

52 Market St.
Lock Haven, PA 17745
(717) 748-4286

POWERS TRUCKING CO.

A.97345

F2

Class D - coal from the operations of A.P. Coal Co. in Karthaus Twp, Clearfield County, Confer Bros. in Beech Creek Twp., Clinton County and R. S. Earlin, Inc. in Snow Shoe Twp., Centre County and Leidy Twp., Clinton County to points within 100 air miles of the point of origin.

2 Am-A

Class D - coal from the facilities of Johnson & Morgan in Snow Shoe Twp., Centre County to points within 125 air miles of the point of origin excluding transportation to points in the Counties of Lycoming, Montour, Berks, Dauphin and York.

Am-D

Class D - coal between points in the Village of Moshannon, Snow Shoe Twp., Centre County and within a radius of 25 air miles thereof - no haul to exceed 25 miles from point of origin to destination.

Am-E

Class D - coal from mines or stripping operations in the Townships of Karthaus, Clearfield County and Snow Shoe and Burnside, Centre County to the American Viscose Corp. in Granville Twp., Mifflin County.

Class D - coal, wood, stone, lime, fill and building materials in bulk in dump trucks between points in the Townships of Howard and Liberty, Centre County and within 25 highway miles of the limits thereof in the Counties of Centre and Clinton, no haul to exceed 25 miles from point of origin to destination.

F2
Am-C

1. Coal from the facilities of Johnson & Morgan in Snow Shoe Township, Centre County to points in the Counties of Mercer, Lawrence, Beaver, Washington and Greene.
2. Coal from the facilities of R. S. Carlin, Inc. in Snow Shoe Township, Centre County, to points in the Counties of Mercer, Warren, Beaver, Washington, Greene, Fayette and Somerset.
3. Coal from the facilities of R.S. Carlin, Inc. in Burnside Township, Centre County to that part of Somerset County east of US Highway 219, that part of Bedford County on and south of Interstate Highway 76, and points in Pennsylvania on and west of US Highway 219, PROVIDED that no right is granted to serve points in the Counties of Allegheny, Butler, Venango, Lawrence, Crawford, Erie, McKean and Elk; that part of Cambria County north of US Highway 22 and/or east of US Highway 219; that part of Indiana County east of a line drawn north and south thru the Borough of Clymer; that part of Jefferson County east of a line drawn north and south thru the Borough of Brookville; and the County of Clearfield except as presently authorized.

Folder 2, Am-G:

Class D - property from the facilities of Webb Super-Gro, Inc., in the borough of Mill Hall, Clinton County, to points in Pennsylvania and vice versa.

Box 781
Lock Haven PA 17745
(717) 748-4286

A. 97345
FORNERS TRUCKING CO. A. 97345

page 2

Folder 2. Am-F

To transport, as a Class D carrier, coal, for WH Coal Sales, Inc., from points in the counties of Clinton (excluding points within an airline distance of twenty-five (25) statute miles of the limits of the city of Williamsport, Lycoming County), Huntingdon and Jefferson, to points in the county of Northampton.

To transport, as a Class D carrier, wood and wood products, from the city of Lock Haven, Clinton County and points within an airline distance of thirty-five (35) statute miles of the limits of said city, to points in Pennsylvania, and vice versa;

To transport, as a Class D carrier, scrap metal and scrap paper, for Modes Industries, Inc., from its facilities in the county of Centre, the city of Lock Haven, Clinton County and the borough of Tyrone, Blair County, to points in Pennsylvania, and vice versa;

subject to the following condition:

That no right, power or privilege is granted to transport scrap metal from the city of Williamsport, Lycoming County.

To transport, as a Class D carrier, grain and grain products, from points in the counties of Clinton and Centre, to points in Pennsylvania, and vice versa;

subject to the following conditions:

That no right, power or privilege is granted to transport commodities in bulk, in tank vehicles.

That no right, power or privilege is granted to render service to or from points in the Township of Limestone, Clarion County.

To transport, as a Class D carrier, grain and grain products, for Lovatt and Company, Inc., between points in Pennsylvania;

subject to the following conditions:

That no right, power or privilege is granted to transport commodities in bulk, in tank vehicles.

That no right, power or privilege is granted to render service to or from points in the township of Limestone, Clarion County.

Folder 2 Am-J

Class D

A. 97345

Powers Trucking Co.

Property from the facilities of R S Carlin, Inc. located in the Twp of Snow Shoe, Centre County to points in PA and vv.

- Folder 2
Am-I To transport, as a Class D carrier, coal, from the operations of A. M. E. Enterprises, Inc., located in the township of Karthaus, Clearfield County, to the plant of Pennsylvania Power & Light Co., located in the borough of Shamokin Dam, Snyder County.
- Folder 2
Am-L Class D - malt beverages, used containers and pallets from the facilities of F. & M. Schaefer Brewing Co., in the county of Lehigh, to points in Pennsylvania, and vice versa.
- Folder 2
Am-M Class D - malt beverages, malt beverage containers and pallets between points in PA. excluding:
1. new containers that have been rejected for any reason.
 2. service from the borough of Latrobe, Westmoreland County to points in the counties of Bucks, Delaware, Montgomery and Philadelphia.
 3. service to or from D.B. Rossi Beverage Co. in the city of Hazleton, Luzerne County.
 4. service from Latrobe Brewing Co. in the borough of Latrobe, Westmoreland County to Stegmaier Distributing Co. of Scranton Inc. in the city of Scranton, Lackawanna County and vice versa.
- Folder 2
Am-N Class D - property for Mill Hall Clay Products Inc; Simon Resources Inc; and Coatesville Scrap Iron & Metal Co. between points in PA.
- Folder 2
Am-O Class D - property for Staiman Bros. Inc. between points in PA.

OKA
PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held December 27-28, 1983

Commissioners Present:

Linda C. Taliaferro, Chairman
Michael Johnson
James H. Cawley

Application of Hiram Wible & Son, Inc.,
for approval of the transfer to it of
all of the operating rights held by
Freddie E. Wible, t/a Hiram Wible and
Son, at A-00099512.

A-00105017

O R D E R

BY THE COMMISSION:

By application docketed September 21, 1983, Hiram Wible & Son, Inc., a corporation of the Commonwealth of Pennsylvania, seeks approval of the transfer to it of all the rights granted to Freddie E. Wible, t/a Hiram Wible and Son, under the certificate issued at A-00099512.

We find the applicant to be fit to hold a certificate of public convenience and that approval of the application is necessary and proper for the continuation of service to the public; THEREFORE,

IT IS ORDERED: That the application for the transfer of rights held by Freddie E. Wible, t/a Hiram Wible and Son at A-00099512 be approved and that a certificate be issued to the applicant granting the following rights:

1. To transport, as a Class D carrier, coal, in bulk in dump trucks, from points in the county of Clearfield to points in the counties of Blair, Centre and Clearfield, provided no haul shall exceed a distance of thirty (30) miles from point of origin to point of destination.
2. To transport, as a Class D carrier, sand, in bulk in dump trucks, from points in the village of Frankstown, Blair County, to points in the counties of Centre and Clearfield, provided no haul shall exceed a distance of thirty (30) miles from point of origin to point of destination.

3. To transport, as a Class D carrier, limestone, in bulk in dump trucks, from points in the borough of Tyrone, Blair County to points in the counties of Centre and Clearfield, provided no haul shall exceed a distance of thirty (30) miles from point of origin to point of destination.
 4. To transport, as a Class D carrier, coal, from the facilities of Avery Coal Company, Inc., and L & B Coal Company, Inc., located in Broad Top Township, Bedford County, to points in Rush Township, Centre County, and to the tipples of Avery Coal Company, Inc. located in the townships of Morris and Union, Clearfield County.
 5. To transport, as a Class D carrier, quarry products, from quarries in the counties of Bedford, Blair, Huntingdon and Somerset to other points in said counties, not to exceed a distance of twenty-five (25) miles from quarry, pit, excavation or railroad siding, to point of construction or disposal; provided, however, that such hauls may be made to a maximum distance of thirty-five (35) miles in the counties of Bedford, Blair and Huntingdon from point of pick up, where the point of destination is in a rural community not served by railroad facilities, on or before March 19, 1934.
 6. To transport, as a Class D carrier, road, building, construction and excavating materials and equipment and articles such as are usually transported in dump trucks, between points, not to exceed a distance of fifteen (15) miles from point of origin to point of construction or disposal, in the counties of Bedford, Blair, Huntingdon and Somerset.
 7. To transport, as a Class D carrier, quarry products from points in the counties of Bedford, Blair and Huntingdon to points within an airline distance of fifty (50) statute miles of the point of origin.
 8. To transport, as a Class D carrier, building materials, in bulk in dump vehicles, between points in the counties of Bedford, Blair and Huntingdon.
 9. To transport, as a Class D carrier, tombstones from points in the borough of Chambersburg, Franklin County, to points in the county of Blair;
- with the rights 7, 8 and 9, above, subject to the following condition:

That no right, power or privilege is granted to transport sand in bulk from the Pennsylvania Glass Sand Corporation in the borough of Mapleton, Huntingdon County.

10. To transport, as a Class D carrier, coal, sand, crushed stone, stone products, paper, wood and building materials between points in the counties of Blair, Huntingdon, Mifflin, Centre, Clearfield and Cambria;

with right No. 10 above subject to the following conditions:

- a. That no right, power or privilege is granted to transport brick or steel.
- b. That no right, power or privilege is granted to render service from the city of Altoona, Blair County.

11. To transport, as a Class D carrier, scrap materials, for Hodes Brothers, between points in the borough of Tyrone, Blair County, and within an airline distance of one hundred (100) statute miles of the limits of said borough;

with right No. 11 above subject to the following condition:

That no right, power or privilege is granted to transport scrap materials to, from or between points in the counties of Allegheny and Butler.

12. To transport, as a Class D carrier, coal, in bulk in dump vehicles, for Arthur Minds, t/d/b/a Minds Coal Co., from his mines and facilities in Woodward Township, Clearfield County; for Melvin Winters Contracting, from his mines and facilities in Morris Township, Clearfield County, and for Samuel C. Fry Coal from points in Clearfield County, to points in the cities of Harrisburg, Dauphin County, and York, York County, and the borough of Middletown, Dauphin County, and points within an airline distance of ten (10) statute miles of said cities and borough.
13. To transport, as a Class D carrier, coal, in bulk in dump vehicles, for Anderson Creek Coal & Clay Co. from its mines and facilities at Gulich Township, Clearfield County, to points in the city of Harrisburg, Dauphin County and points within an airline distance of five (5) statute miles of said city and points in the city of York, York County and points within an airline distance of ten (10) statute miles of the limits of said city.

14. To transport, as a Class D carrier, in bulk in dump trucks, coal, rock, shale, sand and blacktop between points in the county of Somerset and from points in said county to points within an airline distance of fifty (50) statute miles of the limits of said county.
15. To transport, as a Class D carrier, coal, stone and sand between points in the county of Bedford and within an airline distance of thirty-five (35) statute miles of the limits of said county;

with right No. 15 above subject to the following conditions:

- a. That no right, power or privilege is granted to render service to or from the plants of Bethlehem Steel Corporation in the county of Cambria.
 - b. That no right, power or privilege is granted to render service between points in the counties of Indiana, Cambria and Westmoreland.
 - c. That no right, power or privilege is granted to transport sand from the Pennsylvania Glass Sand Corporation in the boroughs of Mapleton, Huntingdon County, and McVeytown, Mifflin County.
 - d. That no right, power or privilege is granted to serve Bognar & Company and Union Mining Company to or from points in the boroughs of Latrobe, Westmoreland County, and Somerset, Somerset County.
16. To transport, as a Class D carrier, sand and gravel, for Parks Excavating, Inc., from points in the township of Fairfield, Lycoming County, and the township of Point, Northumberland County, to points in the townships of Walker and Shirley, Huntingdon County.
 17. To transport, as a Class D carrier, coal, for Parks Excavating, Inc., from the facilities of L. & B. Coal Co., Inc. in the townships of Wells, Fulton County, and Todd, Huntingdon County, to the facilities of Pennsylvania Power & Light Company, in the county of Snyder;

1. To transport, as a Class C carrier, lime in bulk, lime in bags, road materials, such as sand, stone, gravel, bituminous asphalt and bituminous concrete, corrugated metal and aluminum pipe, soil, fill and slag, for Faylor-Middlecreek, Inc., from its plants in the townships of Union, Union County, Oliver and Armagh, Mifflin County, Mount Pleasant, Columbia County, Shamokin, Northumberland County, and the city of Lancaster, Lancaster County, to points within an airline distance of eighty (80) statute miles of the point of origin;

 2. To transport, as a Class D carrier, crushed limestone, sand, cement and farm materials between points in the counties of Mifflin, Centre, Huntingdon and Snyder, provided no haul shall exceed a distance of thirty (30) miles from point of origin to point of destination.
 3. To transport, as a Class D carrier, coal from mines in the counties of Centre and Huntingdon to points in the county of Mifflin, provided no haul shall exceed a distance of fifty (50) miles from point of origin to point of destination.
 4. To transport, as a Class D carrier, fertilizer in bags from the plant of Agway, Inc., in the city of York, York County, to Agway Stores in the borough of Mifflin, Juniata County, the village of Belleville in the township of Union, Mifflin County, and the borough of Alexandria, Huntingdon County.
 5. To transport, as a Class D carrier, lime in bulk in dump trucks, from the plant of J. E. Baker in the city of York, York County, to the stores of Agway, Inc., in the borough of Mifflin, Juniata County, the village of Belleville in the township of Union, Mifflin County, and the borough of Alexandria, Huntingdon County;
- with rights No. 4 and 5 above subject to the following condition:
- That no right, power or privilege is granted to transport commodities in bulk in tank vehicles, or in hopper-type vehicles.
6. To transport, as a Class D carrier, farm materials for Agway, Inc., S. H. Goss, Inc., Big Valley Feed & Grain Co., Belleville Flour Mill Co., and Union Mills Soil Service, Inc., between points in the counties of Mifflin, Centre, Huntingdon and Snyder;

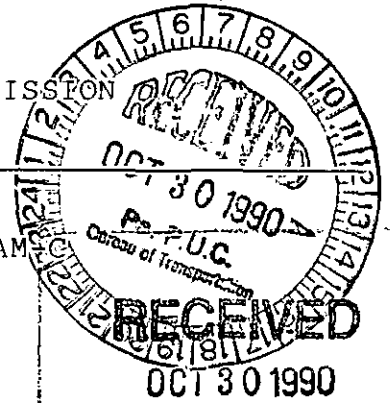
 7. To transport, as a Class D carrier, sand and crushed limestone for E. De-Vecchis & Sons, Inc., from points in the county of Blair to points in the counties of Centre, Mifflin and Snyder.

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET NO. A-00099448, F. 1, AM

TOY TRUCKING COMPANY

PROTEST AND REQUEST
FOR ORAL HEARING

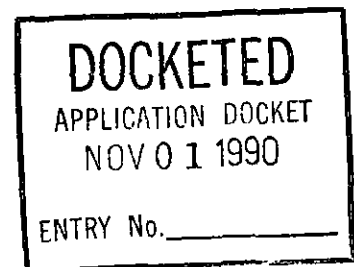


SECRETARY'S OFFICE
Public Utility Commission

FILE

The motor carriers shown on Appendix A hereof (herein called protestants) protest the above application and request that the application be assigned for oral hearing and in support thereof respectfully represent as follows:

1. By this application, notice of which has been published in the Pennsylvania Bulletin, applicant seeks authority as set forth in Appendix A.
2. Protestants hold authority from this Commission at the docket numbers shown in Appendix A and the relevant portions of the authority are attached to the protest. Unless otherwise indicated in Appendix A, protestants will withdraw the protest only in the event an amendment is made which will totally eliminate the conflict between the authority sought by the application and the authority presently held by protestants.



3. Approval of this application is neither necessary nor proper for the service, accommodation, safety or convenience of the public since (a) protestants presently hold authority to provide service in the area affected by the application, (b) protestants and other existing carriers are providing adequate service to the shipping public in the areas involved in the application, (c) there is no need for the service proposed by applicant and approval of the application will result in the diversion from existing carriers of tonnage and revenue necessary to sustain their existing operations, and (d) approval of the application will adversely affect protestants and other existing carriers which have a substantial investment in facilities and equipment and are willing and able to provide service in the application area.

4. Protestants request that the application be set for oral hearing and that applicant be required to prove by competent evidence the elements of proof required by statute. If an oral hearing is held, protestants will appear and present evidence of protestants' own operations and particular interests unless this application is amended so as to eliminate those interests as set forth in this protest.

WHEREFORE, protestants request that the granting of the application be withheld; the proceeding be assigned for oral hearing with leave to protestants to participate fully therein;

and applicant be required to make available at the hearing competent witnesses for examination on all material and relevant facts bearing on the application.

