

PILLAR AND MULROY, P.C.

ATTORNEYS-AT-LAW
SUITE 700
312 BOULEVARD OF THE ALLIES
PITTSBURGH, PA 15222

TELEPHONE (412) 471-3300
FAX: (412) 471-6068

RECEIVED

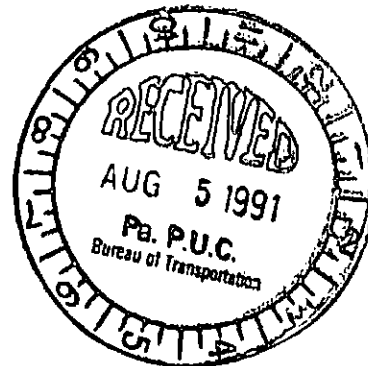
AUG 5 1991

SECRETARY OF THE
Public Utility Commission

JOHN A. PILLAR
THOMAS M. MULROY
ANTHONY A. SEETHALER, JR.

July 31, 1991

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



Hon. Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17120

Dear Mr. Rich:

Enclosed is a protest filed on behalf of the following
to the above-captioned application:

WAYNE W. SELL CORPORATION

A copy of this protest has been served on applicant's
representative named below in accordance with the Commission's
Rules of Practice.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John A. Pillar".

JOHN A. PILLAR

SW
Enclosure
cc: Blair S. Green, Esq. (w/encl.)



RECEIVED

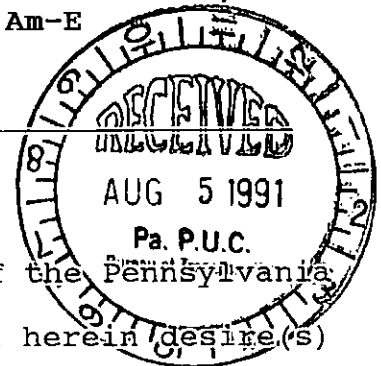
Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION AUG 5 1991

SECRETARY'S OFFICE
Public Utility Commission

In re: APPLICATION OF
TOY TRUCKING COMPANY)

) Docket No. A-00099448,
) Folder 1, Am-E
)
)

PROTEST



In accordance with the Rules of Practice of the Pennsylvania Public Utility Commission, the carrier(s) named herein desire(s) to protest the above application and, in support thereof, state(s) as follows:

1. A copy of the application as published in the Pennsylvania Bulletin is attached hereto as Appendix "A".

2. The name and address of the protestant(s) are set forth in Appendix "B" hereto.

3. The name, address and telephone number of protestant(s)' attorney:

PILLAR AND MULROY, P.C.
Suite 700
312 Boulevard of the Allies
Pittsburgh, PA 15222
(412) 471-3300

4. Protestant(s) hold(s) authority in conflict with this

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
AUG 5 1991
ENTRY No.

application as summarized in Appendix "B" attached hereto. A true and correct copy of the pertinent portions of authority held by protestant(s), or a summary thereof, is attached hereto as Appendix "C".

5. Protestant(s) is/are presently providing service in the application area and/or is/are willing and able to provide such service. To the extent of protestant(s) authority, there is no need or demand for additional service and the proposed service is not necessary or proper for the service, accommodation, convenience or safety of the public. Diversion of traffic and loss of revenues in connection with the transportation proposed by applicant will be so seriously detrimental to protestant(s) so as to have a substantial adverse impact upon the public or may result in destructive competition.

6. Protestant(s) hereby request(s) that the application be set for oral hearing. If an oral hearing is held, protestant(s) represent(s) that it/they will appear and present evidence pertinent to the application.

7. Pursuant to Section 333(c) of the Public Utility Code (66 Pa. C.S.A. Sec. 333(c)), protestant(s) hereby request(s) a list of the witnesses expected to testify in the above entitled proceeding, together with the subject matter of their anticipated testimony and, in particular, any complaints or any evidence pertaining to the service of the protestant(s).

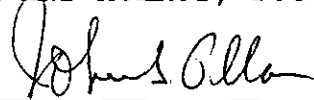
8. If a restrictive amendment will satisfy the interest(s)

of protestant(s), a proposed amendment is attached hereto as Appendix "D".

Respectfully submitted,

PILLAR AND MULROY, P.C.

