- there is a need for simple
16 courier work to be done by licensed carriers. We feel that
17 or we have seen in a number of our client's offices the need
18 to do record transport.

19 When I say record transport, that's from bulk records
20 to a contractor -- a filing of the Courthouse. So it was
21 the kind of collision of those two influences which led me
22 to meet with Tom whom I had known for some five plus years
23 to talk about what he thought about the idea and then we
24 developed it from there.

25 MR. THISTLE: I'm going to move to strike, Your

1 Honor, this witness's testimony as to his testimony as to
2 need. They have had more than ample opportunity to have
3 their shipper witnesses and I think this witness's testimony
4 as to what they found as to needs of their clients and their
5 offices etc., is only a self-serving decoration. Perhaps it
6 might be helpful if the Court Reporter would read it back.

7 JUDGE CHRISTIANSON: All right. Do you want to
8 respond, counsel?

9 MR. FICKEL: I believe that if anything it was
10 incidental to his testimony as to what he's doing.
11 Certainly the supporting shippers could provide the
12 testimony regarding the need as Mr. Thistle indicated. I
13 don't think he's -- I mean, he's not adding into that or
14 anything in anyway. I don't believe that it would be, you
15 know, the type of testimony that would be stricken -- would
16 be stricken based on his objection.

17 JUDGE CHRISTIANSON: I'll follow up on that idea.
18 I'm not striking the testimony because it goes to his
19 motivation really. But I will not give it any weight as it
20 comes to the issue at need. He's merely explaining himself
21 as to why he's going forward. So in that sense I'm
22 upholding your objection.

23 MR. THISTLE: Very well, Your Honor. Thank you.

24 BY MR. FICKEL:

25 Q. Karl, are you familiar with the method of

1 transportation of magnetic tape?

2 A. Yes.

3 Q. And could you describe the specifics regarding
4 that particular service?

5 A. In the main, the magnetic tapes take two
6 forms. There are cartridges and there are reels. There are
7 special carriers for each kind of tape, if you will. The
8 carriers are thermal protected and have other kinds of
9 environmental protections built into them. The vans in
10 which they are transported are equipped with in my cases
11 with environmental protection kind of devices, "Halone"
12 systems, thermal protection. In some cases, they are even
13 refrigerated.

14 You're working with tolerances of some 20 degrees
15 from 70 to 90 roughly and to completely protect the data
16 contained on the magnetic media. So you have those kind of
17 things as a shell for the vans. From there it's a matter of
18 the internal design being one to have an optimum load and
19 that's specialized racks and of course, a driver protection
20 cage and so on. There are a number of things the vans ought
21 to have and ours will have to protect the magnetic media.

22 Q. In your experience as employment with Blue
23 Shield is this how you came to know and become familiar with
24 this type of service?

25 A. Yes.

1 Q. Do you have the knowledge to prepare vehicles
2 for transportation of this type of material?

3 A. Yes, sir, I do.

4 Q. Are you the one who was responsible basically
5 for doing the ground work for this application?

6 A. Yes.

7 Q. Could you describe the nature -- did you make
8 any types of investigations regarding this authority?

9 A. Yes, I did.

10 Q. Can you describe what you did?

11 A. I go to look into the license or non-license
12 status of two of the prime transporters of magnetic tapes in
13 the state to who are known to me from my prior position.
14 And from my understanding of the market to be major players
15 in the field. The results of those as reported to you by me
16 would indicate that neither of those is licensed in this
17 state.

18 Q. Okay. Mr. Mundis, do you have any type of
19 relationship with a Hitachi outfit?

20 A. Yes. Hitachi Data Systems has approached us
21 desirous of establishing a business partnership with our
22 firm for the purpose of transportation and storage of
23 magnetic media. Hitachi Data Systems is a major worldwide
24 computer vendor with a client base in the east alone of some
25 25,000 companies. I'm not sure what the Pennsylvania client

1 base is. But they are a manufacturer of computer hardware
2 and software of all types, primarily the large end
3 installations. They approached us at the regional level in
4 Philadelphia and we have had one meeting to discuss with
5 them becoming a business partner when we have acquired this
6 authority so that we can transport and store magnetic tapes.
7 It's Hitachi's desire and intent to recommend our services
8 to their full client base when we are in a position to
9 support that through this authority.

10 MR. THISTLE: I'm going to move to strike that
11 question and answer. I don't think this witness is
12 qualified to speak of the intent of what's in the mind of
13 someone else and I question the relevancy in this proceeding
14 as to some perhaps potential future partnership or
15 arrangement much of it being hearsay. And I fail to see any
16 relevancy to this proceeding. Certainly it's not offered
17 for proof. I would assume proof of need.

18 JUDGE CHRISTIANSON: No, I think clearly it isn't.
19 Do you want to respond, counsel?

20 MR. FICKEL: I would submit that he's certainly
21 qualified to testify as to who he met with. And for what
22 his purposes are to be certainly the intent I would
23 agree -- I would agree that he would be able to testify to
24 the intent of Hitachi but otherwise I would think that he
25 would be competent to testify as to information that he

1 provided.

