

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

| | | | |
|--|--------------------------|---|--------------------------------|
| 1. <u>REPORT DATE:</u> | : June 4, 1992 | : | 2. <u>BUREAU AGENDA NO.</u> |
| 3. <u>BUREAU:</u> | : Transportation | : | JUN-92-T-558* |
| 4. <u>SECTION</u> | : Technical Review | : | 5. <u>PUBLIC MEETING DATE:</u> |
| 6. <u>APPROVED BY:</u> | : | : | June 19, 1992 |
| Director: | : Ernst 7-2154 | : | |
| Supervisor: | : Bigelow/Marzolf 3-5945 | : | |
| 7. <u>PERSON IN CHARGE:</u> | : | : | |
| | : White 7-4387 | : | |
| 8. <u>DOCKET NO.:</u> | : | : | |
| | : A-00099448, F. 1, Am-E | : | |
| 9. (a) <u>CAPTION</u> (abbreviate if more than 4 lines) | | | |
| (b) Short summary of history & facts, documents & briefs | | | |
| (c) Recommendation | | | |

(a) Application of Toy Trucking Company, a corporation of the Commonwealth of Pennsylvania, Worthington, R.D. 1, Armstrong County, for amendment to its common carrier certificate, SO AS TO PERMIT the transportation of (1) property, in bulk, for Toy Trucking Company, between points in Pennsylvania; and (2) property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company located in the city of New Castle, Lawrence County and within an airline distance of twenty-five (25) statute miles of the limits of said city, to points in Pennsylvania; no haul to exceed a distance of one hundred twenty-five (125) statute miles from point of origin to point of destination.

(b) Nine carriers protested the application. All protests were withdrawn upon restrictive amendment which restricts the service for Toy Trucking Company to transportation in bulk, in dump vehicles from its facilities in West Franklin Township, Armstrong County, to points in Pennsylvania, and vice versa. The applicant has shown that a public need for the service as proposed and amended does exist, and that it is fit, ready, willing and able to render same.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application as amended.

RLS

RW:rs

| | | | |
|----------------|-------------------------|--------------|---------------|
| 10. MOTION BY: | Commissioner Chm. Rolka | Commissioner | Holland - Yes |
| SECONDED: | Commissioner Rhodes | Commissioner | |

CONTENT OF MOTION: Staff recommendation adopted.

**DOCUMENT
FOLDER**

DOCKETED
JUL 10 1992



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

July 1, 1992

IN REPLY PLEASE
REFER TO OUR FILE

A-00099448
Folder 1, Am-E

BLAIR S GREEN ESQUIRE
125 NORTH MCKEAN STREET
KITTANNING PA L6201

RLS

Application of TOY TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania

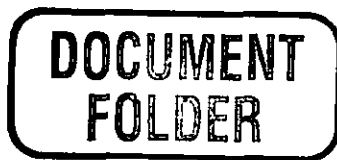
Dear Sir:

Enclosed is the compliance order issued by the Commission in this proceeding.

The applicant will not be permitted to operate or engage in any transportation granted by the enclosed order until a tariff has been prepared and filed in accordance with the enclosed instructions.

Motor carriers operating without complying with the above requirement will be subject to the penalty provisions of the Public Utility Code.

Commission regulations require compliance with the above requirement within sixty (60) days of the date of this letter. Failure to comply within the sixty (60) day period will cause the Commission to rescind the action of June 19, 1992 and dismiss the application without further proceedings.



Very truly yours,

John G. Alford, Acting Secretary

jz
Encls.

Certified Mail

Receipt Requested

Tariff Contact Person: Joseph Machulsky (717)787-5521

cc:applicant

RD #1

PO BOX 103

WORTHINGTON PA 16262

Modification

DOCKETED

JUL 09 1992

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held June 19, 1992

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Wendell F. Holland, Commissioner

Application of Toy Trucking Company, a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport by motor vehicle, coal, lumber, lime, gravel and sand between points in the counties of Clarion, Armstrong, Butler, Venango, Allegheny and Crawford, no haul to exceed a distance of twenty-five (25) miles from point of origin to point of destination; excluding the right to transport lumber from points within an airline distance of forty (40) statute miles of the limits of Brookville, Jefferson County: SO AS TO PERMIT the transportation of (1) property, in bulk, for Toy Trucking Company, between points in Pennsylvania; and (2) property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company located in the city of New Castle, Lawrence County and within an airline distance of twenty-five (25) statute miles of the limits of said city; to points in Pennsylvania, no haul to exceed a distance of one hundred twenty-five (125) statute miles from point of origin to point of destination.