By:



JOHN A. PILLAR
Attorney for Protestant(s)

Due Date: August 19, 1991

A-00099448, Folder 1, Am-E. Toy Trucking Company (R. D. 1, P. O. Box 103, Worthington, Armstrong County, Pa. 16262), a corporation of the Commonwealth of Pennsylvania, *inter alia*—coal, lumber, lime, lime, gravel and sand between points in the counties of Clarion, Armstrong, Butler, Venango, Allegheny and Crawford, no haul to exceed a distance of 25 miles from point of origin to point of destination; excluding the right to transport lumber from points within an airline distance of 40 statute miles of the limits of Brookville, Jefferson County; so as to permit the transportation of (1) property, in bulk, for Toy Trucking Company, between points in Pennsylvania; and (2) property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company located in the city of New Castle, Lawrence County and within an airline distance of 25 statute miles of the limits of said city, to points in Pennsylvania, no haul to exceed a distance of 125 statute miles from point of origin to point of destination. Application for temporary authority has been filed at A-00099448, F. 1, AM-E, seeking the following right: property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company located in the City of New Castle, Lawrence County and within an airline distance of 25 statute miles of the limits of said city, to points in Pennsylvania, no haul to exceed a distance of 125 statute miles from point of origin to point of destination. *Attorney:* Blair S. Green, 125 North McKean Street, Kittanning, Pa. 16201.

PENNSYLVANIA BULLETIN

July 27, 1991

APPENDIX "B"

Re: TOY TRUCKING COMPANY
Docket A-00099448,
Folder 1, Am-E

The foregoing protest to the above application is filed on behalf of:

WAYNE W. SELL CORPORATION
236 Winfield Road
Sarver, PA 16055

Wayne W. Sell Corporation holds authority from this Commission at Docket No. A.93415. As pertinent to the application involved herein, Sell may transport property, in bulk, in dump vehicles, between points within 50 miles of the limits of the Borough of Homestead, Allegheny County, and from points in said territory to points in Pennsylvania, and vice versa, subject to certain restrictions. Sell holds other authority which may be in conflict with that sought herein as more fully described in Appendix "C".

WAYNE W. SELL CORPORATION

SCOPE OF CARRIER'S OPERATING AUTHORITY

The provisions published herein, or as amended, are limited in their application to Pennsylvania Intrastate Commerce to the extent of the operating rights set forth below.

CERTIFICATE NO. 93415

Folder 1

1. To transport, as a Class D carrier, coal or coke for domestic consumption, between points in the County of Allegheny, 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 County of Allegheny to railroad sidings, coke ovens, docks or stockpiles in the said county, 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 trucks, between points in the County of Allegheny, provided that 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, property moving under bills of lading, waybills and tariffs of The Pennsylvania Railroad Company, within the collection and delivery area designated in said company's collection and delivery tariffs for the station of the said company in the Borough of Tarentum, Allegheny County.
5. To transport, as a Class D carrier, sand, gravel, soil, limestone, coal, clay in bulk, stone, sod, cinders, broken glass, broken concrete, broken tile and used brick, in bulk in dump trucks, between points in the Counties of Armstrong, Clarion, Indiana, Westmoreland, Allegheny and Butler, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.
6. To transport, as a Class D carrier, sand, gravel, lime, soil, limestone, coal, clay in bulk, stone, sod, cinders, broken glass, broken tile and used brick, in bulk, between points in the Counties of Armstrong, Clarion, Indiana, Westmoreland, Allegheny and Butler and within fifty (50) miles of the limits thereof.

With right No. 6 above, to be subject to the following conditions:

That no right, power or privilege is granted to transport coal, sand, gravel, crushed stone and limestone to, from or between points in the County of Allegheny, except as authorized in paragraphs (1) through (5) above.

That no right, power or privilege is granted to transport coal, sand, gravel, crushed stone and limestone to, from or between points in the County of Washington.

That no right, power or privilege is granted to render any service to, from or between points in the County of Butler, except as authorized in paragraphs (1) through (5) above.

(Continued on next page)

For explanation of abbreviations, reference marks and symbols not explained on page, refer to Rule 120 of tariff.