2 THE WITNESS: I would be happy to restate the answer.

3 JUDGE CHRISTIANSON: Maybe. Let's -- well, let's
4 disregard the last answer and try to make a narrower answer
5 as to what Hitachi said to you and what you heard from them.
6 We have to stand for the purpose of potential partnership.
7 I understand it's not going to be need in the sense of
8 Hitachi becoming customary if they would approach you.

9 MR. THISTLE: Well, I wonder, Your Honor, who he's
10 testifying for himself or Hitachi. I don't know what place
11 this is.

12 JUDGE CHRISTIANSON: Well, I'm very happy to limit it
13 only the fact that he's explored possibilities of Hitachi.
14 I will not accept him as any indication of the specific
15 intent of Hitachi or any details about it. I think it's
16 sufficiently related in his attempt -- it's related to his
17 attempt to develop more expertise in storing of tapes. So
18 to that extent I'll allow it to stand. Beyond that, I think
19 we should disregard the response. So with that, I don't
20 think we need to repeat it or bring in a smaller response.

21 This brings two points to my mind and I might as well
22 explain myself. I used to be a transportation expert when I
23 was back in the Law Bureau as Mr. Thistle probably
24 remembers. And one minor thing comes up which I may check
25 off the record. Years ago, we had a lot of transportation

1 for banks I think Purolator Courier and others. And at the
2 time I thought the business was going to slip away because
3 it was going to go uncommon, I mean, by physically carrying
4 paper, we could send data over telephone or not -- let's be
5 off the record.

6 (Discussion off the record.)

7 JUDGE CHRISTIANSON: We've been off briefly and Mr.
8 Thistle and the witness have helped me remember a little
9 bit, an update. I was mainly asking about Courier
10 Transportation of a few years ago that carriers thought they
11 would lose traffic to electronic transmission. Evidently
12 they haven't quite done that yet. Technology has changed.
13 We also developed a little bit of background about the
14 warehouse exemption which is well established law as Mr.
15 Thistle recalls off the record. That is just partly to help
16 my thinking and it's not directly on point. That's -- I
17 just wanted to explain for the record why we went off. I
18 think you still have some further examination of your
19 witness.

20 MR. FICKEL: Actually, Your Honor, I believe that
21 would be all I have of this witness.

22 JUDGE CHRISTIANSON: Do you want a couple minutes
23 off?

24 MR. THISTLE: Yes, just give us a moment, Your Honor.

25 JUDGE CHRISTIANSON: Okay. Let's be off briefly.

1 (Discussion off the record.)

2 MR. THISTLE: All right. I have a few questions of
3 this gentleman and I'm going to limit my cross -- if there's
4 any redirect to be wide open.

5 CROSS EXAMINATION.

6 BY MR. THISTLE:

7 Q. Has the Applicant here, Towaway Express Inc.,
8 been cited by the Pennsylvania Public Utility Commission for
9 any violations?

10 A. Not to my knowledge, sir.

11 Q. Have they been questioned or stopped or the
12 authority or their operations been questioned by the PUC?

13 A. Not to my authority.

14 Q. To your knowledge?

15 A. Not to my knowledge, sir.

16 Q. Has your operation as Mr. Gopher been cited by
17 the Pennsylvania Public Utility Commission?

18 A. No, sir.

19 Q. Have you been questioned by the Pennsylvania
20 Public Utility Commission as possible violations?

21 A. No, sir.

22 Q. Do you have any copies of the Gopher
23 advertisements with you?

24 A. No, sir, I don't.

25 Q. Your Honor, I think it would be appropriate

1 inasmuch as this witness is a management personnel of the
2 Applicant to request of you, Your Honor, to request that
3 Applicant's counsel have furnished either prior to or at
4 which is what I would prefer or at least at the beginning of
5 the next hearing the flyer or advertisement of Gopher.

6 A. What does Gopher have to do with this.

7 Q. So that we would have the opportunity to
8 review that.

9 MR. FICKEL: Karl mentioned something. I'm just
10 curious as to the need for that. That's entirely a separate
11 matter and --

12 MR. THISTLE: Well, this gentleman is going to be in
13 charge of the whole operation here.

14 JUDGE CHRISTIANSON: I'm hearing this as discovery
15 basically.

16 MR. FICKEL: But Mr. Gopher Inc., is an entirely
17 separate entity and corporation owned by Mr. Mundis.

18 JUDGE CHRISTIANSON: Well, let me be clear as to what
19 you're asking for. You're asking for the transcript of the
20 radio ad?

21 MR. THISTLE: No, I understood that there was a
22 printed material that was circulated.

23 JUDGE CHRISTIANSON: Yes, some of the witnesses did
24 mention that.

25 MR. THISTLE: That's correct. And that's what I

1 would like a copy of.