A-00099448
F. 1
Am-E

**DOCUMENT
FOLDER**

DOCKETED
JUL 09 1992

Blair F. Green for the applicant.

Pillar and Mulroy, by John A. Pillar for protestant, Wayne W. Sell Corporation.

Peter G. Loftus for protestant, Seaboard Tank Lines, Inc.

Vuono, Lavelle & Gray, by William A. Gray for protestants: Bulk Transportation Services, Inc., Rosie B. Amsler and Sheila A. Brocious, Copartners, t/d/b/a Marianne Industries, Bruce Trent Trucking, Inc., Taylor Services, Inc., A. D. Weaver Services, Inc., Robert Cole Trucking Company and McClymonds Supply & Transit Co., Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on July 3, 1991, and published in the Pennsylvania Bulletin of July 27, 1991. Nine carriers filed protests but withdrew upon restrictive amendment which restricts service for Toy Trucking Company to transportation in bulk, in dump vehicles, from its facilities in West Franklin Township, Armstrong County, to points in Pennsylvania, and vice versa.

The unopposed record is now certified to the Commission for its decision without oral hearing. Verified statements were submitted by the applicant and the shipper.

David C. Toy, managing officer and secretary/treasurer of Toy Trucking Company (Toy or applicant) states that the company has its principal place of business located at R.D. #1, Worthington, Armstrong County, and that it has been providing intrastate service in Pennsylvania pursuant to a certificate issued to it on February 4, 1976. It operates under 11 individual paragraphs of authority, primarily as a hauler of coal, lumber, lime, gravel, sand, coke, building materials and slag. Neither the applicant nor its officers are affiliated with other carriers.

The applicant conducts business with nine company-owned tri-axle dump trucks which are dispatched from the terminal in Worthington, R.D. 1, (West Franklin Township), Armstrong County. It employs full-time qualified mechanics and ensures that the equipment is maintained in good operating condition and inspected as required by state law. The trucks are equipped with two-way radios.

An unaudited balance sheet shows that at year-end 1990, the applicant had current assets of \$132,110, total assets of \$433,810, with current liabilities of \$99,422 and total liabilities of \$171,978, leaving stockholders' equity of \$261,832.

David C. Toy has also submitted a verified statement on behalf of Toy Trucking Company in the capacity of a shipper and receiver of its own property. During the course of its common carrier trucking business, Toy purchases a variety of items needed in the business and for repair of its trucks, tractors and trailers. It also purchases building materials, topsoil, coal, etc., for storage and resale to the public. For many years, it has relied upon other carriers to haul the property to and from its facilities in Armstrong County, and is now applying for the right to transport the property in its own vehicles. In this regard, its service needs exist from and to points in Butler, Allegheny, Cambria, Erie, Lawrence, Washington, Elk, Venango, Clarion, Westmoreland, Jefferson, Fayette, Somerset, Clearfield, Bedford, Centre, Clinton, Lycoming, Adams, Lancaster, Cumberland, Dauphin, Lackawanna, Schuylkill, Montgomery, Philadelphia, Berks,

Delaware and York Counties. A listing of specific points in each county is provided in the verified statement.

Anthony A. Ryan is the owner and operator of A. A. Ryan Topsoil Company and supports the application. The company has operations in North Beaver Township, Union Township and the city of New Castle, all in Lawrence County, where it sells various soils, including topsoil, clay, loam, infield mix, golf course mix and field dirt. Approximately 42,000 tons are shipped from the three locations annually to commercial and residential users. Some representative destination points located within 125 miles of the city of New Castle are, Verona, Castle Shannon, Penn Hills, Rankin, Perrysville, Hermitage, Shannon, Rochester, Monaca, Evans City, Mars, Pittsburgh, Washington, Cannonsburg, etc. The company is aware of the reliable service the applicant has rendered to other shippers for whom it has hauled bulk products in dump vehicles, and that it enjoys a good reputation among those shippers. Further, the applicant has been providing A. A. Ryan Topsoil with very good service under recent grants of emergency temporary authority and temporary authority.