ISSUED: JULY 13, 1984

EFFECTIVE: AUGUST 13, 1984

ISSUED BY: JAMES BEECHEY, VICE PRESIDENT, 236 WINFIELD ROAD, SARVER, PA 16055

Human environmental qualities not effected by provisions published herein. MCS

Appendix "C"

WAYNE W. SELL CORPORATION

SCOPE OF CARRIER'S OPERATING AUTHORITY

CERTIFICATE NO. 93415

Folder 1 (Continued)

That no right, power or privilege is granted to render any service to, from or between points in the Counties of Beaver, Lawrence and Mercer.

That no right power or privilege is granted to render any service to or from the plants of The Freeport Brick Company in the Borough of Freeport, Armstrong County, Kittanning Brick Company in the Village of Reesedale, Armstrong County, Haws Refractories Company in the Village of Bridgeburg, Armstrong County, Howe Sound Company in the Township of Rayburn, Armstrong County, and Allegheny Brick Company in the Township of East Deer, Allegheny County, except as hereinabove authorized.

7. To transport, as a Class D carrier, property from the plant of Mitchell and Westerman Manufacturing Contractors in the Township of Jefferson, Butler County, to points in Pennsylvania, and vice versa.

Subject to the following condition:

That no right, power or privilege is granted to transport lime and lime products, limestone and limestone products, concrete mix, mortar mix, sand mix and masonry cement, from the Warner Company in the Townships of Charlestown, East Whiteland, and Tredyffrin, Chester County, to the plant of Mitchell and Westerman Manufacturing Contractors in the Township of Jefferson, Butler County.

8. To transport, as a Class D carrier, brick, clay products, tile, cement, lime, lumber, stone, laths and concrete blocks from points within one hundred (100) miles of the Borough of Wilkesburg, Allegheny County, to points in the Borough of Wilkesburg and within fifty (50) miles by the usually traveled highways of the limits of said borough.
9. To transport, as a Class D carrier, brick, clay products, tile, stone, cement, lime, lumber, laths and concrete blocks, between points in the Borough of Wilkesburg, Allegheny County, and within fifty (50) miles by the usually traveled highways of the limits of said borough.
10. To transport, as a Class D carrier, equipment and building materials in bulk in dump trucks, between points in the County of Allegheny.
11. To transport, as a Class D carrier, brick tile and other clay products from points in the County of McKean to points in the Borough of Wilkesburg, Allegheny County, and within fifty (50) miles by the usually traveled highways of the limits of said borough.
12. To transport, as a Class D carrier, brick in truckload lots from the plant of Alwine Brick Company in Oxford Township, Adams County, to job and construction sites in the Borough of Wilkesburg, Allegheny County, and within fifty (50) miles by the usually traveled highways of the limits of said borough.

(Continued on next page)

For explanation of abbreviations, reference marks and symbols not explained on page, refer to Rule 120 of tariff.

ISSUED: JULY 13, 1984

EFFECTIVE: AUGUST 13, 1984

ISSUED BY: JAMES BEECHY, VICE PRESIDENT, 236 WINFIELD ROAD, SARVER, PA 16055

Human environmental qualities not effected by provisions published herein. MCS

WAYNE W. SELL CORPORATION

CERTIFICATE NO. 93415

Folder 1 (Continued)

With the rights at 8, 9, 10, 11 and 12 above to be subject to the following conditions:

That no right, power or privilege is granted to transport household goods or office furnishings, in use.

That no right, power or privilege is granted to pick up or deliver any property except contractors' supplies and building materials on the William Penn Highway east of the Allegheny County line.

Folder 1 Am-E

To transport, as a Class D carrier, fresh and processed meats, in temperature controlled vehicles, for Jiffy Foods Corporation, from the facilities of said company located in the Borough of North East, Erie County, to points in Pennsylvania, and the return of refused, rejected or damaged shipments to the point of origin.

Folder 1 Am-F

To transport, as a Class D carrier, dry salt, in bulk in tank vehicles, from the facilities of Standard Terminals, Inc., in the cities of New Kensington and Arnold, Westmoreland County, to points in Pennsylvania lying on and west of the eastern boundaries of the Counties of McKean, Cameron, Clearfield, Blair and Bedford, and the return of refused, rejected or damaged shipments to the point of origin.