Respectfully submitted,

~~BULK TRANSPORTATION SERVICES, INC.~~
~~WAYNE W. FRIEDLINE~~
~~ROSIE B. AMSLER AND SHEILA A.~~
~~BROCIOUS, COPARTNERS, t/d/b/a~~
~~MARIANNE INDUSTRIES~~
~~MCCLYMONDS SUPPLY & TRANSIT CO., INC.~~
~~BRUCE TRENT TRUCKING, INC.~~
~~HOMER R. SLEEK & SONS, INC.~~
~~TAYLOR SERVICES, INC.~~
~~WILLIAM J. BROWN TRUCKING, INC.~~
~~C. D. AMBROSIA TRUCKING CO.~~

By: William J. Lavelle
William J. Lavelle, Esq.
Attorney for Protestants

VUONO, LAVELLE & GRAY
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
Of Counsel

Dated: October 26, 1990

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the above protest and request for oral hearing upon applicant or upon applicant's attorney or representative as shown in the Pennsylvania Bulletin notice.

Dated at Pittsburgh, Pa. this 26th day of October, 1990.

William J. Lavelle
William J. Lavelle

Re: Toy Trucking Company
Docket No. A-00099448, F. 1, Am-C

APPENDIX A

SCOPE OF AUTHORITY SOUGHT:

By application published in the Pennsylvania Bulletin on October 6, 1990, applicant seeks authority to operate as a common carrier, transporting:

Coal, from points within 125 statute miles from the borough of Worthington, Armstrong County, to points in Pennsylvania, provided no haul shall exceed 125 statute miles from point of origin to point of destination.

INTEREST OF PROTESTANTS:

Geographically, the application requests the right to transport coal from any point in approximately the western two-thirds of Pennsylvania to any point in the state, subject to a 125 mile length of haul limitation. As a result, virtually all of the authority of the following protestants to transport coal is directly affected by this application and is duplicated by it either in whole or in part. Copies of the operating authorities of the protestants are attached to the protest.

1. Bulk Transportation Services, Inc., R. D. #1, Box 88A, Mineral Point, PA 15942 (814-322-1548) holds authority at Docket No. A-00101351. Its pertinent authority is set forth in its lead certificate; paragraphs 1, 2, 4 and 6 of the Folder 1, Am-B certificate.

2. Wayne W. Friedline, R. D. #5, Box 41, Somerset, PA 15501 (814-445-9659) holds authority at Docket No. A-00092702. Its pertinent authority is set forth in paragraph 1 of its lead certificate; Folder 1, Am-A; and Folder 1, Am-B.

3. Rosie B. Amsler and Sheila A. Brocious, Copartners, t/d/b/a Marianne Industries, R. D. #1, Box 215A, Shippenville, PA 16254 (814-226-4378) hold operating authority at Docket No. A-00108377. Its pertinent authority is set forth in paragraphs 5, 6 and 9 of Folder 1, Am-A.

4. McClymonds Supply & Transit Co., Inc., R. D. #1, Portersville, PA 16051 (412-368-3211) holds operating authority at Docket No. A-00105846. Its pertinent authority is set forth in paragraphs 2, 3 and 5 of the lead certificate; Folder 1, Am-A; Folder 1, Am-B; and Folder 1, Am-C.

5. Bruce Trent Trucking, Inc., R. D. #1, Friedans, PA 15541 (814-445-7013) holds authority at Docket No. A-00108190. Its pertinent authority is set forth in paragraphs 1, 2, 4, 5, 6, 7, 12 and 13 of its lead certificate.

6. Homer R. Sleek & Sons, Inc., R. D. #7, Box 337, Johnstown, PA 15905 (814-288-1903) holds authority at Docket No. A-00097650. Its pertinent authority is set forth in the lead certificate; Folder 1, Am-B; and Folder 1, Am-C.

7. Taylor Services, Inc., 200 Neal Drive, Blairsville, PA 15717 (412-459-8901) holds authority at Docket No. A-00108395. Its pertinent authority is set forth in paragraphs 1, 4, 5 and 9 of the lead certificate; and Folder 1, Am-A.

8. William J. Brown Trucking, Inc., R. D. #2, Valencia, PA 16059 (412-898-3175) holds authority at Docket No. A-00096429. Its pertinent authority is set forth in paragraphs 1, 2, 5 and 6 of the lead certificate; Folder 1, Am-A; paragraphs 1, 2 and 3 of Folder 1, Am-B; paragraphs A and B of Folder 1, Am-C; Folder 1, Am-D; paragraphs 1, 2 and 3 of Folder 1, Am-E; paragraphs 1, 2, 4 and 5 of Folder 1, Am-F; Folder 1, Am-G; and paragraphs 1 and 2 of Folder 1, Am-H.

9. C. D. Ambrosia Trucking Co., R. D. #1, Edinburg, PA 16116 (412-654-5538) holds authority at Docket No. A-00084656. Its pertinent authority is set forth in paragraph 1 of Folder 2; paragraph 2 of Folder 2, Am-B; and Folder 3, Am-C.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 25, 1979

Commissioners Present:

W. Wilson Goode, Chairman
Louis J. Carter
Michael Johnson

Application of Bulk Transportation Services,
Inc., for approval of the transfer to it of
all of the operating right held by Ray W. Kalp
at A. 64883.

A-00101351

O R D E R

BY THE COMMISSION:

By application docketed February 8, 1979, Bulk Transportation Services, Inc., a corporation of the Commonwealth of Pennsylvania, seeks approval of the transfer to it of all the right granted to Ray W. Kalp under the certificate issued at A. 64883.

We find the applicant to be fit to hold a certificate of public convenience and that approval of the application is necessary and proper for the continuation of service to the public; THEREFORE,

IT IS ORDERED: That the application for the transfer of right held by Ray W. Kalp at A. 64883 be approved and that a certificate be issued to the applicant granting the following right:

To transport, as a Class D carrier, coal, cinders, reddog, sludge, coke, coke ashes, boiler ashes, flyash, sand and gravel, in dump trucks, between points in the counties of Fayette, Westmoreland, Somerset, Washington, Cambria and Allegheny; excluding the transportation of commodities in hopper-type vehicles;

subject to the following conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the

right to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

2. That applicant shall not record in its utility accounts any amount representing the right herein granted, in excess of the actual cost of such right to the original holder thereof.
3. That the \$45,000 consideration paid by applicant for the right and going concern value of the business be capitalized by applicant in Account 1550 - Other Intangible Property or in the alternative be charged off against applicant's ownership equity less any amount recorded under condition 2 above; provided the latter is sufficient in amount to absorb said charge off.
4. That the operating authority granted herein to the extent that it duplicates any operating authority subsequently granted to applicant shall not be construed as conferring more than one operating right.
5. That the certificate holder shall comply with all of the provisions of the Public Utility Law as now existing or as may hereafter be amended, and Pa. Code Title 52, Chapter 31, as now existing or as may hereafter be amended, and any other rules and regulations as may hereafter be prescribed by the Commission. Failure to comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.
6. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under Section 202(e) of the Public Utility Law of May 28, 1937, P.L. 1053, as amended by Act No. 215 of October 7, 1976.

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 Law and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a tariff establishing just and reasonable rates.

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

IT IS FURTHER ORDERED: That issuance of the certificate be withheld pending receipt of the 1978 Annual Report of the transferor.

IT IS FURTHER ORDERED: That upon compliance with this order the right granted the transferor Ray W. Kalp at A. 64883 be cancelled and the record be marked closed.

BY THE COMMISSION,



William P. Thierfelder
Acting Secretary

(SEAL)

ORDER ADOPTED: April 25, 1979

ORDER ENTERED: **MAY 7 1979**

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 5, 1987

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Application of Bulk Transportation Services, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, coal, cinders, reddog, sludge, coke, coke ashes, boiler ashes, flyash, sand and gravel, in dump trucks, between points in the counties of Fayette, Westmoreland, Somerset, Washington, Cambria and Allegheny; excluding the transportation of commodities in hopper-type vehicles: SO AS TO PERMIT the transportation of coal and stone from the Pennsylvania mines and facilities of Bethenergy Mines, Incorporated, to points in Pennsylvania; subject to the following condition: That no right, power or privilege is granted to provide service to or from the Bethlehem Mines Corporation Fawn No. 91 mines located in Saxonburg, Butler County.

A-00101351
F. 1
Am-B

Vuono, Lavelle & Gray for William J. Lavelle for the applicant.
Graf, Knupp & Andrews by David H. Radcliff for protestant, Jonas P. Donmoyer, Inc.
Rhoads & Sinon by J. Bruce Walter for protestant, D. K. Hershey, Inc.

ORDER

BY THE COMMISSION:

This matter comes before the Commission on an application filed June 16, 1986. Public notice of the application was given in the

Pennsylvania Bulletin of July 5, 1986 and two protests were filed; one was filed late.

Jonas P. Donmoyer, Inc. and D. K. Hershey, Inc., (Hershey filing a late protest) withdrew their protests when the applicant restrictively amended the application to exclude the transportation of stone to, from or between points in the counties of Adams, Lebanon or York.

The now unopposed application is certified to the Commission for its decision without oral hearing. The record consists of verified statements entered by the applicant and one supporting shipper.

Bulk Transportation Services, Inc. currently operates pursuant to a grant of common carrier authority issued by this Commission on June 13, 1979 transporting generally, bulk commodities in western Pennsylvania. By the instant application, it seeks authority to transport coal and stone for a single named shipper from its Pennsylvania mines and facilities to points in Pennsylvania, with a self imposed restriction.

Applicant's office located at Mineral Point, Cambria County includes administrative offices, dispatch facilities, maintenance facilities and parking space for its vehicles. Applicant currently owns nine dump trucks, three tractor trailers, and leases seven tractor trailers and four dump trucks. A number of the vehicles are equipped with two-way radios which permit easy contact between the vehicle and dispatch office. A comprehensive safety and maintenance program is in effect.

The financial data presented by the applicant for the year ended March 31, 1986 indicates total current assets of \$196,422, total assets of \$199,422, total current liabilities of \$176,780 and stockholders' equity of \$22,642. On revenues of \$1,243,386 a net income of \$26,873 was realized.

Applicant will offer a call or demand service to the supporting shipper. Service will be available 24 hours per day, seven days per week with scheduled pickup. Approval of the instant application will serve to reduce empty backhaul mileage now being incurred.

BethEnergy Mines, Incorporated is affiliated with Bethlehem Steel Corporation. BethEnergy is a producer of coal with several facilities located in Pennsylvania including mines in Cambria, Schuylkill and Washington Counties.

Cambria Mine No. 33 is one of three primary sources of coal in Pennsylvania located near Ebensburg, in Cambria County. This mine ships approximately 600,000 tons of coal annually to the Pennsylvania Electric Company Power plant in Homer City, Indiana County. The Cambria Mine No. 33 also ships a collective 96,000 tons of coal each year to other

Penelec power plants located near Dilltown in Indiana County; the Sunbury facility near Snyderstown in Northumberland County, York in York County, and Montour in Columbia County.

Ellsworth Mines No. 58 and 60 which are located in Washington County are the second source. One hundred twenty thousand tons of coal are shipped from those mines to the Pennsylvania Power and Light facility at New Castle, Lawrence County.

The third source is the Tamaqua Mine in Schuylkill County shipping approximately 30,000 tons of coal annually to the Johnstown area mills of Bethlehem Steel. In addition, 10,000-20,000 tons of coal are shipped yearly from the Tamaqua Mine to other points throughout Pennsylvania on a spot order basis.

The supporting shipper has utilized applicant's service for a number of years and its experience with the applicant has been very good. If the application is approved, BethEnergy Mines anticipates that initially it would offer applicant about 30 percent of its current traffic.

DISCUSSION AND FINDINGS

Applicant has presented support for the transportation of coal as proposed. It has failed to demonstrate that service will be required for the transportation of the commodity stone. As the commodity stone has not been supported, we will eliminate the restrictive amendment regarding stone as not being relevant.

BethEnergy Mines, Incorporated is the only shipper supporting service from its own facilities. We shall limit the proposed service to read for that shipper. This modification to the authority limiting service for a shipper is in conformance with current Commission policy when the origin is from a specific shipper's facility and that shipper offers the only support on the record.

We find that:

1. Applicant currently operates pursuant to a common carrier certificate issued June 13, 1979.
2. The application was protested by two carriers who withdrew upon restrictive amendment.
3. Applicant has supported the coal authority but has not supported the commodity stone; therefore, the restrictive amendment regarding stone can be eliminated.
4. As only one shipper supported the application, we will modify the authority to read for BethEnergy Mines, Incorporated.

5. Applicant has the equipment, experience and fitness necessary to render the proposed service as modified.

IT IS FURTHER ORDERED: That the application, as modified, be and is hereby approved, and that the certificate issued on June 13, 1979, as amended, be further amended to include the following right:

To transport, as a Class D carrier, coal, for BethEnergy Mines, Incorporated from its Pennsylvania mines and facilities, to points in Pennsylvania;

subject to the following condition:

That no right, power or privilege is granted to provide service to or from the Bethlehem Mines Corporation Fawn No. 91 mines located in Saxonburg, Butler County.


IT IS FURTHER ORDERED: That the application be denied in all respects for failure to establish proof of necessity.

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 this Commission relative to the filing and acceptance of a tariff establishing just and reasonable rates.

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

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

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 5, 1987

ORDER ENTERED MAR 13 1987

WAYNE W. FRIEDLINE
DOCKET NO. 92702

LEAD CERTIFICATE

To transport, as a Class D carrier, coal from mines and tipples in the County of Somerset to tipples, railroad sidings and customers in the said county.

To transport, as a Class D carrier, sand, gravel and rock, from the Villages of Bakersville, Somerset County, and Ashcom, Bedford County, to the Borough of Somerset, Somerset County, and points within fifteen (15) miles of the limits of said borough.

To transport, as a Class D carrier, soil between points within fifteen (15) miles of the limits of the Borough of Somerset, Somerset County.

FOLDER 1, Am-A

To transport, as a Class D carrier, coal from mines and stripping operations in the county of Somerset to points within an airline distance of eighty (80) statute miles of the point of origin.

Subject to the following condition:

That no right, power or privilege is granted to render service to points in the counties of Allegheny, Armstrong, Fayette and Westmoreland.

FOLDER 1, Am-B

To transport, as a Class D carrier, coal for Intercarbon Coal Company; Panther Coal Sales; and Hardhat Mining, Inc.; between points in Pennsylvania.

FOLDER 1, Am-C

To transport, as a Class D carrier, property, in bulk, in dump vehicles, for Commonwealth Stone, Inc., and Commonwealth Coal, Inc., between points in the county of Somerset and within an airline distance of one hundred (100) statute miles of the limits of said county.

ROSTIE B. AMSLER AND SHEILA A. BROCIJUS
d/b/a MARIANNE INDUSTRIES

OPERATING AUTHORITY

A-00108377
F.1 Am-A

1. To transport, as a Class D carrier, building materials and limestone between points in the counties of Clarion, Armstrong and Jefferson, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination, excluding the transportation of brick and clay products to, from or between points in the counties of Jefferson and Clarion.
2. To transport, as a Class D carrier, sand and gravel, in dump vehicles, between points in the borough of Tionesta, Forest County, and from points in the said borough to points within seventy-five (75) miles of the limits of said borough.
3. To transport, as a Class D carrier, limestone, in dump vehicles, from points in the townships of Perry and Richland, Clarion County, the townships of Hovey and East Franklin, Armstrong County, and the township of Mercer, Butler County, to points within an airline distance of seventy-five (75) statute miles of the point of origin, excluding steel mills and foundries as destination points.
4. To transport, as a Class D carrier, sand, gravel, deicing materials, excluding salt and calcium chloride, in dump vehicles, from points in the townships of Perry and Richland, Clarion County, the townships of Hovey and East Franklin, Armstrong County, and the township of Mercer, Butler County, to points within an airline distance of seventy-five (75) statute miles of the point of origin, excluding points in the counties of Allegheny and Beaver.
5. To transport, as a class D carrier, coal from mines and stripping operations and tipples in the counties of Clarion, Armstrong and Jefferson to points in Pennsylvania, no haul to exceed an airline distance of one hundred twenty (120) statute miles from point of origin to point of destination.
6. To transport, as a Class D carrier, coal from the facilities of the Lucas Coal Company in the counties of Mercer and Butler, to points in Pennsylvania, no haul to exceed an airline distance of one hundred twenty (120) statute miles from point of origin to point of destination.

with right number 6 subject to the following conditions:

That no right, power or privilege is granted to render service to points in the counties of Allegheny, Clearfield or Indiana, or points east of U.S. Highway Route 219.

7. To transport, as a Class D Carrier, sand, gravel, deicing materials, defrosting materials and anti-skid materials, excluding salt and calcium chloride, in dump vehicles, from points in the counties of Forest, Warren, Crawford and Venango to points within an airline distance of fifty (50) statute miles of the point of origin, excluding service to points in the city of Erie, Erie County, or points in the counties of Allegheny or Beaver.