2 JUDGE CHRISTIANSON: I think it's -- especially for
3 discovery purposes, it's sufficiently related. It goes
4 around the propensity of operating. Since this witness is
5 one of the main sources of the fitness of the Applicant for
6 purposes of this additional authority, I'd ask counsel to
7 provide to Mr. Thistle a copy -- well, let me check with the
8 witness informally not as a witness but just for
9 information. Do you have flyers describing this business?
10 Some of the witness seem to think so.

11 THE WITNESS: Yes, I have some material left from our
12 direct mail campaign.

13 MR. THISTLE: I didn't hear that, sir.

14 JUDGE CHRISTIANSON: He has literature that started
15 up six months ago.

16 THE WITNESS: I also have the direct transcript of
17 the radio ad which incidentally I wrote.

18 JUDGE CHRISTIANSON: I ask that counsel provide those
19 to Mr. Thistle within the next couple of weeks I guess would
20 be sufficient. This is an interesting point and I might as
21 well indicate my background on it. There is a question
22 about -- well, this three area of fitness in the present
23 policy. So I guess Section 41.14 of our regulations and
24 it's financial fitness, operational fitness, and it's simple
25 propensity fitness to operate legally.

1 And there has been a question brought about by Mr.
2 Gopher mainly whether it's a company in a transportation
3 business without proper authority. My preliminary view is
4 that Mr. Gopher seems to be legitimate based on the
5 essentially, incidentally exemption. I can't put my finger
6 on a citation right now. But I recall a decision I think
7 it's in about four Commonwealth corporate order which is
8 fairly recent when I started my career. But it's pretty old
9 now.

10 I think it's an old ship's chandler case where they
11 used the incidental exemption -- where they used the ship
12 chandler to carry money to the ships and this incidentally
13 exemption is what's behind the warehouse exemption. And I
14 think that probably isn't a very problem associated with
15 this activity.

16 But since it is an illegal service is a sore point
17 with application cases and it's been brought up, I'd ask
18 counsel to provide the information just as background
19 information for discovery as opposing counsel. We have
20 detailed discovery rules usually for motor carrier cases.
21 They were written for rate cases. I just ask informally
22 that you provide them and give a copy of it to Mr. Thistle
23 in a couple of weeks.

24 MR. THISTLE: And I do believe the rule, Your Honor,
25 provide that such a request may be made before the

1 Administrative Law Judge at the hearing.

2 JUDGE CHRISTIANSON: Yes, there are. And for rate
3 cases there's even rules about on the record data request
4 and I think it's followed up in ten days.

5 MR. THISTLE: But it's appreciated if that is done.

6 JUDGE CHRISTIANSON: Yes, and usually people will
7 extend witness lists. I think Malatesta and Hawke was a
8 firm that got pushing on discovery motor carrier cases but I
9 ask that this be provided.

10 MR. THISTLE: I believe that's all I have, sir.
11 Thank you.

12 JUDGE CHRISTIANSON: Well, maybe you have no
13 redirect?

14 MR. FICKEL: No.

15 JUDGE CHRISTIANSON: Perhaps I can modify my thinking
16 of discovery. I require you to provide it. It will bring a
17 little more control somewhere. Well, then I understand from
18 counsel there is no redirect for the witness?

19 MR. FICKEL: Right.

20 JUDGE CHRISTIANSON: And the witness is excused. Do
21 I understand that the Applicant basically rests at this
22 point?

23 MR. FICKEL: Yes, sir.

24 JUDGE CHRISTIANSON: Okay. I think especially given
25 the hour, it's 4:00 now, and given the status of those

1 couple of witnesses, we can probably best arrange for
2 another hearing date. Let's be off the record just briefly.
3 We may be off permanently.

4 (Discussion off the record.)

5 JUDGE CHRISTIANSON: We've been off the record to
6 discuss a couple of housekeeping matters. I'll try to set
7 the next hearing as soon as we can but it will probably be
8 the week of the 17th of August before we can get together.
9 And I'll have it set for the schedule and I'll check with
10 counsel. At this point I control the hearing dates. The
11 first hearing is always scheduled by the Chief ALJ is to
12 control. But at this point the individual judge takes over
13 and we have more flexibility basically.

14 But counsel wants to check on the Amendment from the
15 other Protestant I believe it is and I'll just speak
16 informally with counsel in a few minutes. But with
17 Applicant resting at this point, we'll be off the record for
18 today to presumably close the record at a further hearing
19 presumably to be scheduled at some time. I thank you all
20 today for the testimony. With that, let's be off the
21 record.

22 (Whereupon, at 4:05 p.m., the hearing recessed.)

23

24

25

1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me
3 during the hearing of the within cause, and that this is a
4 true and correct transcript of the same.

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Amy S. Intrieri
AMY S. INTRIERI
Court Reporter

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