Folder 1 Am-G

To transport, as a Class D carrier, salt, in tank vehicles, from the facilities of Morton Salt Company in the Borough of West Elizabeth, Allegheny County, to points in Pennsylvania.

Folder 1 Am-H

To transport, as a Class D carrier, calcilox (dry processed slag), in tank vehicles, between points in the Township of Neville, Allegheny County, and from points in said township to points in Pennsylvania.

Folder 1 Am-I

To transport, as a Class D carrier, salt and salt products for Cargill, Inc., from the cities of Arnold, New Kensington and Lower Burrell, Westmoreland County, to points in Pennsylvania.

Subject to the following condition:

That no right, power or privilege is granted to transport rock salt and/or calcium chloride, for de-icing purposes, in bulk, to points in Pennsylvania on and east of U. S. Highway route 15.

For explanation of abbreviations, reference marks and symbols not explained on page, refer to Rule 120 of tariff.

ISSUED: JULY 13, 1984

EFFECTIVE: AUGUST 13, 1984

ISSUED BY: JAMES BEECHEY, VICE PRESIDENT, 236 WINFIELD ROAD, SARVER, PA 16055

Human environmental qualities not effected by provisions published herein. MCS

WAYNE W. SELL CORPORATION

SCOPE OF CARRIER'S OPERATING AUTHORITY

Folder 1 Am-J

To transport, as a Class D carrier, coal between points in Butler and Allegheny Counties and from points in said Counties to points in Pennsylvania within a radius of 50 miles of the limits of said Counties and vice versa, for Bethlehem Mines Co., United Coal and Commodities Co., American International Co., Sechan Coal Co., Energy Engineering Co., Kitt Coal Co., and Clinton Fuel and Transport, Inc.

Subject to the following condition:

That no right, power or privilege is hereby granted to transport coal or coke from the facilities of Carpentertown Coal and Coke Company at or near Templeton, Armstrong County, except as presently authorized.

Folder 1 Am-K

To transport, as a Class D carrier, property in bulk in dump vehicles, and which is unloaded by dumping, between points within fifty (50) miles of the limits of the Borough of Homestead, Allegheny County, and from points in said territory to points in Pennsylvania, and vice versa.

Subject to the following conditions:

That no right, power or privilege is granted to transport steel in sheets, bars, coils, plates and rods to or from points within thirty-five (35) miles of the City of Philadelphia.

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

That in the rendition of the service herein authorized the container to be used and employed in the transportation of bulk commodities shall be the vehicle itself and not a separate container.

Folder F-1 Am-N

To transport, as a Class D carrier, property, in bulk, in dump vehicles, for Buffalo Builders, Inc., between points in Pennsylvania.

Folder F-1 Am-O @ *

To transport, as a Class D carrier, property for Armstrong Cement and Supply Corporation from its facilities located in the township of Winfield, Butler County, to points in Pennsylvania, and vice versa.

* Issued under authority PA Title 52, Section 23-42

For explanation of abbreviations, reference marks and symbols not explained on page, refer to Rule 120 of tariff.

ISSUED: OCTOBER 2, 1985

EFFECTIVE: INTERSTATE - OCTOBER 3, 1985
INTRASTATE - OCTOBER 8, 1985 *

ISSUED BY: JAMES BEECHEY, VICE PRESIDENT, 236 WINFIELD ROAD, SARVER, PA 16055

Human environmental qualities not effected by provisions published herein. MCS

WAYNE W. SELL CORPORATION

Docket A-00093415, F.1, Am-P

To transport, as a Class D carrier, property, from the facilities of Pittsburgh Intermodal Terminals, Inc., located in the borough of Ambridge, Beaver County, to points in Pennsylvania, and vice versa;

To transport, as a Class D carrier, property, from the facilities of Freeport Terminals, Inc. located in the borough of Freeport, Armstrong County, to points in Pennsylvania, and vice versa;

with both rights subject to the following condition:

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

APPENDIX "D"

Re: TOY TRUCKING COMPANY
Docket A-00099448,
Folder 1, Am-E

Protestant will withdraw its protest if the application is limited to transportation for Toy Trucking Company from its facility located in Worthington, Armstrong County.

PENNSYLVANIA PUBLIC UTILITY COMMISSION



The addressee named hereunder has paid Pennsylvania Public Utility Commission for the following bill, subject to final collection of check or money order tendered for such payment.