8. To transport, as a Class D carrier, cinders, in dump vehicles, from points in the counties of Armstrong, Allegheny and Indiana, to points in the counties of Armstrong, Butler, Clarion, Clearfield, Crawford, Elk, Forest, Indiana, Jefferson, Venango and Warren.
9. To transport, as a Class D carrier, coal for C & K Coal Company, W.P. Stahlman Coal Company, Cambria Coal Company, Shannon Coal Company, Vantage Coal Company, GRC Mining Company and GRC Coal Company:
 - (a) From the facilities of the above-named shippers in the counties of Butler, Mercer and Venango to points in Clarion County;
 - (b) From Reade, White, Chest, Dean, Clearfield, Eldred Township, Cambria County to Fallentisler, Cambria County.

re - 2

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 15, 1985

Commissioners Present:

Linda C. Taliaferro, Chairman
Michael Johnson
James H. Cawley
Frank Fischl
Bill Shane

Application of McClymonds Supply &
Transit Co., Inc. for approval of
the transfer to it of all of the
operating rights held by George R.
McClymonds at A-00076408.

A-00105846

O R D E R

BY THE COMMISSION:

By application docketed November 8, 1984, McClymonds Supply & Transit Co., Inc. a corporation of the Commonwealth of Pennsylvania, seeks approval of the transfer to it of all the rights granted to George R. McClymonds, under the certificate issued at A-00076408.

We find the applicant to be fit to hold a certificate of public convenience and that approval of the application is necessary and proper for the continuation of service to the public; THEREFORE,

IT IS ORDERED: That the application for the transfer of rights held by George R. McClymonds at A-00076408 be approved and that a certificate be issued to the applicant granting the following rights:

1. To transport, as a Class D carrier, building materials in bulk in dump trucks, cement, gravel, limestone, sand, tile, cinders, amiesite, concrete blocks and stone between points in the counties of Lawrence, Mercer, Butler and Beaver, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.
2. To transport, as a Class D carrier, coal from stripping operations, mines and tipples in the counties of Butler, Mercer, Beaver and Lawrence to tipples, railroad sidings and consumers in the said counties, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.

3. To transport, as a Class D carrier, coal from stripping operations not served by railroad in the counties of Butler, Mercer, Beaver and Lawrence to points within fifty (50) miles of the point of origin.
4. To transport, as a Class D carrier, fertilizer from plants, warehouses and railroad sidings in the counties of Allegheny, Armstrong, Butler, Beaver, Clairon, Lawrence, Venango, Westmoreland, and Erie, to farms and warehouses in the said counties, excluding the transportation of liquid commodities in bulk in tank vehicles.
5. To transport, as a Class D carrier, building materials, sand gravel, limestone, slag and coal; for Kerry Coal Company, Western Hickory Coal Co., Inc., Shamrock Coal Company, Cooper Bros., Inc., Mahoning Valley Sand Co., Allegheny Mineral Corp., and Mayberry Supply Co. between points in the counties of Armstrong, Allegheny, Westmoreland, Lawrence, Mercer, Butler, Beaver, Crawford, Erie and Venango, and from points in said counties to points in Pennsylvania within an airline distance of one hundred (100) statute miles of the limits of said counties, and vice versa;

with right number 5 above subject to the following conditions:

No right, power or privilege is granted to transport cement in bulk.

No right, power or privilege is granted to transport sand, in bulk in truckloads, from the Pennsylvania Glass Sand Corporation in the boroughs of Mapleton, Huntington County, and McVeytown, Mifflin County.

No right, power or privilege is granted to transport wood and wood products from the city of Lock Haven, Clinton County, and points within an airline distance of thirty-five (35) statute miles of the limits of said city, and vice versa;

with the above rights further subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$1, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.
4. That the operating authority granted herein, or now held or subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.
5. That the certificate holder shall comply with all of the provisions of the Public Utility Law as now existing or as may hereafter be amended, and Pa. Code Title 52, Chapter 31, as now existing or as may hereafter be amended, and any other rules and regulations as may hereafter be prescribed by the Commission. Failure to comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.
6. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under Section 1102(3) of Title 66, PA C.S.A.

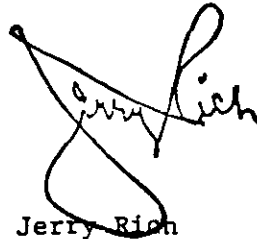
IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Law and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a tariff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

IT IS FURTHER ORDERED: That issuance of the certificate be withheld pending submission of transferor's Annual Report for the year 1984.

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

IT IS FURTHER ORDERED: That upon compliance with this order the rights granted the transferor George R. McClymonds at A-00076408 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in cursive script, appearing to read "Jerry Rich". The signature is written in dark ink and is positioned above the printed name and title.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 15, 1985

ORDER ENTERED: MAR 22 1985

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 6, 1986

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Application of McClymonds Supply & Transit Co., Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport by motor vehicle, coal from stripping operations, mines and tipples in the counties of Butler, Mercer, Beaver and Lawrence, to tipples, railroad sidings and consumers in the said counties, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination: SO AS TO PERMIT the transportation of coal, for Darmac Coal, Inc., D.W.L. Coal Company and Sunbeam Coal Co., between points in Pennsylvania.

A-00105846
F. 1
Am-A

Vuono, Lavelle & Gray, by William A. Gray for the applicant.
Pillar and Mulroy, by Thomas M. Mulroy for protestants: Wayne W. Sell Corporation, Ritchey Trucking, Inc., Gajda Trucking Company and C. L. Feather, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on August 26, 1985, and which was published in the Pennsylvania Bulletin of September 14, 1985. Four carriers lodged protests, however, each withdrew when the applicant entered a restrictive amendment, limiting service from the mines and facilities of two of the named shippers to points in Pennsylvania, and vice versa. Service from the third shipper is limited from its mines and facilities to points within 50 miles of the three named counties, 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 three shippers.

Mark W. McClymonds is president of McClymonds Supply & Transit Co., Inc., a Pennsylvania corporation domiciled at R.D. 1, Portersville, Butler County. He sets forth in a verified statement that the corporation has no affiliation with any other carrier and that it is actively conducting business under the P.U.C. common carrier authority it presently holds. There will be a slight duplication of authority existing should this application be approved.

The Portersville terminal dispatches all of the equipment and it is equipped with vehicle maintenance facilities. The operating fleet consists of seven tri-axle dump trucks and five tractor-trailer dump units. Three of the tri-axes and two tractor-trailer dumps are owned by the corporation with the remainder owned by the applicant witness. It stands ready to add more if necessary.

An unaudited balance sheet indicates that as of November 30, 1985, the corporation had total assets of \$489,840 and total liabilities of \$122,307, leaving a net worth of \$367,633. Since the corporation has been in business for less than one year, there is no income statement available at this time, although it believes it will show a profit during 1985.

John Liperote is president of Darmac Coal, Inc., R.D. 1, Kittanning, Armstrong County, and has entered a supporting verified statement. In its business of mining and selling coal, the company would have use for the proposed service at the rate of 100 loads per month from its facilities in Butler and Armstrong Counties. Some representative destination points are New Castle, Homer City, Johnstown and Kittanning. It is always seeking and adding new customers. The applicant has been used within its existing authority and has been found to be very dependable.

Dennis Chutz is a partner in D.W.L. Coal Co., 635 West Poplar Street, Grove City, Mercer County, and has submitted a supporting affidavit. The company mines and sells coal from its facilities located in Butler, Armstrong and Venango Counties. At least 100 loads a month would be available for the applicant to points throughout the amended area of the application. Shipments have been made in the past to places such as Shippingport, Fombell, Hooker and Boyers. It is now negotiating with potential customers in Emlenton, Erie and Johnstown. The services of a dependable carrier are needed.

Nicholas DiBiase, vice president of Sunbeam Coal Co., Boyers, Butler County, supports the application. The company mines and sells coal at facilities in Butler, Armstrong and Venango Counties, and would give the applicant approximately 50 shipments a month. In the past, shipments were made to such points as Emlenton, Kittanning, New Castle, Erie, Pittsburgh and Polk. New customers are always being sought and a dependable carrier is required.

DISCUSSION AND FINDINGS

McClymonds Supply & Transit Co., Inc., obtained a common carrier certificate from this Commission on June 5, 1985, which gives it the right to transport coal, inter alia, in certain counties of western Pennsylvania, and for certain named coal shippers to points within a specified radial territory of their facilities. By this amended application, it seeks to expand its service so that it can transport coal for three additional shippers.

Each of the three shippers have entered supporting affidavits attesting to the effect that they would utilize the proposed service if it becomes available. Collectively, they would produce at least 250 loads a month for the applicant which would supplement the traffic they now give it under the limited existing authority.

The shippers have facilities in Armstrong, Butler and Venango Counties and it is from these facilities that the applicant would haul coal for two shippers to points in Pennsylvania, and vice versa. For the third shipper, the coal would be transported to points within 50 miles of the limits of the three counties, and vice versa.

We do not have much to question concerning the outbound needs of the shippers, but it has not been made clear to what extent they have need for the hauling of coal in the reverse direction back to their facilities. Our immediate reaction to withhold a grant of vice versa authority is tempered by the fact that the applicant is already limited to hauling coal that belongs to each of the three shippers as opposed to hauling coal for the public in general. Should there be instances of coal moving back to the shippers' facilities from coal cleaning or processing companies or for any other reason, we think it only proper that the applicant have the right to take it back. It will, however, have to move for the three shippers as the case may be.

We find:

1. That a public need for the proposed service as amended does exist.
2. That the applicant is fit, ready, willing and able to render the 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 June 5, 1985, be amended to include the following rights:

1. To transport, as a Class D carrier, coal, for Darmac Coal, Inc., and D.W.L. Coal Company from the mines and facilities of said companies located in the counties of Butler, Armstrong and Venango, to points in Pennsylvania, and vice versa;


2. To transport, as a Class D carrier, coal, for Sunbeam Coal Co., from its mines and facilities located in the counties of Butler, Armstrong and Venango, to points within an airline distance of fifty (50) statute miles of the limits of said counties, and vice versa.

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

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

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

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 6, 1986

ORDER ENTERED: MAR 13 1986

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 11, 1986

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Application of McClymonds Supply & Transit Co., Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport by motor vehicle, building materials in bulk in dump trucks, cement, gravel, limestone, sand, tile, cinders, amesite, concrete blocks and stone, between points in the counties of Lawrence, Mercer, Butler and Beaver, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination: SO AS TO PERMIT the transportation of property, for George R. McClymonds and Mark W. McClymonds, between points in Pennsylvania.

A-00105846
F. 1
Am-B

Vuono, Lavelle & Gray, by William A. Gray for the applicant.
Peter G. Loftus for protestant, Seaboard Tank Lines, Inc.
McNees, Wallace & Nurick, by S. Berne Smith for protestant,
Schwerman Trucking Co.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on January 21, 1986, and published in the Pennsylvania Bulletin of February 8, 1986. Two carriers protested the application but withdrew pursuant to a restrictive amendment which prohibits the transportation of certain named commodities. The unopposed record is now certified to the Commission for its decision without oral hearing. Verified statements were submitted by the applicant and the two named shippers.

Mark W. McClymonds, president of McClymonds Supply & Transit Co., Inc. (or applicant), has entered a verified statement in which he sets forth, inter alia, that the applicant corporation is headquartered at R.D. 1, Portersville, Butler County, and is not affiliated with any other carrier. The company is currently authorized to transport a variety of specifically named commodities between certain areas of western Pennsylvania as a common carrier.

The applicant operates under a central dispatch system located at R.D. 1, Portersville, controlling seven tri axle dump trucks and five tractor-trailer dump units. The applicant corporation owns three dump trucks and two dump tractor-trailers, whereas the applicant witness owns the remainder and leases them to the applicant on long term arrangements. It is familiar with the safety regulations and maintains a rigid safety program.

An unaudited balance sheet indicates that as of year end 1985, the applicant had current assets of \$16,867, total assets of \$183,957, with current liabilities of \$122,237 and no long term liabilities, leaving stockholders' equity of \$61,720. A statement of income for 1985 discloses that from operating revenue of \$547,206, the applicant incurred operating expenses of \$538,302, resulting in a net income of \$8,904.

Mark W. McClymonds (or shipper), in addition to his position as president and sole owner of the applicant corporation, has also been engaged in business privately as a buyer and seller (broker) of a variety of specific commodities, including sand, gravel, limestone, sawdust, bark, coal, fertilizer and lime. The business is conducted at R.D. 1, Portersville, Butler County.

In the course of business, product purchases have been made at such places as Erie, Slippery Rock, Harrisville, Franklin, Titusville, Corry, Neville Island and Kittanning, and shipped to such representative destinations as Pittsburgh, Cochranton, Meadville, Portersville, Ellwood City, Butler and New Kensington. For many years up to the present, the witness has been meeting his own transportation needs through a private carriage program utilizing his own trucks. He feels that now it would be more efficient to utilize the applicant's proposed service as a common carrier. Approximately 25 shipments a month would be available to the applicant.

George R. McClymonds (or shipper) is also in the business of buying and selling specific commodities, not unlike those involved in the business of his son, Mark W. McClymonds, the other supporting shipper. Unlike his son, he is not in any way affiliated with the applicant corporation at this time.

Some representative points of origin from which the witness has made shipments within the last several years are, Slippery Rock, Plain Grove, Bessemer, Harrisville, Youngsville and Neville Island. Points of destination included Sewickley, Meadville, Prospect, Portersville,

Ellwood City and New Castle. He has been engaged in a private carriage operation over the years but believes it would be more efficient to utilize the common carrier services proposed by the applicant. Approximately 50 shipments a month will be available to the applicant.

DISCUSSION AND FINDINGS

The applicant, McClymonds Supply & Transit Co., Inc., has held a common carrier certificate since June 5, 1985, which came as the result of the transfer to it, of all of the authority formerly held by George R. McClymonds at A-00076408. George R. McClymonds is now one of the shippers the applicant proposes to serve in this application.

By the immediate application, the applicant seeks to amend its certificate so that it will have the right to transport property for George R. McClymonds and Mark W. McClymonds between points in Pennsylvania. The applicant's operations focus on the transportation of bulk-type commodities such as coal, cement, gravel, sand, building materials, etc., in dump vehicles. A very slight duplication of authority would exist as a result of a grant of the authority under consideration here.

As the names do imply, there is more than a passing affiliation between the applicant and one of the supporting shippers, Mark W. McClymonds. The sole owner of the applicant corporation is Mark W. McClymonds. The second shipper, George R. McClymonds, is the father of Mark but he is not affiliated with the applicant in any other respect. Both are engaged in business for themselves as buyers and sellers of a variety of commodities which lend themselves to transportation in dump-type vehicles. Their transportation needs are being met by private carriage operations. In the case of the applicant owner, he is utilizing dump vehicles which are not assigned in its current common carriage authority.

Both individuals plan no disruption in their commodity brokerage businesses, other than their immediate desire to discontinue private carriage and turn to the common carrier services proposed by the applicant in this proceeding. Notwithstanding the affiliation involved, we find nothing in the Public Utility Code to preclude a grant of the authority sought.

Collectively, the shippers have shown that their business activities have taken place in the ten western Pennsylvania counties of Erie, Warren, Lawrence, Beaver, Venango, Butler, Crawford, Armstrong, Allegheny and Westmoreland. We cannot hold that this display of need is sufficient to sustain a broad grant of authority to render service between all points in Pennsylvania. There is no evidence on the part of either shipper that they would have even a token need for service in the remainder of the Commonwealth.

We believe a grant of authority to serve the two shippers between points in western Pennsylvania located on and west of the eastern boundaries of the counties of Warren, Forest, Jefferson, Indiana, Westmoreland and Fayette, would be compatible with the evidence before us and be liberal enough to meet their service needs in all respects.

We find:

1. That the applicant has shown that a public need for the proposed service as amended and hereinafter modified does exist.
2. That the applicant is fit, ready, willing and able to render the proposed service as amended and hereinafter modified.
3. That approval of the application as amended and hereinafter modified 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 modified, granting the following right:

To transport, as a Class D carrier, property, for George R. McClymonds and Mark W. McClymonds, between points in that part of Pennsylvania located on and west of the eastern boundaries of the counties of Warren, Forest, Jefferson, Indiana, Westmoreland and Fayette;

subject to the following conditions:

1. That no right, power or privilege is granted to transport cement.
2. That no right, power or privilege is granted to transport petroleum and petroleum products, in bulk, in tank vehicles.
3. That no right, power or privilege is granted to transport dry bulk commodities in tank or hopper-type vehicles.

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

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

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

IT IS FURTHER ORDERED: That the application in all other respects be denied for lack of proof of necessity.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is written in a cursive style with a large, sweeping initial "J".

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: September 11, 1986

ORDER ENTERED: SEP 17 1986

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held June 11, 1987

Commissioners Present:

Bill Shane, Chairman
Linda C. Taliaferro
Frank Fischl

Application of McClymonds Supply & Transit Co., Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, coal, for Darmac Coal, Inc., and D.W.L. Coal Company from the mines and facilities of said companies located in the counties of Butler, Armstrong and Venango, to points in Pennsylvania, and vice versa: SO AS TO PERMIT the transportation of property, for Russell Industries, Inc., Slippery Rock Aggregates, Inc., H & H Materials, Inc., Atlantic Materials, Inc., C & C Drilling, Inc., t/d/b/a C & C Limestone and Lindy Ferraro, t/d/b/a Rose Point Sand & Gravel, between points in Pennsylvania.