DISCUSSION AND FINDINGS

By this amended application, Toy Trucking Company seeks to amend its common carrier certificate so that it will have the right to (1) transport property in bulk, in dump vehicles, for Toy Trucking Company, from its facilities in West Franklin Township, Armstrong County to points in Pennsylvania, and vice versa; and (2) to transport property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company located in the city of New Castle, Lawrence County and within an airline distance of 25 statute miles of the limits of said city, to points in Pennsylvania; no haul to exceed a distance of 125 miles from point of origin to point of destination.

Regarding the first proposed right where Toy Trucking Company seeks to transport its own property, in bulk in dump vehicles, to paraphrase the decision in Re: Gene Fuller Homes, Inc., 73 Pa. P.U.C. 194 (1990), we have determined to cease granting common carriers the specific right to haul for themselves when the carriers merely wish to haul their own property to points specified in their existing certificate of public convenience. A common carrier may haul its own property in certificated vehicles subject to the territorial limitations of its certificate. (Emphasis Added)

The territory in which Toy Trucking Company proposes to haul its own property exceeds by far, the territory in which it is now certificated. The applicant's existing authority authorizes the transportation of specific commodities between points in the counties of Clarion, Armstrong, Butler, Venango, Allegheny and Crawford, with lengths of hauls limited to either 15, 25 or 35 miles from point of origin to point of destination. Some of the authority is limited to hauling for specifically named shippers.

In addition to its motor carrier operations, Toy Trucking Company is in the business of selling various building materials, coal, topsoil, etc., which it purchases from a wide variety of sources throughout

Pennsylvania. The material is stored and stockpiled at facilities in West Franklin Township, Armstrong County. It has relied on other carriers to bring the material into the facilities and to deliver the material to the buyers. It is anxious to be able to handle the material in and out of the facilities in its own trucks, and to also bring in the spare parts and other items required in the trucking operation. We believe it is properly before us for common carrier authority to handle its own property.

It is also our conclusion that the applicant is well qualified to provide the service proposed for A. A. Ryan Topsoil Company. The applicant is an experienced hauler of bulk materials such as topsoil and the shipper desires access to that experience.

We find:

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

IT IS ORDERED: That the application be and is hereby approved as amended and that the certificate issued to the applicant on February 4, 1976, as amended, be further amended to include the following rights:

- (1) To transport, as a Class D carrier, property, in bulk, in dump vehicles, for Toy Trucking Company, from its facilities in the township of West Franklin Armstrong County, to points in Pennsylvania, and vice versa.
- (2) To transport, as a Class D carrier, property, in bulk in dump vehicles, from the facilities of A. A. Ryan Topsoil Company, located in the city of New Castle, Lawrence County and within an airline distance of twenty-five (25) statute miles of the limits of said city, to points in Pennsylvania; no haul to exceed a distance of one hundred twenty-five (125) miles from point of origin to point of destination.

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

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

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
*Order A-99448
 F. I-Am-E*

4a. Article Number
044027

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

5. Signature (Addressee)
Peter G. Loftus Esq.

7. Date of Delivery
7/3/92

6. Signature (Agent)

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

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
*Order A-99448
 F. I-Am-E*

4a. Article Number
044028

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

5. Signature (Addressee)
John A. Pillar

7. Date of Delivery
07 JUL 1992

6. Signature (Agent)
Barbara Borchwell

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

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
*Order A-99448
 F. I-Am-E*

4a. Article Number
044029

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

5. Signature (Addressee)
William A. Gray

7. Date of Delivery
7-6-92

6. Signature (Agent)
Peter Loftus

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

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

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

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: June 19, 1992

ORDER ENTERED: JUL 1 1992

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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

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

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Order A-99448
Comp. F.I-Am-E

4a. Article Number

044060

4b. Service Type

- Registered Insured
- Certified COD
- Express Mail Return Receipt for Merchandise

7. Date of Delivery

7-7-92

5. Signature (Addressee)

Blair S. Green Esq.

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

6. Signature (Agent)

S. Brown

Thank you for using Return Receipt Service.