RECEIPT
DOCKETED
AUG 3 1991

Toy Trucking Co.
R.D. 1, Box 103
Worthington, PA 16262-9705

Date August 5, 1991

CR 147239 A

RLS

**DOCUMENT
FOLDER**

In re application of Toy Trucking Co.
A-99448, F.1, Am-E.....\$350.00

Revenue account 001780-017601-102 (ck)

ck 6099 Checks \$350.00 Currency _____

Utility account 50:26

C. Joseph Meisinger
For Department of Revenue

PENNSYLVANIA PUBLIC UTILITY COMMISSION



RECEIPT

The addressee named hereunder has paid Pennsylvania Public Utility Commission for the following bill, subject to final collection of check or money order tendered for such payment.

Toy Trucking Co.
R.D. 1, Box 103
Worthington, PA 16262-9705

Date August 5, 1991

CR 147240 A

RLS

In re application of Toy Trucking Co.
A.99448, P.1, Am-E.....\$100.00

DOCKETED
AUG 3 1991

**DOCUMENT
FOLDER**

Revenue account 001780-017601-102 (ck)

ck 6099 Checks \$100.00 Currency _____

Utility account 50:26

C. Joseph Meisinger
For Department of Revenue

Peter G. Loftus

Suzanne E. Mason *

*Also Admitted In Connecticut

Law Offices

PETER G. LOFTUS, P.C.

Suite 724 Bank Towers

321 Spruce Street

Scranton, Pennsylvania 18503-1447

(717) 347-1453

Allentown

(215) 433-7939

Philadelphia

(215) 625-3777

Pittsburgh

(412) 471-2662

Scranton

(717) 347-1453

Wilkes-Barre

(717) 826-0676

Fax:

(717) 347-5559

August 8, 1991

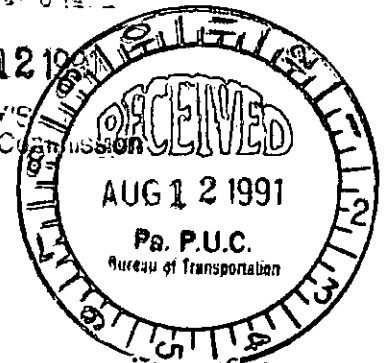
The Honorable Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120

RE: Toy Trucking Company
A-00099448 Folder 1, Am-E

RECEIVED

AUG 12 1991

SECRETARY'S
Public Utility Commission



Dear Secretary Rich:

Enclosed for filing are the original and two copies of a Protest directed to the above-captioned applicant by Seaboard Tank Lines, Inc. Copies have been mailed to the applicant's Counsel of record.

Your prompt attention to this matter is appreciated.

Very truly yours,

PETER G. LOFTUS, P.C.

A handwritten signature in cursive script that reads "Peter G. Loftus". Below the signature is the printed name "Peter G. Loftus".

PGL/ss
Encl:

cc: Walter P. Orzolek, Manager
Seaboard Tank Lines, Inc.

Blair S. Green, Esquire
125 North McKean Street
Kittanning, PA 16201



RECEIVED

AUG 12 1991

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Public U

35.07

IN RE:

DOCKET NO.

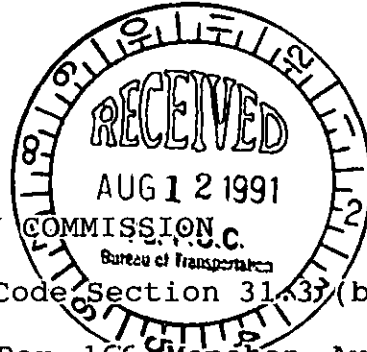
APPLICATION OF:

A-00099448

Folder 1, Am-E

TOY TRUCKING COMPANY

PROTEST



TO: THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In accordance with 52 Pa. Code Section 31.33(b) and

3.381 (a), SEABOARD TANK LINES, INC., Box 166 Monahan Avenue, Dunmore, Pennsylvania 18512, Docket No. 00071220, herein protests the captioned application on the following grounds:

1. The Protestant is Seaboard Tank Lines, Inc., which has its principal place of business located at Box 166, Monahan Avenue, in the Borough of Dunmore, County of Lackawanna and Commonwealth of Pennsylvania. The telephone number of the Protestant is (717) 343-2491.