A-00105846
P. 1
Am-C

Vuono, Lavelle & Gray, by William A. Gray, for the applicant.
Arthur J. Diskin for the protestant, John D. Clark.
Johnson, Peterson, Tener & Anderson, by Ronald W. Malin, for the protestant, Crossett, Inc.
Peter G. Loftus, for the protestant, Seaboard Tank Lines, Inc.
Pillar and Mulroy, P.C., by John A. Pillar, for the protestant John H. Brown.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed October 29, 1986. Public notice of the application was given in the Pennsylvania Bulletin of November 29, 1986. Four protests were filed but later withdrawn upon restrictive amendment. The now unopposed application is certified to the Commission for its decision without oral hearing. The record consists of verified statements submitted by the applicant and four supporting shippers.

McClymonds Supply & Transit Co., Inc. (McClymonds or applicant) initially sought authority to transport property between points in Pennsylvania for six named shippers. By restrictive amendment the number of shippers have been reduced to four and prohibitions have been added to eliminate the transportation of petroleum and petroleum products, and commodities which because of size or weight require the use of special equipment.

The applicant is a Pennsylvania corporation, with its principal place of business in Porterville, Butler County. It obtained its certificate in 1985 by transfer from its predecessor sole proprietor, George R. McClymonds, at A-00076408. McClymonds currently holds a total of eight paragraphs of rights.

McClymonds operates a fleet of seven tri-axle dump trucks and five tractor-trailer dump combinations. If additional equipment is needed, it will be obtained by purchase or lease. A comprehensive safety program for drivers and vehicles is currently in operation. As evidence of its financial capacity to perform the proposed service, the applicant reports total current assets of \$388,000, with total current liabilities of \$73,204, leaving a net worth of \$313,796. Gross intra-state revenue for 1985 was \$547,206.

Dave Hoobler, president of H & H Materials, Inc., submitted a verified statement in support of the application. Located in Stoneboro, Mercer County, this company ships sand, gravel, crushed stone and topsoil to points located throughout the state. Approximately thirty shipments will be tendered to the applicant each month.

Atlantic Materials, Inc., through its sales manager, Joseph Bianco, filed a verified statement in support of the application. This shipper produces aggregates and requires McClymonds to transport about two hundred truckloads of sand, gravel and topsoil per month from and to its facility in Mercer County.

The president of C & C Drilling, Inc., t/d/b/a C & C Limestone, Leonard Chutz also submitted a supporting statement. One hundred shipments of limestone and gravel per month move in and out of facilities located in Boyers, Butler County, and West Pittsburg, Lawrence County.

Another verified statement in support of this application was submitted by Lindy Ferraro, who trades as Rose Point Sand and Gravel in New Castle, Lawrence County. Ferraro ships and receives about two hundred loads of sand and gravel each month. Origins and destinations are located throughout the state.

All of these shippers have used McClymonds in the past to the extent allowed by its current authority and have found the service to be satisfactory. Each is confident that the applicant will provide the type of service they require.

After a complete review of the record before us, we determine that it is sufficient to warrant approval of the application.

We find that:

1. The applicant is fit and possesses the necessary experience and equipment to render the proposed service, as amended.
2. The applicant, through its supporting shippers, has shown that a reasonable public need for the proposed service, as amended, does exist.
3. Approval of the application will be an accommodation and convenience to the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued to the applicant on June 5, 1985, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property for
H & H Materials, Inc.; Atlantic Materials, Inc.;
C & C Drilling, Inc., t/d/b/a C & C Limestone;
and Lindy Ferraro, t/d/b/a Rose Point Sand &
Gravel, between points in Pennsylvania;

subject to the following conditions:

1. That no right, power or privilege is granted to transport petroleum and petroleum products;
2. That no right, power or privilege is granted to transport commodities which because of size or weight require the use of special equipment.

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

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

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: June 11, 1987

ORDER ENTERED: JUN 22 1987

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 29, 1988

Commissioners Present:

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

Application of Bruce Trent Trucking,
Inc., a corporation of the Commonwealth
of Pennsylvania, for the transfer to it
of all of the rights authorized under
the certificate issued at A-00094646
to Bruce W. Trent, subject to the same
limitations and conditions.

A-00108190

Vuono, Lavelle & Gray, by William J. Lavelle for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on June 9, 1988, and published in the Pennsylvania Bulletin of July 23, 1988. There are no protests and the record is now certified to the Commission for its decision without oral hearing.

The applicant also filed an application for temporary authority. Because of our action on the immediate application, the temporary authority application will be dismissed.

Bruce Trent Trucking, Inc. (or applicant) is a recently formed Pennsylvania corporation headquartered at R.D. #1, Friedens, Somerset County. It has authority to issue 50,000 shares of common stock with a par value of \$1.00 per share. Robert D. Trent is president and the son of Bruce W. Trent the transferor, and holds 1,000 shares which is all of the shares issued to date. Blaine E. Trent, a resident of R.D. #3, Somerset, is secretary-treasurer.

The applicant owns 26 tri-axle dump trucks, 24 tractors, 26 dump trailers, two tank trailers, four van trailers and one flatbed trailer with

which the service will be provided. A statement of financial condition shows that the applicant has total assets of \$875,000 (including motor vehicles valued at \$730,665) and total liabilities of \$850,000, leaving a net worth of \$25,000.

Bruce W. Trent (or transferor), has held a certificate from this Commission since 1968. He is retiring as soon as all of his business interests are transferred to other members of his family. He is current in all obligations due this Commission, and he will leave no unpaid business debts from the operation.

Under the terms of an agreement of sale dated June 2, 1988, the applicant will purchase all of the P.U.C. and I.C.C. rights of the transferor for the sum of \$19,000. The P.U.C. rights are allocated at \$18,000 and the I.C.C. rights at \$1,000. No other tangible assets of the transferor are involved. Settlement will be made within 30 days of the effective date of the final order approving the application.

We find:

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

IT IS ORDERED: That the application for transfer of the rights held by Bruce W. Trent at A-00094646, be and is hereby approved and that a certificate be issued granting the applicant the right to operate as follows:

1. To transport, as a Class D carrier, coal, wood, ashes, ground, lumber, stone, sand, road and bridge building materials between points not to exceed a distance of twenty-five (25) miles from point of origin to point of disposal in the counties of Cambria and Somerset.
2. To transport, as a Class D carrier, coal from mines or stripping operations in the counties of Somerset and Cambria to points in the counties of Somerset, Cambria, Bedford and Blair, no haul to exceed a distance of one hundred (100) miles from point of origin to point of destination.
3. To transport, as a Class D carrier, lime from point in the county of Bedford to points in the county of Somerset.

4. To transport, as a Class D carrier, coal from mines and stripping operations in the counties of Somerset and Bedford to points within fifty (50) miles of the point of origin.
5. To transport coal as a Class D carrier, from the mining facilities of Solar Fuel, Inc. and P.B.S. Coals, Inc. in the county of Somerset, to the Shennango Steel Co. facilities, Neville Island, Neville Township, Allegheny County, Pennsylvania.
6. To transport coal as a Class D carrier, from the P.B.S. Coals, Inc. cleaning plant in Shade Township, Somerset County, Pennsylvania, to the city of Monessen, Westmoreland County.
7. To transport, as a Class D carrier, potato chips, farm materials, farm products, farm supplies, livestock, coal, lime, fertilizer, timber, wood products, milk and empty milk containers, mining supplies and equipment and construction machinery, from points in the county of Somerset, to points in Pennsylvania and vice versa;

with Right No. 7 subject to the following condition:

That no right, power or privilege is granted to transport mining supplies and equipment or construction machinery which, because of its size or weight requires special handling and the use of special equipment, such as trucks having winches, or special equipment attached, or trucks of special body construction, or pole trailers or drop frame trailers.

8. To transport, as a Class D carrier, fertilizer and fertilizer ingredients from the facilities of Bethlehem Steel Corporation in the city of Johnstown, Cambria County, to the facilities of the Agway Fertilizer Chemical Plant, in the city of York, York County.
9. To transport, as a Class D carrier, rock salt, in bags, no shipment to exceed six thousand (6,000) pounds, from the facilities of Rochez Bros., Inc., in the borough of Braddock, Allegheny County, to the Agway Supply Center in the borough of Somerset, Somerset County.

10. To transport, as a Class D carrier, building materials, in bulk in dump trucks, between points in the counties of Somerset, Bedford and Fayette, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.
11. To transport, as a Class D carrier, rough lumber from portable sawmills and yards in the counties of Allegheny, Cambria, Westmoreland, Bedford, Somerset and York, to points in the said counties.
12. To transport, as a Class D carrier, coal for domestic consumption between points in the borough of Somerset, Somerset County and within eighty (80) miles by the usually traveled highways of the limits of the said borough in the counties of Somerset, Bedford and Fayette, provided no haul shall exceed a distance of eighty (80) miles from point of origin to point of destination.
13. To transport, as a Class D carrier, coal from mines or stripping operations in the counties of Somerset, Bedford and Fayette to railroad sidings in the said counties, provided no haul shall exceed a distance of eighty (80) miles from point of origin to point of destination.
14. To transport, as a Class D carrier, farm products, farm supplies, sand, fertilizer and lime from points in the county of Somerset to points in the counties of Allegheny, Cambria, Westmoreland and Bedford and Somerset, and vice versa; and said commodities from farms in the county of Somerset to points in the county of York, and vice versa;

with all of the above subject to the following conditions:

- (a) That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by

applicant, or to approve or prescribe rates sufficient to yield a return thereon.

- (b) That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
- (c) That the applicant charge to Account 1550, Other Intangible Property, \$18,000, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above; and subject to further adjustment due to any normal interim transactions to the date of actual transfer.
- (d) That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 Pa. C.S.A. §1102(a)(3).

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

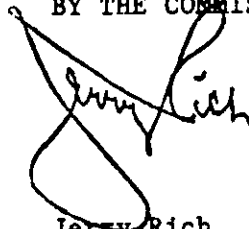
IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

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

IT IS FURTHER ORDERED: That the application for temporary authority be and is hereby dismissed.

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor, Bruce W. Trent, at A-00094646 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", is written over a large, stylized, looped scribble.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: September 29, 1988

ORDER ENTERED: OCT 5 1988

HOMER R. SLEEK & SONS, INC.
DOCKET NO. 97650

LEAD CERTIFICATE

To transport, as a Class D carrier, building materials in bulk in dump trucks and coal between points in the counties of Cambria, Somerset, Indiana, Bedford, Clearfield and Westmoreland, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.

Subject to the following condition:

That no right, power or privilege is granted to make any haul paralleling The Huntingdon and Broad Top Mountain Railroad and Coal Company for a distance greater than five (5) miles.

FOLDER 1, Am-A

To transport, as a Class D carrier, stone, slag, anti-skid and de-icing materials from the facilities of Standard Slag Company located in East Taylor Township, Cambria County, to points within an airline distance of seventy (70) statute miles of the limits of said village.

Subject to the following conditions:

That no right, power or privilege is granted to render service from the plants of Lycoming Silica Sand Company in Clinton County.

That no right, power or privilege is granted to transport salt and calcium chloride in bulk.

FOLDER 1, Am-B

To transport, as a Class D carrier, coal from mines and stripping operations in the counties of Cambria and Somerset to points in the counties of Cambria, Somerset, Bedford, Blair, Westmoreland and Indiana, no haul to exceed a distance of one hundred (100) miles from point of origin to point of destination.

Subject to the following condition:

That no right, power or privilege is granted to transport coal for Myron Shaffer and Penn Energy Corporation from points in Cambria County.

To transport, as a Class D carrier, lime from points in the county of Bedford to points in the county of Somerset.

To transport, as a Class D carrier, sand and stone, for New Enterprise Stone & Lime Company, Inc., Somerset Limestone, Inc., and Detweiler Industries, Inc., from points in the counties of Somerset and Bedford to points in the borough of Somerset, Somerset County, and within an airline distance of fifty (50) statute miles of the limits of said borough.

With all of the above rights subject to the following condition:

That no right, power or privilege is granted to render service from, to or between the plant, operations or facilities of the Union Mining Company of Allegheny, Inc., and Bogner and Company, Inc., or to or from the plants of Bethlehem Steel Corporation in Cambria County.

FOLDER 1, AM-C

To transport, as a Class D carrier, coal, for Intercarbon Coal Company, Panther Coal Sales Company and Hardhat Mining, Inc., between points in Pennsylvania.

FOLDER 1, AM-D

To transport, as a Class D carrier, property, for Fi-Hoff Concrete Products, Inc. from points in Pennsylvania to the facilities of Fi-Hoff Concrete Products, Inc., located in Cambria County, and vice versa;

Subject to the following condition:

That no right, power or privilege is granted to transport petroleum or petroleum products in bulk, in tank vehicles.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held January 19, 1989

Commissioners Present:

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

Application of Taylor Services, Inc., a
corporation of the Commonwealth of Pennsylvania,
for the transfer of all of the operating rights
of Neal Bulk Transport, Inc., a corporation of
the Commonwealth of Pennsylvania, under the
certificate issued at A-00097638, subject to
the same limitations and conditions.

A-00108395

Mark T. Vuono for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed October 14, 1988. Public notice of the application was given in the Pennsylvania Bulletin of November 12, 1988. The unopposed application is certified to the Commission for its decision without oral hearing.

Taylor Services, Inc., a Pennsylvania corporation, operates from facilities at 200 Neal Drive, Blairsville, Indiana County. It does not now hold authority from the Commission or the Intrastate Commerce Commission. It seeks to initiate service in Pennsylvania through acquisition of all of the operating rights of Neal Bulk Transport, Inc.

Taylor Services, Inc., is not affiliated with the transferor. A companion application filed at A-00108395, F. 2, seeks that the transfer of all of the operating authority of Blairsville Transport, Inc. Blairsville Transport, Inc. and Neal Bulk Transport, Inc., are affiliated by common ownership.

The officers and shareholders of the applicant are Darryl J. Taylor, President, Jeffrey L. Taylor, Vice-President, Treasurer and Assistant Secretary, and Ellen C. Taylor, Secretary. Darryl J. Taylor and Jeffrey L. Taylor, own all of the common stock of Taylor Services, Inc., and also own all the issued and outstanding stock of Clarksburg Trucking, Inc., which is a carrier holding authority from the Commission at A-00107533. Ellen C. Taylor, secretary of the applicant also is sole stockholder, director and officer of Taylor Trucking, Inc., a carrier holding operating authority from the Commission at A-00106815. We determined the applicant has acquitted its responsibility to reveal its affiliation with other carriers.

The applicant will provide transportation in Pennsylvania using a fleet of 8 tractors, 9 dump trailers, 8 flat trailers, 3 van trailers, 11 triaxle dump trucks and 2 service vehicles. It lists total assets of \$1,000 less issued capital stock of \$1,000.

The total consideration for the rights is \$20,000. No tangible assets are involved. The sales agreement requires the consideration to be paid as follows: The total payment of \$20,000 will be paid in 84 equal monthly installments of \$319.25 which includes interest computed from October 1, 1988 at the rate of 8.75% a year on the unpaid balance. The total purchase price is secured by a promissory note.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.
2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the transfer application be and is hereby approved and that a certificate be issued granting the following rights:

1. To transport, as a Class D carrier, coal from mines or stripping operations in the counties of Indiana, Westmoreland, Cambria, Armstrong, Somerset, Allegheny, Fayette and Washington to points in the said counties provided no haul shall exceed a distance of twenty-five

(25) miles from point of origin to point of destination.

2. To transport, as a Class D carrier, building materials, excluding bricks, in bulk in dump trucks, sand, gravel, stone, lime, amesite and cement, between points in the counties of Indiana, Westmoreland, Somerset, Cambria, Armstrong, Allegheny, Fayette and Washington, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination;
3. To transport, as a Class D carrier, coke between points in the counties of Allegheny, Fayette and Washington, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.
4. To transport, as a Class D carrier, coal for domestic consumption between points in the borough of Blairsville, Indiana County, and within fifteen (15) miles by the usually traveled highways of the limits of said borough, provided no haul shall exceed a distance of fifteen (15) miles from point of origin to point of destination.
5. To transport, as a Class D carrier, coal from mines or stripping operations in the counties of Westmoreland, Armstrong, Allegheny, Fayette, Washington, Indiana, Cambria, Clearfield, Jefferson, Blair and Clarion, to points in said counties, provided no haul shall exceed a distance of fifty (50) miles from point of origin to point of destination.

with rights Nos. 1 and 5 subject to the following conditions:

That no right, power or privilege is granted to transport coal between Bethlehem Mines Corporation and Bethlehem Steel Corporation; and between Barnes and Tucker Mines No. 20, near Carrolltown, Cambria County, and Bethlehem Mines Corporation and Bethlehem Steel Corporation.

That no right, power or privilege is granted to transport coal from the facilities of U.S. Steel, J & L Steel and Bethlehem Steel in Fayette and Washington counties except to railroad sidings in said counties; and coal from the facilities of Republican Steel in Westmoreland and Washington counties to points

in Westmoreland and Washington counties, except to railroad sidings in said counties.

6. To transport, as a Class D carrier, sand, gravel, stone, lime, amesite, cement and concrete blocks, in bulk in dump trucks, between points in the counties of Westmoreland, Armstrong, Allegheny, Fayette, Washington, Indiana, Cambria, Clearfield, Jefferson; Blair and Clarion, provided no haul shall exceed a distance of seventy-five (75) miles from point of origin to point of destination.

with rights Nos. 5 and 6 subject to the following condition:

That no right, power or privilege is granted to render service to or from the plants of Bethlehem Steel Company located in the city of Johnstown, the boroughs of West Franklin and East Conemaugh, and the township of West Taylor, Cambria County.

7. To transport, as a Class D carrier, Christmas trees between points in Pennsylvania, and the return of refused, damaged or rejected shipments and pallets and other containers to the point of origin.
8. To transport, as a Class D carrier, fresh fruits, for Andrew H. Smith between points in Pennsylvania, and the return of refused, damaged or rejected shipments in pallets and other containers to the point of origin.

with rights Nos. 7 and 8 subject to the subject following condition:

That no right, power or privilege is granted to render service between points in the territory comprising the city and county of Philadelphia and points within thirty-five (35) miles of the usually traveled highways of the limits of said city and county.

9. To transport coal between points in Indiana County and from points in said county to points in Somerset County, and vice versa.

with right No. 9 subject to the following condition:

That no right, power, or privilege is granted to transport coal between points in Somerset County, except as authorized in the above proceeding rights Nos. 1 through 8.

subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$20,000, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.
4. That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its utility accounts any amounts representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
5. That the operating authority granted herein, or now held or subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.
6. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 PA C.S.A. Section 1102(a)(3).

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

IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a certificate issue evidencing the Commission's approval of the right to operate as above-determined.

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

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor Neal Bulk Transport, Inc., at A-00097638 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over a large, stylized, circular scribble or flourish.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 19, 1989

ORDER ENTERED: JAN 26 1989

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 8, 1990

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice-Chairman
Joseph Rhodes, Jr.
Frank Fischl
David W. Rolka

Application of Taylor Services, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, coal from mines or stripping operations in the counties of Indiana, Westmoreland, Cambria, Armstrong, Somerset, Allegheny, Fayette and Washington to points in the said counties provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination; subject to the following conditions: That no right, power or privilege is granted to transport coal between Bethlehem Mine Corporations and Bethlehem Steel Corporation; and between Barnes and Tucker Mines No. 20, near Carrolltown, Cambria County, and Bethlehem Mines Corporation and Bethlehem Steel Corporation; and That no right, power or privilege is granted to transport coal from the facilities of U.S. Steel, J & L Steel and Bethlehem Steel in Fayette and Washington Counties except to railroad sidings in said counties; and coal from the facilities of Republican Steel in Westmoreland and Washington Counties to points in Westmoreland and Washington Counties, except to railroad sidings in said counties: SO AS TO PERMIT the transportation of property, for Kajon Materials, Inc.; Pine Flats Coal Co., Inc.; Coal Junction Coal Company; Green Valley Coal Company; McIntire Coal Co.; Millcreek Processing; and Isers Run Coal Company, Inc., between points in Pennsylvania.

A-00108395

F. 1

Am-A

O R D E R

BY THE COMMISSION:

This application, filed October 20, 1989, is before the Commission for its decision without oral hearing. Public notice of the application was given in the Pennsylvania Bulletin of November 11, 1989. There was one protest which was withdrawn upon restrictive amendment limiting the transportation of petroleum or dry litharge in bulk. The record, which consists of statements entered by the applicant and supporting shippers is now certified to the Commission for its decision.

Applicant is Taylor Services, Inc. (Taylor), a Pennsylvania corporation with offices located at 200 Neal Drive, Blairsville, Indiana County. Darryl J. Taylor and Jeffrey L. Taylor, who own all of the common stock of the applicant, also own all of the issued and outstanding stock of Clarksburg Trucking, Inc., which is a carrier holding operating authority from this Commission at Docket No. A-00107533. Applicant and Clarksburg Trucking, Inc. also have certain officers and directors in common.

In addition, Ellen C. Taylor, Secretary of the applicant (and the wife of Darryl J. Taylor and mother of Jeffrey L. Taylor), is also the sole stockholder, director and officer of Taylor Trucking, Inc., a carrier holding operating authority from this Commission at Docket No. A-00106815.

Taylor has a terminal facility located at 200 Neal Drive, Blairsville, PA 15717. Taylor performs maintenance on its equipment at this facility and dispatches its equipment from this facility. Taylor operates under a central dispatch procedure and equipment terminating at any point can be made available on short notice to make pickups and deliveries. Taylor presently operates 16 tractors, 16 dump trailers and 20 triaxle dump vehicles. All of this equipment is leased on a long-term basis either from an affiliated company or from owner-operators. Taylor does not anticipate that any additional equipment will be required to provide the service sought by this application but it will secure such equipment, either by purchase or lease, if required.

Taylor maintains a rigid safety program, which includes periodic safety meetings, and administers the compliance by its employees with applicable safety regulations. Taylor stresses the importance of safety of operations. Its safety program is in compliance with all safety regulations.

Taylor will provide whatever services are required by the shippers in this proceeding. Scheduled pickup and delivery service, as well as expedited pickup and delivery service, will be provided. Taylor will be able to coordinate the involved shipments with shipments presently being handled under its existing authority. An unaudited balance sheet submitted by the applicant shows total assets of \$83,944.21 with total liabilities of \$19,735.21 leaving stockholders' equity of \$64,209.

Statements were filed by the supporting shippers; Pine Flats Coal Co., Inc.; Iser's Run Coal Company, Inc.; Rajon Materials, Inc.; Millcreek

Processing; Coal Junction Coal Company; Green Valley Coal Company and McIntire Coal Co.

The supporting shippers are involved in the mining and sale of coal. If this application is granted, the supporting shippers will require Taylor Services, Inc. to transport coal. In addition, the supporting shippers sometimes require service in connection with the transportation of other bulk commodities such as lime and stone and we will utilize Taylor Services, Inc. for that transportation if this application is granted. In addition, the supporting shippers will sometimes require Taylor Services, Inc. to transport machinery and equipment, including highlifts, crushers and bulldozers.

The supporting shippers require scheduled pickup and delivery service and also expedited service on occasion. The supporting shippers require the service of a carrier that is dependable and who they know they can rely on. The supporting shippers all utilize the existing authority of Taylor Services. The applicant is limited, however, in that it can presently only provide intrastate service to the shippers transporting coal from mines or stripping operations in the counties of Indiana, Westmoreland, Cambria, Armstrong, Somerset, Allegheny, Fayette, Clearfield, Jefferson, Blair, Clarion and Washington to points in said counties, provided no haul shall exceed 50 miles. The shippers have service needs beyond the territory that can presently be served by Taylor Services and all of the shippers want to be able to utilize Taylor Services for intrastate shipments throughout Pennsylvania. In addition, the shippers want to be able to utilize Taylor Services for the transportation of other commodities, including other bulk commodities and equipment and machinery.

The record before us supports the applicant's fitness and ability to provide the service sought.

We find:

1. That the applicant currently operates pursuant to a common carrier certificate granted March 29, 1989.
2. That the applicant has the equipment, experience and fitness necessary to provide the proposed service.
3. That the applicant has shown that a need exists for the service as proposed.
4. That approval of the application is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application is hereby approved and that the certificate issued to the applicant on March 29, 1989, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property,
for Kajon Materials, Inc.; Pine Flats Coal Co.,

Inc.; Coal Junction Coal Company; Green Valley Coal Company; McIntire Coal Co.; Millcreek Processing; and Isers Run Coal Company, Inc., between points in Pennsylvania;

subject to the following condition:

That no right, power or privilege is granted to transport petroleum and petroleum products in bulk or dry litharge in bulk.

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 this Commission relative to the filing and acceptance of a tariff establishing just and reasonable rates.

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

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

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 8, 1990

ORDER ENTERED: MAR 16 1990

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 96429

Application of WILLIAM J. BROWN TRUCKING, IEC.,
a corporation of the Commonwealth of Pennsylvania

REPORT AND ORDER
APPROVING TRUCKING SERVICE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of WILLIAM J. BROWN TRUCKING, INC., a corporation of the Commonwealth of Pennsylvania, dated November 16, 1970, to operate motor vehicles as a common carrier, and having been duly presented in accordance with the rules of the Commission, and full investigation of the matters and things involved having been had and it appearing that the rights granted herein are in effect a transfer of the rights which have been held by WILLIAM J. BROWN, trading and doing business as WILLIAM J. BROWN TRUCKING, under report and order issued at A. 94919 on January 13, 1969 and the certificate of public convenience issued thereunder, as modified and amended, which certificate will be subsequently cancelled, as of the date of this order upon compliance with the tariff and insurance requirements of the Commission by WILLIAM J. BROWN TRUCKING, INC., a corporation of the Commonwealth of Pennsylvania, the Commission finds and determines that approval of the application limited to the following rights:

1. To transport, as a Class D carrier, coal and coke for domestic consumption between points in the counties of Allegheny, Armstrong, Butler, Indiana and Westmoreland, provided no haul shall exceed a distance of fifteen (15) miles from point of origin to point of destination.
2. To transport, as a Class D carrier, coal from mines or stripping operations in the counties of Allegheny, Armstrong, Butler, Indiana and Westmoreland to railroad sidings, coke ovens, docks or stockpiles in the said counties, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.
3. To transport, as a Class D carrier, building materials, in bulk in dump truck, between points in the counties of Allegheny, Armstrong, Butler, Indiana and Westmoreland, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination, excluding the transportation of brick to, from or between points in the county of Allegheny.

4. To transport, as a Class D carrier, building materials, asphalt and mesite, in bulk in dump vehicles, for Northern Industries, Inc., between points in the township of West Deer, Allegheny County, and within an airline distance of fifty (50) statute miles of the limits of said township;

with right number 4, above, to be subject to the following condition:

That no right, power or privilege is granted to transport building materials made of iron or steel or refractory products.

5. To transport, as a Class B carrier, property, including household goods in use, between points in the township of Middlesex, Butler County.
6. To transport, as a Class D carrier, property, including household goods in use, from points in the township of Middlesex, Butler County, to points within forty (40) miles by the usually traveled highways of the limits of said township, and vice versa.
7. To transport, as a Class D carrier, property from the plant sites of the Pittsburgh Metals Purifying Company in the townships of Clinton and Adams, Butler County, to the Allegheny Ludlum Steel Corporation in the borough of Brackenridge, Allegheny County, and vice versa.
8. To transport, as a Class D carrier, property from the plant sites of the Union Chill Mat Company in the township of Clinton, Butler County, to points within an airline distance of forty (40) statute miles of said plant sites, and the return of refused, rejected or damaged shipments;

with rights number 7 and 8, above, to be subject to the following condition:

That no right, power or privilege is granted to transport commodities in bulk in tank vehicles or in hopper-type vehicles.

and subject to the following conditions, is necessary or proper for the service, accommodation or convenience of the public:

FIRST: That the certificate holder is limited and restricted to the operation of the motor vehicles as named and described in the equipment certificate, to be subsequently issued.

SECOND: That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

THIRD: That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its utility accounts any amounts representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof;

FOURTH: That the certificate holder shall comply with all of the provisions of the Public Utility Law as now existing or as may hereafter be amended, and Revised General Order No. 29, effective July 1, 1939, or as may hereafter be revised, and any other rules and regulations as may hereafter be prescribed by the Commission. Failure to comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.

NOW, to wit, March 29, 1971, IT IS ORDERED: That upon compliance with the requirements of the Public Utility Law relating to insurance and the filing and acceptance of a tariff establishing just and reasonable rates, a certificate of public convenience issue evidencing the Commission's approval of the right to operate as above determined.

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before thirty 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.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ATTEST:



Secretary



Chairman

WJG

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 96429
Folder 1, Am-A

Application of WILLIAM J. BROWN TRUCKING, INC.,
a corporation of the Commonwealth of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of WILLIAM J. BROWN TRUCKING, INC., a corporation of the Commonwealth of Pennsylvania, dated May 12, 1973, for modification of the report and order issued under date of March 29, 1971 and the certificate of public convenience issued thereunder, and upon protests, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE,

NOW, to wit, February 20, 1974, IT IS ORDERED: That the report and order issued under date of March 29, 1971 and the certificate of public convenience issued thereunder, be and is hereby modified and amended so as to include the following right:

To transport, as a Class D carrier, coal, in bulk, in dump vehicles, from the facilities of North Butler Coal Company, in the township of Butler, Butler County, to points in the counties of Erie and Venango.

IT IS FURTHER ORDERED: That the applicant will not be permitted to operate or engage in any transportation granted herein until compliance with the requirements of the Public Utility Law, relative to the filing and acceptance of a tariff establishing just and reasonable rates.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ATTEST:

Will Peter

Secretary

George L. Bloom
Chairman

Order Adopted: February 20, 1974
Order Entered: February 27, 1974

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held February 26, 1976
Harrisburg, PA 17120

COMMISSIONERS PRESENT:

Chairman Carter
Commissioner Bloom
Commissioner O'Bannon
Commissioner Johnson

Application Docket No. 96429, Folder 1, Am-B - Application of
WILLIAM J. BROWN TRUCKING, INC., a corporation of the Common-
wealth of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of WILLIAM J. BROWN TRUCKING, INC., a corporation of the Commonwealth of Pennsylvania, dated August 1, 1975, for modification of the report and order issued under date of March 29, 1971 and the certificate of public convenience issued thereunder, as modified and amended, and having been duly presented in accordance with the rules of the Commission, and full investigation of the matters and things involved having been had, and it appearing that the rights granted herein are in effect a transfer of the rights which have been held by WILLIAM K. HOLMES, under report and order issued at A. 73976 on October 3, 1949 and the certificate of public convenience issued thereunder, as modified and amended, which certificate will be subsequently cancelled, as of the date of this order, upon compliance with the tariff requirements of the Commission by WILLIAM J. BROWN TRUCKING, INC., a corporation of the Commonwealth of Pennsylvania, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE,

NOW, to wit, February 26, 1976, IT IS ORDERED: That the report and order issued under date of March 29, 1971 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following rights:

To transport, as a Class D carrier, coal from mines or stripping operations in the counties of Allegheny, Westmoreland, Washington and Fayette to stock piles, steel mills and factories in the said counties, provided no haul shall exceed a distance of twenty-five (25) statute miles from point of origin to point of destination.

To transport, as a Class D carrier, coal, coke and other fuel for domestic consumption between points in the county of Allegheny, provided no haul shall exceed a distance of twenty-five (25) statute miles from point of origin to point of destination.

To transport, as a Class D carrier, gravel, slag and coal from mines or stripping operations in the counties of Allegheny and Beaver to stockpiles, steel mills and factories in the counties of Allegheny, Westmoreland, Washington, Fayette, Beaver, Lawrence and Butler, provided no haul shall exceed a distance of forty-five (45) statute miles from point of origin to point of

destination, excluding the transportation of slag between steel mills.

and subject to the following conditions:

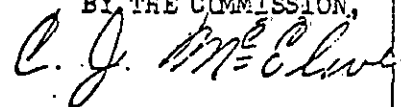
FIRST: That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

SECOND: That applicant shall not record in its utility accounts any amount representing the rights herein granted, in excess of the actual cost of such rights to the original holder thereof.

THIRD: That the applicant charge to Account 1550, Other Intangible Property, \$6,500, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.

IT IS FURTHER ORDERED: That the applicant will not be permitted to operate or engage in any transportation granted herein until compliance with the requirements of the Public Utility Law, relative to the filing and acceptance of a tariff establishing just and reasonable rates.

BY THE COMMISSION,



C. J. McElwee
Secretary

(SEAL)

Order Adopted: February 26, 1976
Order Entered: March 3, 1976

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 28, 1978

Commissioners Present:

Robert K. Bloom, Acting Chairman
Helen B. O'Bannon
Michael Johnson
W. Wilson Goode

Application of William J. Brown Trucking, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate: To transport coal, in bulk, in dump vehicles, for Carpentertown Coal and Coke Company from its mines, stripping operations and tipples located in the county of Armstrong, to points in the counties of Allegheny, Butler, Lawrence, Washington and Westmoreland; coal, sand and gravel, in bulk, in dump vehicles, for W. D. Owens Coal and Supply Company, from points in the counties of Allegheny, Armstrong and Beaver to points in the county of Erie; and sand and gravel, in bulk, in dump vehicles, for W. D. Owens Coal and Supply Company, from points in the counties of Lawrence and Mercer to points in the counties of Allegheny and Beaver.