2. Protestant's attorney is Peter G. Loftus, Esquire, Suite 724, Bank Towers, Scranton, Pennsylvania 18503. The telephone number is (717) 347-1453.

3. Protestant has the authority to haul petroleum products and dry litharge throughout the Commonwealth of

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
AUG 12 1991
ENTRY No.

Pennsylvania with only several minor restrictions. Since the applicant is requesting the general category of property, approval of the application would have the following adverse impacts:

(i) property obviously could be construed to include petroleum products and/or dry litharge, thus giving applicant at least equal, if not greater authority than the Protestant.

(ii) even if it is not the intent of the applicant to haul petroleum products at present, if at any time the applicant sells his rights to another company, that company would then be able to haul petroleum products unless a restrictive amendment has been made prior to the transfer.

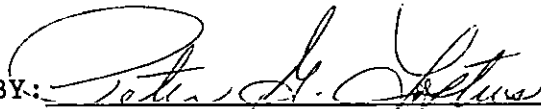
(iii) the number of applicants to haul petroleum products has increased substantially during the last several years and have eroded the Protestant's shipper's list which conversely has not increased substantially, thus having an adverse impact.

4. The Protestant operates under Docket No. A-00071220. A copy of the Protestant's authority is attached hereto, intended to be made a part hereof, and market as Exhibit "A".

5. The Protestant's interest would be protected resulting in a withdrawal of the protest if the following amendment were made:

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

PETER G. LOFTUS, P.C.

BY: 
PETER G. LOFTUS, ESQUIRE
Counsel for Protestant

Suite 724, Bank Towers
321 Spruce Street
Scranton, PA 18503-1447

Date: August 8, 1991

SEABOARD TANK LINES, INC.

FOLDER NOS. 3 and 7

To transport, as a Class D Carrier, petroleum products in bulk, in tank vehicles from points within five (5) miles by the usually traveled highways of the limits of the Boroughs of Bradford and Eldred, McKean County; Warren, Warren County; Titusville, Crawford County; Oil City, Venango County; Butler and Karns City, Butler County, to points in the Pennsylvania east of a line running northeast and southwest from the New York-Pennsylvania state line near Eldred, McKean County, southwesterly through Renovo, Clinton County and Tyrone, Blair County and hereinafter referred to as the Renovo-Tyrone Line.

To transport, as a Class D Carrier, petroleum products in bulk, in tank vehicles for the Tulsa Petroleum Corporation from Marcus Hook, Delaware County, and Eldred, McKean County and from point to point in Pennsylvania, as designated by the Tulsa Petroleum Corporation and vice versa.

To transport, as a Class D Carrier, petroleum products in bulk, in tank vehicles for the Pennsylvania Refining Company from points in the City of Scranton, Lackawanna County, to points in the territory east of the Renovo - Tyrone Line, starting at a point in the northeasterly part of Pennsylvania on the New York - Pennsylvania Border at or near Hallstead; thence to Honesdale; thence to Stroudsburg; thence to Easton; thence to Marcus Hook; thence to Reading; thence to Clarks Ferry; thence to Butler; thence to Franklin; thence to Titusville; thence to Warren; thence to Bradford; thence to Eldred; thence in a straight line along the Pennsylvania - New York Border to the place of beginning.

To transport, as a Class D Carrier, petroleum and petroleum products in bulk, in tank vehicles, between points in the Borough of Macungie, Lehigh County and within one hundred fifty (150) miles of the limits of said Borough.

FOLDER 7, AM-A

To transport, as a Class D Carrier, litharge, dry, in bulk, from the Borough of Dunmore, Lackawanna County, to points in Pennsylvania, with the right to return refused, rejected, or damaged shipments to point of origin.

FOLDER 7, AM-B

To transport, as a Class D carrier, petroleum and petroleum products, in bulk, in tank-type vehicles, between points in Pennsylvania; subject to the following conditions:

1. That no right, power or privilege is granted to provide service from points in the Borough of Warren, Warren County, to points in the Borough of Northeast, Erie County, and the Borough of Corsica, Jefferson County.