A. 96429
F. 1,
Am-C

O R D E R

BY THE COMMISSION:

We adopt as our action the Initial Decision of Administrative Law Judge Conly dated July 3, 1978; THEREFORE,

IT IS ORDERED:

1. That the application of William J. Brown Trucking, Inc. at A. 96429, F. 1, Am-C, as amended, be and is hereby approved and

that the Certificate of Public Convenience issued at A. 96429, F. 1 be amended and modified to include the following rights:

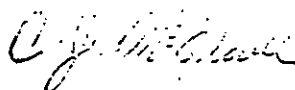
- A. To transport, as a Class D carrier, coal, in bulk, in dump vehicles, for Carpentertown Coal and Coke Company from its mines, stripping operations and tipples located in the County of Armstrong, to the United States Steel Company in the City of Clairton, Allegheny County and Shenango Corporation in Neville Township, Allegheny County;
- B. To transport, as a Class D carrier, coal, in bulk, in dump trucks, for W. D. Owens Coal and Supply Company from points in the Counties of Allegheny and Beaver to Lord Manufacturing Company in the City of Erie, Erie County;
- C. To transport, as a Class D carrier, sand and gravel, in bulk, in dump vehicles, for W. D. Owens Coal and Supply Company from points in the Counties of Lawrence and Mercer to points in Allegheny County.

2. That the applicant shall comply with all of the provisions of the Public Utility Law as now existing or as hereafter may be amended, and all of the existing rules and regulations of the Commission and any other rules and regulations as may hereafter be prescribed by the Commission, and failure on the part of the applicant to so comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.

3. That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Public Utility Law relating to the filing of and acceptance of a tariff establishing just and reasonable rates.

4. That in the event said applicant has not, on or before thirty days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

BY THE COMMISSION,



C. J. McElwee
Secretary

(SEAL)

ORDER ADOPTED: September 28, 1978

ORDER ENTERED: OCT 4 1978

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held July 17, 1980

Commissioners Present:

Susan M. Shanaman, Chairman
Michael Johnson
James H. Cawley
Linda C. Taliaferro

Application of William J. Brown Trucking, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate: SO AS TO PERMIT the transportation of coal, in bulk, in dump vehicles, for Carpentertown Coal & Coke Company, from its mines, stripping operations and tipples in the county of Armstrong, to points in Pennsylvania on and west of U.S. Highway Route 219.

A-00096429
F. 1
Am-D

William J. Lavelle for William J. Brown Trucking, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed December 31, 1979. Public notice of the application was given in the Pennsylvania Bulletin of January 26, 1980. Protests were filed by Tajon, Inc., Wayne W. Sell Corporation, Ward Maust, Donald Maust and Dwight Maust, copartners, t/d/b/a Maust Brothers, Ritchey Trucking, Inc., and Edward R. Simpson. A motion to dismiss the protest of Maust Brothers was filed by the applicant February 21, 1980. An answer to that motion was filed by Maust February 27, 1980. Administrative Law Judge Joseph P. Matuschak, by his order of April 2, 1980, granted the motion to dismiss, but allowed the protestant ten days to file an amended protest which complies with the provisions of 52 Pa. Code §3.381(c). The amended protest was filed April 11, 1980.

The applicant entered a restrictive amendment which resulted in the withdrawal of all protests to the application. The amendment limited the destination for traffic to points in the county of Lawrence.

The application is now unopposed as amended and the record is certified to the Commission for its decision without hearing. The record consists of verified statements entered by the applicant and the supporting shipper.

- William J. Brown, president of William J. Brown Trucking, Inc. (applicant or Brown), set forth in his verified statement that he is fully familiar with the applicant's operation and is authorized to submit a statement. Brown is primarily a bulk commodities carrier with 90 percent of its business in bulk transportation. The applicant operates a garage and office in Valencia, Butler County, which consists of a 40 by 80 foot maintenance building. This facility is approximately 35 miles from the supporting shipper's mine at Templeton, Armstrong County. Currently, Brown has 26 dump vehicles in its fleet which are suitable for use in the proposed transportation. All vehicles are rigidly maintained and safety inspected. Drivers attend monthly safety meetings.

Brown provides some service to the supporting shipper under authority now held. The applicant serves its supporting shipper from its mines in Armstrong County to United States Steel Corp. in Clairton and to Shenango Corporation in Neville Township, Allegheny County. Robert Sechan, a currently certificated carrier, has provided service for the shipper from Armstrong County to points in Lawrence County using equipment leased from Brown. The shipper now desires that Brown be available to provide this service directly. Should the application be approved, the applicant will offer service six days a week beginning each day at 6 a.m. It is expected that one dump unit can make two roundtrips per day in the proposed service. The applicant now holds authority which will permit return movements from Lawrence or Butler counties to minimize empty backhauls.

In support of its financial capacity to maintain the additional authority requested, Brown entered its balance sheet and income statement for the year ending December 31, 1979. The applicant reports current assets of \$90,935.07, total assets of \$193,313.16 and total liabilities of \$40,603.12. Gross income of \$1,444,920.72 produced an operating profit of \$3,140.39 after total expenses of \$1,441,780.33.

N. M. Purdy, Jr., director of traffic for Sharon Steel Corporation, set forth in his verified statement that the supporting shipper Carpentertown Coal & Coke Company (shipper or Carpentertown) is a subsidiary of Sharon Steel Corporation and that he is the individual authorized to enter a statement on behalf of the shipper. Carpentertown is a coal mining company with mines and stripping operations near Templeton, Armstrong County, which is approximately 14 miles northwest of Kittanning. The mine facility has recently installed new cleaning and sizing machinery which has increased sales from this location. There is a continuing movement of coal from the mine to customers in Lawrence County, one of which at New Castle receives 34 truckloads or 780 tons per day, five to six days a week. This transportation appears constant and continuing

for this one particular shipper, however, other customers in Lawrence County are expected in the very near future.

Upon approval of the application as much traffic as Brown can handle will be tendered for transportation. During the period November 1979 through April 1980, Brown's equipment under lease to Robert Sechan has moved about 98,000 tons of coal from Armstrong County to Lawrence County. Other carriers have been contacted to provide this ongoing transportation, but few have both the authority and the equipment necessary to provide daily service. Brown is supported for the authority requested based on its past performance in providing suitable equipment when requested and providing consistently dependable service. Approval of the application is urged as an accommodation and convenience to the public.

DISCUSSION AND FINDINGS

Brown seeks to provide service for the account of one shipper transporting coal in dump vehicles from Armstrong County to Lawrence County. The applicant is an experienced bulk carrier with suitable equipment and a stable financial position to provide the amended service proposed.

The supporting shipper has an ongoing requirement for the transportation of a substantial volume of coal from its mines near Templeton, Armstrong County to a primary customer in New Castle, Lawrence County. Other carriers contacted have not been able to supply the equipment necessary on a consistent basis to render satisfactory service. The availability of Brown dedicated to meeting the shipper's requirements appears to be an aid in meeting Carpentertown's overall needs.

We find:

1. The applicant has the experience, equipment and financial capacity necessary to render the proposed service, as amended.
2. The applicant has proven, through statements submitted by its supporting shipper, that a need exists for the transportation proposed as an aid in meeting the shipper's overall transportation requirements.
3. Approval of the application, as amended, appears to be an accommodation and convenience to the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued May 10, 1971, as amended, be further amended to include the following right:


To transport, as a Class D carrier, coal, in bulk in dump vehicles, for Carpentertown Coal & Coke Company, from its mines, stripping operations and tipples in the county of Armstrong, to points in the county of Lawrence.

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

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

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

BY THE COMMISSION,


William P. Thierfelder
Secretary

(SEAL)

ORDER ADOPTED: July 17, 1980

ORDER ENTERED: JUL 31 1980

WILLIAM J. BROWN TRUCKING, INC.
DOCKET NO. A. 96429, F. 1, AM-E

- (1) To transport, as a Class D carrier, coal, in bulk in dump vehicles, from the facilities of Carpenter-town Coal and Coke Company located in the County of Armstrong, to points in the Counties of Allegheny, Armstrong, Beaver, Butler, Indiana and Westmoreland.
- (2) To transport, as a Class D carrier, coal, in bulk in dump vehicles, from the facilities of Canterbury Coal Company located in the County of Armstrong, to the facilities of Shenango Corporation in Neville Township, Allegheny County.
- (3) To transport, as a Class D carrier, coal, in bulk in dump vehicles, for Rochez Bros. between points in the Counties of Allegheny, Armstrong, Beaver, Butler, Indiana and Westmoreland.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 14, 1984

Commissioners Present:

Linda C. Taliaferro, Chairman
Michael Johnson
James H. Cawley
Frank Fischl
Bill Shane

Application of William J. Brown Trucking, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport coal and coke for domestic consumption between points in the counties of Allegheny, Armstrong, Butler, Indiana and Westmoreland, provided no haul shall exceed a distance of fifteen (15) miles from point of origin to point of destination: SO AS TO PERMIT the transportation of property, in bulk, in dump vehicles, between points in Pennsylvania on and west of U.S. Highway Route 219.

A-00096429
F. 1
Am-F

William J. Lavelle for the applicant.
Herbert R. Nurick for protestant, Samuel J. Lansberry, Inc.
Thomas G. Saylor, Jr., for protestant Bruce W. Trent.
Dwight L. Koerber, Jr., for protestant Kephart Trucking Co.
Ed's Transport, Co., Inc., pro se
Don Martin Trucking Co., pro se
Thomas R. Mulroy for protestants, Wayne W. Sell Corporation, et al.
John E. Fullerton for protestant, Hiram Wible & Son.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed on February 10, 1983. Public notice appeared in the Pennsylvania Bulletin of March 5, 1983. Protests were lodged by 13 protestants, seven of which were represented by counsel at a hearing held in Pittsburgh on January 31, 1984 with ALJ William R. Shane presiding. A record of 137 pages of testimony was compiled from direct and cross examination of

the applicant witness and five supporting shippers. An initial restrictive amendment was produced and identified as applicant's exhibit 1, excluding service from, to or between points in Clearfield County. Based on this restriction, the protest of Samuel J. Lansberry, Inc., was withdrawn. Following the hearing, a second restrictive amendment was submitted whereby the applicant limited its proposed service to five named shippers for specific commodities in the territory on and west of U.S. Highway Route 219 and excluding service in Clearfield and Somerset Counties. This resulted in the withdrawal of the remaining protests.

The application now stands unopposed in its amended form and the record has been certified to the Commission for disposition under modified procedure. Review is based on the testimony of the applicant witness and five supporting shippers taken under oath at the hearing.

William J. Brown, president of William J. Brown Trucking, Inc., (Brown or applicant) since its incorporation in June of 1970, testified on its behalf. Brown is a family owned business domiciled at R.D. 2, Box 79, Valencia, Butler County. It presently operates under intrastate authority, primarily in the transportation of bulk commodities in dump vehicles, generally in western Pennsylvania with Butler County as the hub of its operations. Brown also has interstate authority for bulk commodities in New York, Ohio, Pennsylvania and West Virginia.

The applicant's terminal is located on 23 acres at Route 228 east of Valencia. These facilities consist of an office, a garage for major and minor maintenance and a storage building which accommodates 30 vehicles. Brown lives on the premises and maintains round the clock radio contact with vehicles seven days a week. Personnel consists of 16 employees which consists of two office employees, a mechanic and the remainder drivers. Trucks presently handle an average of four loads per day frequently making same day delivery.

Brown's fleet of equipment consists of ten tri-axle dump vehicles having a 23 ton capacity; eight tractors and eight trailers and semi-dump trailers capable of handling all types of bulk commodities. The applicant has on permanent long-term lease from owner operators, ten tri-axles and eight tractors and eight dump trailers. All major and minor maintenance is performed at Brown's terminal. The applicant also has a safety program in force. Safe drivers are given recognition awards and Brown has been able to maintain an excellent safety record.

As evidence of its financial fitness, the applicant entered into the record a balance sheet dated September 30, 1983 and marked applicant's exhibit 2 and an income statement for the first nine months of 1983 marked applicant's exhibit 3. The balance sheet reflects total current assets of \$327,794.08 and total assets of \$463,719.95; total current liabilities of \$160,455.91 and a net worth of \$303,263.84. The income statement showed a gross profit of \$141,186.88 and net income of \$65,774.72.

Ronald E. Chutz of R.D. 2, Box 45, Industry, is president of Arrow Terminal Company,¹ a warehouse and distribution facility on the Ohio River in Beaver County. Arrow handles inbound and outbound commodities moving via rail, truck or water. Its primary function is the unloading from barges, segregating, warehousing and redistributing of such products as ferro alloys, chrome, manganese, silicone, ferro silicon, clay, uranium products, steel, stone, scrap, coal, coke, cotton seed and food products. Transactions are usually handled through a broker. The decision on routing this property is left to Arrow on approximately 30 percent of its traffic. The remaining 70 percent maybe pre-routed or designated by Arrow's customers. Arrow intends to offer the applicant approximately 15 to 20 percent of the transportation under its control. Transportation outbound involves 40 to 45 daily shipments to points on and west of U.S. Highway Route 219 to such representative places as Erie, Meadville, Johnstown, Franklin, Butler, Aliquippa, Sharon, Natrona, Pittsburgh, Monessen, Washington and Houston. Approximately 20 inbound truckloads per week are required from the same points. Arrow has experienced a shortage of carriers since Tajon, Inc., went out of business. Tajon's demise has had a major impact on Arrow's business. Arrow's volume has also recently increased about 20 to 30 percent and it experiences emergency situations about three times per week. Certificated carriers in the area have been unable or unwilling to handle the needed transportation.

Alan Carlson, a partner of Carlson Mining (Carlson) together with Jack and Steven Carlson, testified that their company is located in New Castle, Lawrence County. Carlson has been in business for 20 years and is engaged primarily in coal stripping and surface mining. The shipper desires transportation of coal, clay and stone from its Lawrence County sites to points on and west of U.S. Highway Route 19. The company presently strip mines on 50 acres north of Ellwood City in Slippery Rock Township, Lawrence County. Coal is shipped in 23 ton truckload quantities to power plants, chemical and manufacturing plants. Representative points are Bessemer, Monaca and Shippingport, with potential markets in Pittsburgh and Erie. Approximately eight to ten loads per day would be tendered by Carlson to the applicant should the instant application be approved. Carlson is familiar with the applicant's service since Brown has transported for this shipper in the past under a lease arrangement. Said service was characterized as dependable and timely. Carlson also is actively pursuing the marketing of clay and limestone. The witness cited a shortage of carriers particularly in the summer months when carriers shift to road construction materials.

Norman B. Hutchenson² testified that he has been a partner of H & H Materials of R.D. 1, Stoneboro, Mercer County, for four years. H & H Materials produces aggregates, concrete sand, mason sand, 1B and 2B stone from a 60 acre mining and processing operation near Stoneboro.

- 1/ Tajon Warehousing Corp., t/d/b/a Arrow Terminal Company
2/ David Philip Hoobler and Norman B. Hutchenson, copartners,
t/d/b/a H & H Materials

Service is desired for aggregate sand and stone from the shipper's facilities in Mercer County to points on and west of U.S. Highway 19. These products are used by concrete plants, ready mix plants and townships and municipalities. Outbound shipments go to points in Mercer, Butler, Crawford, Washington, Fayette, Westmoreland, Jefferson, Allegheny, Venango and Clarion Counties. Materials are generally preloaded for next day delivery. The witness stated his company has lost business in the past due to the unavailability of trucks. Service has frequently been undependable. The shipper has become familiar with the applicant's good reputation and excellent service and is convinced that Brown can provide the service required by H & H Materials.

The operations manager of Rochez Bros., Inc. (Rochez), Leon Rochez, asserted the following under oath. Rochez has several locations but its main office is located in Pittsburgh at 7th and Bragg Streets. Its operations are diversified, but pertinent to the instant proceeding it ships bulk commodities such as salt, cinders, coal and alloys between points on and west of U.S. Highway 219. Rochez controls the freight movement, pays freight charges and actually takes title to these products. Salt is shipped in by barge to Rochez's river terminals at Braddock and then to various customers for road use including over 100 municipalities in Indiana, Cambria, Somerset, Westmoreland and Allegheny Counties and the Commonwealth of Pennsylvania. Volume depends on weather conditions but Rochez shipped approximately 150,000 tons in the period of October, November and December of 1983 and January of 1984. Alloys, cinders and coal are picked up from producers and delivered to customers. Cinders are also used as an anti-skid materials and shipped out of Braddock and Cheswick under similar conditions as the salt. Approximately 120,000 tons per year of coal is shipped to Arco Chemical in Monaca and 50,000 tons to Penelec in Erie. Alloys have generally been shipped between points in western Pennsylvania, but activity in this area has been sluggish recently due to the recession. Rochez has experienced much difficulty in the past in getting transportation due to the frequently seasonal and erratic nature of the demand for its products. It has been forced to use vehicles from its private fleet which were not suitable for the required transportation. Rochez has used the applicant's service in the past and has been well satisfied with it. If the instant application is approved, Rochez believes it will have more trucks at its disposal.

William J. Brown, president of the applicant herein, was called upon to testify in his capacity as president of one of the shippers in this proceeding, W.D. Owens Coal and Supply Company (Owens). Owens has offices located on Route 228, East Middlesex Township, Butler County, and is a supplier of coal, aggregates, sand, gravel, salt and anti-skid materials. Owens desires the carrier to transport such property between points on and west of U.S. Highway Route 219. All of the products handled by Owens are purchased from suppliers and resold to its customers.

Both its suppliers and customers are located generally in Erie, Crawford, Mercer, Beaver, Lawrence, Allegheny, Armstrong, Butler, Washington and Westmoreland Counties. Owen's need for service is generally immediate since it is subject to sudden exigencies of weather conditions. The applicant presently serves Owens in a limited capacity in intrastate transportation. Brown is reluctant to use other certificated carriers since they have been soliciting business from Owens' customers and in effect competing with the shipper.

DISCUSSION AND FINDINGS

William J. Brown Trucking, Inc., the applicant herein, originally sought in the instant proceeding to transport property in bulk in dump vehicles between points in Pennsylvania on and east of U.S. Highway Route 219. An initial restrictive amendment excluding service from, to or between points in Clearfield County prompted the withdrawal of protestant, Samuel J. Lansberry. A second restrictive amendment following the hearing on this application resulted in the withdrawal of the remaining protests. The second restrictive amendment limited the proposed service for specific commodities for five named shippers in the territory on and west of U.S. Highway Route 219 and excluded service to from or between points in Clearfield or Somerset County.

In the first right proposed herein, the applicant requests the transportation of property from the facilities of Tajon Warehousing Corp., t/d/b/a Arrow Terminal Company. Support for this authority has been expressed by this shipper only. Service has therefore been limited to the named shipper.

Generally, all shippers have amply demonstrated a need for their specific commodities in the geographic area on and west of U.S. Highway Route 219. The applicant is a certificated carrier with long experience in the transportation of bulk commodities. It is also familiar with the requirements of the shippers in this proceeding, having served them under Brown's existing authority. The transportation involved in the instant application will require no additional capital outlay or expenditure for equipment. Based on the record before us, Brown has established its fitness to handle the additional service requested herein and shown that a need exists for said service.

The names of the shippers involved as indicated in the testimony and in the final restrictive amendment were not entirely accurate. The authority as hereinafter granted will specify the correct names of all shippers.

We find:

1. That the applicant is fit, willing and able to provide the proposed service, as amended.

2. That the applicant has demonstrated a need exists for the proposed service as amended.

3. That approval of the application, as amended, is an accommodation and convenience to the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued on May 10, 1971, as amended, be further amended to include the following right:

To transport, as a Class D carrier, in bulk, in dump vehicles property for Tajon Warehousing Corp., t/d/b/a Arrow Terminal Company, located in the county of Beaver, to points in Pennsylvania on and west of U.S. Highway Route 219, and vice versa.

To transport, as a Class D carrier, in bulk, in dump vehicles, coal, clay and stone for Jack E. Carlson, Alan Carlson and Steven Carlson, copartners, t/d/b/a Carlson Mining, from its facilities in the county of Lawrence, to points in Pennsylvania on and west of U.S. Highway Route 219.

To transport, as a Class D carrier, in bulk, in dump vehicles, aggregates, sand and stone for David Philip Hoobler and Norman B. Hutcheson, copartners, t/d/b/a H & H Materials, from its facilities in the county of Mercer, to points in Pennsylvania on and west of U.S. Highway Route 219.

To transport, as a Class D carrier, in bulk, in dump vehicles, salt, coal, cinders and alloys for Rochez Bros., Inc., between points in Pennsylvania on and west of U.S. Highway Route 219.

To transport, as a Class D carrier, in bulk, in dump vehicles, property for W. D. Owens Coal and Supply Company, between points in Pennsylvania on and west of U.S. Highway Route 219.

subject to the following condition:


That no right, power or privilege is granted to provide service from, to or between points in the counties of Clearfield or Somerset.

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

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

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

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: September 14, 1984

ORDER ENTERED: SEP 20 1984

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 12, 1987

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Application of William J. Brown
Trucking, Inc., a corporation of
the Commonwealth of Pennsylvania,
for amendment to its common carrier
certificate, which grants the right,
inter alia, to transport, by motor
vehicle, coal, in bulk, in dump
vehicles, for Rochez Bros., between
points in the counties of Allegheny,
Armstrong, Beaver, Butler, Indiana
and Westmoreland: SO AS TO PERMIT
the transportation of coal, in bulk,
in dump vehicles, for Ajmani &
Associates, and for Rawlee Fuels,
Inc., between points in Pennsylvania.

A-00096429
F. 1
Am-G

Vuono, Lavelle & Gray by William J. Lavelle for the applicant.
Pillar and Mulroy by John A. Pillar for protestant, Wayne W. Sell
Corporation.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application
filed August 22, 1986. Public notice of the application was published
in the Pennsylvania Bulletin of September 20, 1986. One protest was
filed by Wayne W. Sell Corporation which withdrew upon restrictive
amendment. The restriction excludes service to or from the Bethlehem
Mines Corporation, Fawn Mine No. 91, located in Clinton Township, Butler
County.

The now unopposed application is certified to the Commission
without oral hearing. The record consists of verified statements entered
by the applicant and two supporting parties.

William J. Brown Trucking, Inc. currently operates pursuant to a grant of common carrier authority issued by this Commission on May 10, 1971 with amendments thereto, transporting generally, bulk commodities between points in western Pennsylvania. By the instant application, it seeks authority to transport coal for two coal brokers between points in Pennsylvania.

Applicant will conduct operations from its headquarters located in Valencia, Butler County. All major and minor repairs to equipment are performed at the garage facility in Valencia. Three mechanics are employed to conduct maintenance of the equipment. The vehicles are equipped with two-way radios and drivers periodically throughout the day call in for information pertaining to pickup and delivery points. Applicant operates a total of 18 tractors, 19 dump trailers and 21 tri-axle dump trucks.

In support of its financial fitness, applicant submitted a balance sheet dated September 30, 1986 which shows total current assets of \$695,411.50, total assets of \$999,704.08, total current liabilities of \$277,885.64 and total stockholders' equity of \$639,818.44. On a gross income of \$2,057,602.19, a net profit before income taxes of \$170,534.54 was realized.

Rawlee Fuels, Inc. has a business office located at Indiana, Indiana County. It is a coal broker acting as a middleman between the coal producers and the coal users. It locates customers for coal, often by bid process, and then finds a supplier to fill the order. Rawlee selects the carrier and pays the transportation charges on all coal transported in Pennsylvania. More than half shipper's business involves shipments in western Pennsylvania moving primarily in a north-south direction. There is, however, a requirement for shipments moving from western Pennsylvania to eastern Pennsylvania and many of these movements are in connection with long-term contracts. Shipments of coal can originate from any deep mine, strip mine or coal yard in Pennsylvania. The major coal producers in western Pennsylvania with which shipper does business are located in the counties of Butler, Mercer, Venango, Armstrong, Westmoreland, Indiana, Bedford, Somerset, Fayette, Washington, Allegheny, and Greene. Customers include coal yards, power plants and industrial companies. The customers receiving the largest number of coal shipments are located in the same counties plus the counties of Erie, Crawford, Mercer, Lawrence, Clearfield, Jefferson, Beaver, McKean, and Warren. As a result of utilizing applicant's service on an interstate basis, Rawlee has concluded that its transportation requirements in Pennsylvania would best be met by utilizing applicant. Applicant would be tendered a vast majority of all Rawlee's coal shipments in Pennsylvania.

Ajmani & Associates has its business office at Bethel Park, Allegheny County. Ajmani is a coal broker having no coal production facilities of its own. It purchases coal at various points in Pennsylvania and ships to various points throughout the Commonwealth. The

motor carrier is selected by Admani and it does pay the freight charges on all shipments. While a majority of the coal movements are in the area west of U.S. Highway Route 219; business is solicited throughout the state. Origins and destinations can change from month to month. The volume of coal to be transported yearly is approximately 60,000 tons. The volume to be tendered applicant will fluctuate based on shipper's ability in receiving contracts and finding markets. Representative points of origin include points in the counties of Clarion, Clearfield and Butler; destinations include points in the counties of Northampton, Lehigh, Centre, Montour, Erie, and McKean. Ajmani has used applicant's service within its operating authority and has found the service to be very dependable. Upon approval of the application, applicant will be tendered all of Ajmani's intrastate shipments.

Both the supporting parties are engaged in the coal brokerage business. The brokers state that they select the carrier and are responsible for paying the freight charges. While these supporting parties have shown a minimal amount of support for state-wide service, we are inclined to grant the application as proposed, as amended, as the service is for two named shippers desiring transportation for a single commodity on which origins and destinations may change from month to month.

The supporting shippers have utilized applicant's service for interstate and/or Pennsylvania intrastate moves and have found the service to be dependable. Applicant can render the type of service required by these shippers. We find the evidence of record demonstrates a necessity for service between points in Pennsylvania and approval of the application as amended is in the public interest.

We find that:

1. Applicant currently operates pursuant to a common carrier certificate issued by this Commission on May 10, 1971.
2. The application is restrictively amended to exclude service to or from the Bethlehem Mines Corporation, Fawn Mine No. 91, located in Clinton Township, Butler County.
3. The evidence of record is sufficient to establish necessity for state-wide service.
4. Applicant has the equipment, experience and fitness necessary to render the proposed service, as amended.
5. The applicant has established 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 on May 10, 1971, as amended, be further amended to include the following right:

To transport, as a Class D carrier, coal, in bulk, in dump vehicles, for Ajmani & Associates, and for Rawlee Fuels, Inc., between points in Pennsylvania;

subject to the following condition:

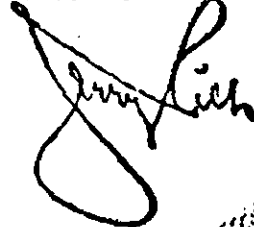
That no right, power or privilege is granted to provide service to or from the Bethlehem Mines Corporation, Fawn Mine No. 91, located in Clinton Township, Butler County.

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 this Commission relative to the filing and acceptance of a tariff establishing just and reasonable rates.

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

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

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 12, 1987

ORDER ENTERED: MAR 18 1987

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held July 16, 1987

Commissioners Present:

Bill Shane, Chairman
Linda C. Taliaferro
Frank Fischl
William H. Smith

Application of William J. Brown Trucking, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, coal, in bulk, in dump vehicles, for Carpentertown Coal and Coke Company from its mines, stripping operations and tipples located in the county of Armstrong, to the United States Steel Company in the city of Clairton, Allegheny County and Shenango Corporation in Neville Township, Allegheny County: SO AS TO PERMIT the transportation of (1) property, except household goods in use, for William J. Brown Trucking, Inc., between points in Pennsylvania; (2) property, except household goods in use, for W. D. Owens Coal and Supply Company, between points in Pennsylvania; (3) coal, in bulk, in dump vehicles, from the facilities of Malinski Mining Co., located in the county of Butler, to points in Pennsylvania; (4) coal, in bulk, in dump vehicles, from the facilities of Sunbeam Coal Co., located in the borough of Boyers, county of Butler, to points in Pennsylvania; (5) coal, in bulk, in dump vehicles, from the facilities of Carpentertown Coal and Coke Company located in the county of Armstrong, to points in Pennsylvania; (6) limestone, in bulk, in dump vehicles, from the facilities of C & C Limestone Company, located in the borough of Boyers, county of Butler, to points in Pennsylvania; and (7) sand, gravel and limestone, in bulk, in dump vehicles, from the facilities of Dravo Basic Materials Co., located in the borough of Neville Island, county of Allegheny, the borough of Monaca, county of Beaver, and the borough of Georgetown, county of Beaver, to points in Pennsylvania.

A-00096429
F. 1
Am-H

William J. Lavelle for the applicant.
Peter G. Loftus for Seaboard Tank Lines, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed August 22, 1986. Public notice of the application was given in the Pennsylvania Bulletin of October 18, 1986. A protest filed by Seaboard Tank Lines, Inc., was latter withdrawn predicated upon our acceptance of a restrictive amendment which excludes the transportation of petroleum and petroleum products in bulk in tank-type vehicles.

The now unopposed application is certified to the Commission for its decision without oral hearing. The record consists of verified statements entered by William J. Brown, president of the applicant as the common carrier and a private enterprise and as president of W. D. Owens Coal & Supply Co.; Domenic DeMatteis, president of Sunbeam Coal Co.; Leonard Chutz, president of C & C Limestone Company; and William D. Owens, Dravo Basic Materials Co., Inc.

DISCUSSION AND FINDINGS

The applicant now specializes in the transportation of bulk commodities such as coal, coke, building materials, asphalt, amesite, gravel, slag, sand, clay, stone, slat, cinders, alloys and general property. Brown's intrastate authority is now based in the western part of Pennsylvania. Brown also holds interstate authority to transport commodities in bulk. The applicant operates from facilities in Valencia, Butler County. It operates 18 tractors, 19 dump trailers, and 21 tri-axle dump trucks. All equipment is safety inspected on a regular basis and maintained by three full time mechanics. A safety meeting is held monthly.

The applicant submitted a balance sheet and income statement dated September 30, 1986, reporting total current assets of \$695,411.00, total assets of \$999,704.08, total current liabilities of \$277,885.64 and total liabilities of \$359,885.64. Total stockholder equity is reported at \$639,818.44. Gross income of \$2,057,602.19 provided a gross profit of \$253,341.09 after cost of operations. An operating profit of \$168,898.64 is reported after deduction of other general and administrative expenses.

Brown can now provide limited service to its three supporting shippers under authority held, but it seeks to expand that service so that it may transport on a statewide basis. Sunbeam Coal Co. and C & C Limestone Company

have used the applicant's limited service and have been satisfied with that service. Sunbeam Coal Co. will use the proposed service from its facilities at Boyers to points in Pennsylvania west of U. S. Highway 219. Truckload service is required. C & C Limestone Company requires service from its facilities at Boyers to points in the counties of Erie, Crawford, Warren, McKean, Mercer, Venango, Forest, Elk, Clarion, Jefferson, Clearfield, Lawrence, Butler, Armstrong, Indiana, Beaver, Washington, Allegheny, Westmoreland, Cambria, Greene, Fayette, and Somerset.

Dravo Basic Materials Co., has three locations at Neville Island, Allegheny County, Potter Township and Georgetown, both in Beaver County. Dravo produces sand, gravel and limestone. It desires transportation from its three facilities to points in its general market area which is south of Interstate Highway Route 80 and west of U. S. Highway Route 219. As originally filed and published, the applicant requested authority to provide service from the facilities of Dravo in the borough of Monaca, Beaver County. This location provided was incorrect. The correct location of this particular facility is in the adjoining township of Potter, Beaver County. Because the incorrect and the actual locations are so close and the shipper was identified by name, we do not find any party was placed at a disadvantage by incorrect publication of the location of the shipper's facility. Any authority to issue will reflect the correct location of the shippers plant.

It is our determination that the statements entered by the three supporting shippers are representative for a need for the service from the shipping facilities to points in Pennsylvania.

Malinski Mining Co. and Carpentertown Coal and Coke Company have not entered supporting verified statements. We cannot consider a grant of the requested authority absent support from these two named shippers.

Relative to the authority sought to provide service for William J. Brown Trucking, Inc., as a shipper and W. D. Owens Coal and Supply Company, Brown seeks authority to serve itself in order to comply with current Commission policy which prohibits a common carrier from using its equipment in private carriage on an interchangeable basis. William J. Brown Trucking, Inc., as a shipper, buys and sells various commodities such as coal, sand, gravel, salt, slag, cinders, lime, limestone, scrap metals, grindings, gypsum, feed, grain, fertilizer, roof granules, lumber, wood chips, and bark. William J. Brown, president of William J. Brown Trucking, Inc., avers in his verified statement that Brown engages in this activity in its own best economic interest. It finds on occasion that it is more efficient or economical for the company to actually be transporting

materials which it owns. The ability of the company to operate as a supplier of various commodities adds another dimension to the service it provides.

Relative to the request to provide service for W. D. Owens Coal and Supply Company between points in Pennsylvania, William J. Brown, its president, sets forth that Owens is a broker of various commodities such as coal, sand, gravel, salt, slag, cinders, lime, limestone, scrap metals, grindings, gypsum, feed, grain, fertilizer, roof granules, lumber, wood chips, and bark. Owens purchases these materials from various suppliers and manufacturers and matches those purchases with customers. Owens then desires transportation from the supplier's place of business to the place of business of the customer.

We are troubled by the applicant's request to provide service "for itself" regardless of the applicant's desire to obtain such authority to make legitimate the use of its common carrier equipment to provide private carriage. Makovsky Bros. v. Pa. P.U.C., 423 A.2d 1089 (1980) which holds that a common carrier cannot use the same vehicles to transport property for compensation for others and also use this same equipment to transport property for itself in private carriage as exempted from Commission jurisdiction at Section 102 (5) of the Public Utility Code, has prompted carriers to file for authority to serve themselves between points in Pennsylvania. In recent cases, the carriers seeking authority to serve themselves had for sometime been also engaged in other business enterprises and the interchangeable use of equipment between common and private carriage was performed as a matter of course. Upon the advent of the Makovsky decision, the carriers sought authority to serve themselves so that they could continue to use their common carrier equipment in the furtherance of their other business pursuits. In this particular instance, however, we do not appear to have the same set of circumstances surrounding the request for the authority. William J. Brown states that the carrier finds it in its interest at times to buy and sell commodities. It now has the opportunity to engage in buy and sell type of operations. The request for the authority to serve itself is prompted by this opportunity not the need to continue or further an established secondary business. The statement entered by William J. Brown as the president of the motor carrier and as a shipper is entirely self serving. A grant of the authority coupled with the stated intention of the applicant to engage in buy and sell operations would in effect permit the applicant to transport property between all points in Pennsylvania simply by having a shipper issue a bill of sale to the applicant for a shipment destined to a customer. We considered a similar fact situation in the Application of Wayne W. Sell Corporation, A-00093415, F. 1, Am-N, wherein we decided that a grant of authority for the

carrier to serve itself was not in the public interest. As in the Sell case, we see the potential for abuse in this case to be too great and the public benefit to be too small to warrant a grant of authority to the applicant to serve itself. We are inclined to deny this part of the application without prejudice, however, so that the applicant may address this issue at such time that it can provide probative evidence that a grant of the authority is in the public interest and will provide some substantial public benefit.

As we are troubled with a grant of authority to the applicant to serve itself, so are we somewhat concerned about a grant of authority to transport property between points in Pennsylvania for the affiliated commodities broker W. D. Owens Coal and Supply Company. Our concern is mitigated, however, as it appears the broker, unlike Brown Trucking as a shipper, is being operated as a separate entity and it is an established business enterprise desiring motor carrier service. It buys various bulk commodities and then resells those commodities to its customers. It indicates that in 1986 the total volume of traffic purchased and resold in Pennsylvania amounted to 250,000 pounds. In 1986 it had origins and destinations representative of its operations at York, Brookville, Altoona, New Castle, Slippery Rock, Darlington, Monaca, New Bethlehem, Pittsburgh, Latrobe, Butler, Vandergrift, Sharpsburg, Shippingport, Beaver, Aliquippa, Washington, Indiana, Chambersburg and Bellefonte, among others. Brown Trucking is now providing service to the broker within the scope of its currently authorized service. The verified statement on behalf of Owens supports a grant of authority so that the applicant may provide service "for" Owens between points in Pennsylvania.

We find:

1. The applicant has the experience, equipment and fitness to provide the proposed service, as amended and as limited.
2. No grant of authority to serve the facilities of Malinski Mining Co. and Carpentertown Coal and Coke Company is made as neither of the shippers have supported the application.
3. The support of the three shippers, Sunbeam Coal Co., C & C Limestone Company and Dravo Basic Materials Co., is representative of a need for the proposed service from their facilities to points in Pennsylvania.

4. No grant of authority is made to the applicant to provide service for Willam J. Brown Trucking, Inc., as such a grant of authority is found to not be in the public interest.

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

IT IS ORDERED: That the application, as amended, as further limited, be and is hereby approved, and that the certificate issued May 10, 1971, as amended, be and is further amended to include the following rights:

To transport, as a Class D carrier, property (except household goods in use), for W. D. Owens Coal and Supply Company, between points in Pennsylvania.

To transport, as a Class D carrier, coal, in bulk, in dump vehicles, from the facilities of Sunbeam Coal Co., in the borough of Boyers, Butler County; limestone, in bulk, in dump vehicles, from the facilities of C & C Limestone Company, from the borough of Boyers, Butler County; and sand, gravel and limestone, in bulk, in dump vehicles, from the borough of Neville Island, Allegheny County and the township of Potter and the borough of Georgetown, Beaver County; to points in Pennsylvania.

IT IS FURTHER ORDERED: That the application be and is hereby denied in all other respects without prejudice.

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

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the 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 complied with the requirements hereinbefore set forth within sixty (60) days of the date the order is entered, the application shall be dismissed without further proceedings.

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: July 16, 1987

ORDER ENTERED: JUL 24 1987

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 84-656 Folder 2

Application of C. D. AMBROSIA TRUCKING CO., a
corporation of the Commonwealth of Pennsylvania

REPORT AND ORDER
APPROVING TRUCKING SERVICE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of C. D. AMBROSIA TRUCKING CO., a corporation of the Commonwealth of Pennsylvania, dated May 7, 1957, to operate motor vehicles as a common carrier, and having been duly presented in accordance with the rules of the Commission and full investigation of the matters and things involved having been had, and it appearing that the rights granted herein are in effect a transfer of the rights which have been held by CARMEN D. AMBROSIA, under certificate of public convenience issued at A. 46182, Folder 1, on October 31, 1938, which certificate will be subsequently cancelled as of the date of this order, upon compliance with the tariff and insurance requirements of the Commission by C. D. AMBROSIA TRUCKING CO., a corporation of the Commonwealth of Pennsylvania, the Commission finds and determines that approval of the application limited to the following rights:

To transport, as a Class D carrier, coal, building materials, excavated materials and road and building construction materials such as are usually transported in dump trucks, between points not to exceed a distance of twenty-five (25) miles from point of origin to point of construction or disposal in the Counties of Lawrence, Beaver, Butler, Mercer and Allegheny.

To transport, as a Class D carrier, amiesite, farm machinery, farm products and supplies, by means of dump trucks, between points not to exceed a distance of fifty (50) miles from point of origin to point of construction or disposal in the Counties of Lawrence, Beaver, Butler, Mercer and Allegheny.

and subject to the following conditions, is necessary or proper for the service, accommodation or convenience of the Public;

FIRST: That the certificate holder is limited and restricted to the operation of the motor vehicles as named and described in the Equipment Certificate, to be subsequently issued.

(con't)

SECOND: That the approval hereby given is not to be understood as committing the Commission, in any proceeding that may be brought before it for any purpose, to fix a valuation on the property and/or rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

THIRD: That the accounts of the transferee will reflect the same book values as the records of the transferor at the effective date of the transfer, with respect to the assets acquired and liabilities assumed, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its utility accounts any amount representing the rights herein granted, in excess of the actual cost of such rights to the original holder thereof.

FOURTH: That the certificate holder shall comply with all the provisions of the Public Utility Law as now existing or as may hereafter be amended, and Revised General Order No. 29, effective July 1, 1939, or as may hereafter be prescribed by the Commission. Failure to comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.

NOW, to wit, September 30, 1957, IT IS ORDERED: That upon compliance with the requirements of the Public Utility Law relating to insurance and the filing and acceptance of a tariff establishing just and reasonable rates, a certificate of public convenience issue evidencing the Commission's approval of the right to operate as above determined.

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before thirty 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.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Leon Schwartz
Chairman

ATTEST:

William P. Moran

Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 84656
Folder No. 2

Application of C. D. AMBROSIA TRUCKING CO., a
corporation of the Commonwealth of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

It appearing that the certificate holder, C. D. AMBROSIA TRUCKING CO., a corporation of the Commonwealth of Pennsylvania, has been authorized to transport cement for the Medusa Portland Cement Company from its plant in Wampum, Lawrence County, and has by order issued under date of August 31, 1959, transferred this service to RUSSELL L. MEYERS, CLIFFORD P. MEYERS and ELWOOD A. MEYERS, copartners, trading and doing business as RUSSELL TRUCKING, at A. 86490, and it further appearing that by letter dated May 25, 1959, C. D. AMBROSIA TRUCKING CO. has agreed to accept any restriction as worded by the Commission that would prohibit, under its rights to be retained, the transportation of cement from the Medusa Portland Cement Company at Wampum, and the matters and things involved having been duly considered by the Commission; THEREFORE,

NOW, to wit, August 31, 1959, IT IS ORDERED: That the report and order issued under date of September 30, 1957, and the certificate of public convenience issued pursuant thereto, as modified and amended by supplemental report and order issued under date of June 22, 1959, be and is hereby further modified and amended so as to include the following condition:

That no right, power or privilege is granted to transport cement from the plant of Medusa Portland Cement Company located in the Borough of Wampum, Lawrence County, and within three (3) miles of the limits of the said borough.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ATTEST:

William P. Ryan
Secretary

Leoukluortz
Chairman

PENNSILVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 84656
Folder 2, Am-B

Application of C. D. AMBROSIA TRUCKING CO., a
corporation of the Commonwealth of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of C. D. AMBROSIA TRUCKING CO., a corporation of the Commonwealth of Pennsylvania, dated July 30, 1960, for modification of the report and order issued under date of September 30, 1957, and the certificate of public convenience issued pursuant thereto, as modified and amended by various supplemental reports and orders, and upon protests, and having been duly heard and submitted by the parties and full investigation of the matters and things involved having been had, and it appearing that applicant amended his application whereby protests were withdrawn, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE,

NOW, to wit, July 24, 1961, IT IS ORDERED: That the report and order issued under date of September 30, 1957, and the certificate of public convenience issued pursuant thereto, as modified and amended by various supplemental reports and orders be and is hereby further modified and amended so as to include the following rights:

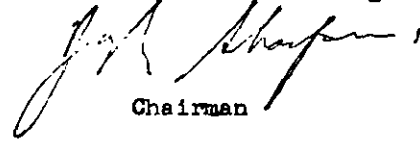
To transport, as a Class D carrier, sand, limestone, slag and clay, in bulk in dump trucks or dump trailers, between points in the County of Lawrence and from points in said county to points within one hundred (100) miles of the limits thereof, and vice versa; excluding the transportation of limestone, slag and clay, to, from or between steel mills and foundries, except as presently authorized, and excluding the transportation of fire clay from and to points in the Counties of Centre, Clearfield, Indiana and Westmoreland.

To transport, as a Class D carrier, coal in bulk in dump trucks or dump trailers, between points in the Counties of Beaver, Lawrence and Mercer and from points in said counties to points within one hundred (100) miles of the point of origin.

To transport, as a Class D carrier, pulverized limestone, in bulk in self-unloading tank trailers, from the plants of New Castle Lime and Stone Company and The Carbon Limestone Company in the Township of Mahoning, Lawrence County, to points within one hundred fifty (150) miles of the point of origin.

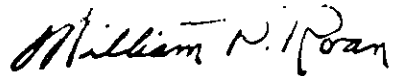
IT IS FURTHER ORDERED: That the applicant will not be permitted to operate or engage in any transportation granted herein until compliance with the requirements of the Public Utility Law, relative to the filing and acceptance of a tariff establishing just and reasonable rates.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION



Chairman

ATTEST:



Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held October 18, 1979

Commissioners Present:

W. Wilson Goode, Chairman

Michael Johnson

Application of C. D. Ambrosia Trucking Co., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, property for The Carbon Limestone Company between points in the township of Mahoning, Lawrence County, and from points in the said township to points in that part of Pennsylvania on and west of Highway Route 219, and vice versa; subject to the following conditions: That no right, power or privilege is granted to transport property in bulk in tank vehicles or in hopper-type vehicles; and That no right, power or privilege is granted to transport property which because of size or weight requires special handling or the use of special equipment, such as winch trucks or tractors, pole trailers, carryalls and extendible trailers: SO AS TO PERMIT the transportation of iron and steel articles, and equipment, materials and supplies used in the manufacture, sale or distribution thereof, from the facilities of Conn Welding and Machine Company, located in the city of New Castle, Lawrence County, to points in Pennsylvania, and vice versa.

A-00084656

F. 3

Am-C

Wick, Vuono & Lavelle by William J. Lavelle for applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed March 1, 1979. Public notice of the application was given in the Pennsylvania Bulletin of March 24, 1979. Protests were filed by Paul L. Zamberlan & Sons, Inc., Tajon, Inc., DeBolt Transfer, Inc., John Benkart & Sons Co. and Moore-Flesher Hauling Co. After reconsideration of their interest in the application, all protests were withdrawn without amendment.

The application is now unopposed and the record is certified to the Commission without hearing. Verified statements were submitted by applicant and Conn Welding and Machine Company, the supporting shipper.

Guy F. Fragle, traffic manager of C. D. Ambrosia Trucking Co., (hereinafter Ambrosia or applicant) states that Ambrosia's main office and terminal are located in Edinboro, Lawrence County and that he is fully familiar with all operations of the applicant.

Ambrosia currently holds operating authority from the Commission to transport a wide variety of bulk commodities throughout western Pennsylvania. Some duplication of authority to a limited extent could result, however applicant knows of no feasible way of eliminating from the instant application such duplication.

Applicant owns seven dump trucks, 14 tractor-dump trailer units, five tank trailers and four flatbed trailers and has two dump trucks, 76 dump trucks, 64 tractor-dump trailer units and one tank trailer on long term lease. It employs 20 drivers, three mechanics and four administrative personnel. Additional owner-operators work for applicant who drive their own trucks leased to Ambrosia. It anticipates adding two flatbed trailers to its operation when needed. Ambrosia has established an effective maintenance and safety program.

The purpose of the applicant in filing this application is to take over all the private carriage operations of Conn Welding and Machine Company. It will provide 24 hour, seven day a week service, multiple stopoff deliveries, spotting of equipment at shipper's plant, scheduled pickup and delivery service, job site delivery and emergency service as required.

Applicant offered as an appendix an unaudited balance sheet and income statement as of June 30, 1979. The balance sheet lists current assets of \$1,593,006, current liabilities of \$544,249 and retained earnings of \$1,649,268. The income statement for the first six months of 1979 indicates that on revenues of \$2,989,787 a net operating income of \$207,516 was generated after operating expenses.

Applicant will attempt to arrange for coordinated inbound and outbound shipments involving shipper's traffic so a balanced two way operation can be conducted. When impossible to effect equipment making deliveries in Pennsylvania for the supporting shipper will be used to backhaul freight of other companies to western Pennsylvania.

Henry A. Mastren, sets forth in his statement that he is traffic manager of Conn Welding and Machine Company (hereinafter Conn or shipper) New Castle, Lawrence County, and that he is responsible for arranging motor transportation within the scope of this application. Conn operates facilities with 40,000 square feet of manufacturing space in the city of New Castle and produces thereat approximately 500,000 pounds of fabricated steel monthly. The plant operates six days a week from 7:00 a.m. to 5:00 p.m. A crane is utilized at the company's premises for loading and unloading of heavy freight.

Conn's outbound traffic consists of items such as structural steel plates, beams, pipe, fabricated steel bridges, guard rails and sign structures. Approximately 2,500,000 pounds of iron and steel articles and an additional 500,000 pounds of materials, equipment and supplies are shipped to Pennsylvania points annually. The commodities are normally transported on either flatbed or low-boy trailers to construction sites, industrial plants and other fabricating plants located throughout Pennsylvania, including but not limited to points such as Pittsburgh, Philadelphia, Harrisburg, Lancaster, Erie, Scranton and Wilkes-Barre.

Conn's inbound traffic consists of structural steel pipe, sheet steel, beams, pipe, nuts, bolts and a full range of incidental items necessary to the conduct of its business such as machinery, machinery lubricants, replacement parts, office supplies, etc.

Major items which are transported on flatbed trailers are received at its plant from steel manufacturers, steel warehouses and other fabricators located throughout Pennsylvania. Representative points it receives inbound shipments from are Pittsburgh, Philadelphia, Harrisburg, Lancaster, Erie, Scranton and Wilkes-Barre. Approximately 2,500,000 pounds of iron and steel articles and 250,000 pounds of materials, equipment and supplies are received inbound annually.

During 1978 all of the inbound traffic and approximately 90 percent of the outbound traffic was transported by private carriage. The volume of traffic inbound and outbound is expected to increase by 20 percent in 1979 and this anticipated increase in traffic has led Conn to decide to phase out providing its own transportation. Conn needs a carrier, such as applicant, who can spot trailers and make scheduled deliveries, who is located close by its plant and able to provide power units to pull loaded trailers on an almost immediate basis and who can normally provide same-day service or next day service at worst. Service

on both inbound and outbound traffic will be primarily truckload, but some shipments will be less-than-truckload in nature. Conn does not maintain a large inventory of raw materials and split truckloads and expedited service inbound is often required so that its production line is not interrupted.

DISCUSSION AND FINDINGS

Applicant is requesting authority from the facility of Conn Welding and Machine Company in the city of New Castle, Lawrence County, to points in Pennsylvania and vice versa. The commodities involved are iron and steel articles and equipment, materials and supplies used in the manufacture, sale or distribution thereof.

Present transportation is provided mainly by private carriage with an occasional use of existing common carriers. Due to the expected increase in both inbound and outbound traffic, Conn has decided to eliminate its private carriage and use applicant instead. Conn needs a dedicated carrier such as applicant who is able to coordinate operations closely with its production and fabrication process and who can meet its customers' requirements for direct single-line service to job sites on a scheduled delivery basis with same-day delivery. Ambrosia has the type of equipment needed and appears to be ready to render the type of service desired by Conn.

We find that:

1. Applicant has the necessary equipment, experience and financial ability to render the proposed service.
2. Private carriage and existing common carriers do not satisfy the transportation needs of the shipper.
3. A need exists for the proposed service as demonstrated by the support of Conn Welding and Machinery Company, the shipper.
4. Approval of the application is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved and that the certificate issued to applicant on January 29, 1958, as amended, be further amended to include the following right:


To transport, as a Class D carrier, iron and steel articles, and equipment, materials and supplies used in the manufacture, sale or distribution thereof, from the facilities of Conn Welding and Machine Company, located in the city of New Castle, Lawrence County, to points in Pennsylvania, and vice versa.

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

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

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

BY THE COMMISSION,


William P. Thierfelder
Secretary

(SEAL)

ORDER ADOPTED: October 18, 1979

ORDER ENTERED: NOV 8 1979