2. That no right, power or privilege is granted to provide service for United Refining Company; Pennzoil Products Co.; Witco Chemical Co.; Kendall-Amalie Division, from, to or between points in the counties of Warren, Venango and McKean.

Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in Pennsylvania. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219.

Applications of the following for *amendment* to the certificate of public convenience approving the operation of motor vehicles as common carriers for the transportation of property as described under each application.

A-00080639, Folder 1, Am-F. Raymond E. Pierce (R. D. 2, Harrisville, Butler County, Pa. 16038)—coal for Willowbrook Mining Company, from its mine located in the township of Worth, Mercer County, to points in the county of Erie: *so as to permit* the transportation of property, in bulk, in dump vehicles, for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in Pennsylvania. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219.

A-00099448, Folder 1, Am-E. Toy Trucking Company (R. D. 1, P. O. Box 103, Worthington, Armstrong County, Pa. 16262), a corporation of the Commonwealth of Pennsylvania, *inter alia*—coal, lumber, lime, lime, gravel and sand between points in the counties of Clarion, Armstrong, Butler, Venango, Allegheny and Crawford, no haul to exceed a distance of 25 miles from point of origin to point of destination; excluding the right to transport lumber from points within an airline distance of 40 statute miles of the limits of Brookville, Jefferson County; *so as to permit* the transportation of (1) property, in bulk, for Toy Trucking Company, between points in Pennsylvania; and (2) property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company located in the city of New Castle, Lawrence County and within an airline distance of 25 statute miles of the limits of said city, to points in Pennsylvania, no haul to exceed a distance of 125 statute miles from point of origin to point of destination. Application for temporary authority has been filed at A-00099448, F. 1, AM-E, seeking the following right: property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company located in the City of New Castle, Lawrence County and within an airline distance of 25 statute miles of the limits of said city, to points in Pennsylvania, no haul to exceed a distance of 125 statute miles from point of origin to point of destination. *Attorney:* Blair S. Green, 125 North McKean Street, Kittanning, Pa. 16201.

A-00100160, Folder 1, Am-A. Stanley D. Moore (R. D. 2, Box 272, New Bethlehem, Armstrong County, Pa. 16242)—coal, in dump vehicles, from mines or stripping operations of the Reddinger Coal Company in the counties of Armstrong, Clarion and Jefferson, to power plants or industrial plants west of U. S. Highway Route 219: *so as to permit* the transportation of property in bulk, in dump vehicles; for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in Pennsylvania. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219.

A-00100632, Folder 1, Am-A. J. Wade Hinderliter (R. D. 1, Box 2, Mayport, Clarion County, Pa. 16240)—coal for the C & K Coal Company in dump vehicles from points of origin in the counties of Armstrong, Clarion and Jefferson provided no haul shall exceed an airline distance of 25 miles from point of origin to point of destination: *so as to permit* the transportation of property in bulk, in dump vehicles, for Adobe Mining Co., Adobe Coal Co.,

Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in Pennsylvania. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219.

A-00107684, Folder 1, Am-A. Dennis W. Reefer, t/d/b/a Dennis Reefer Trucking (Box 426, Rural Valley, Armstrong County, Pa. 16249)—coal between points in the counties of Armstrong, Clarion and Indiana: *so as to permit* the transportation of property in bulk, in dump vehicles, for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in Pennsylvania. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219.

A-00109541, Folder 1, Am-A. Karl B. Bachert (General Delivery, Quakake, Schuylkill County, Pa. 18245)—unprepared anthracite coal between points in the counties of Luzerne and Lackawanna: *so as to permit* the transportation of unprepared coal from points in the counties of Luzerne and Schuylkill to the facilities of Mazaika Coal Company in the township of Rush, Schuylkill County. *Attorney:* Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101.

Applications of the following for *amendment* to the certificate of public convenience approving the operating of motor vehicles as common carriers for transportation of property by *transfer of rights* as described under each application.

A-00095745, Folder 1, Am-C. Allegheny Plant Services, Inc. (P. O. Box 2315, Pittsburgh, Allegheny County, Pa. 15230), a corporation of the Commonwealth of Pennsylvania, *inter alia*—property between points in the county of Allegheny: *so as to permit* the transportation of (1) iron and steel, iron and steel articles, and such materials, supplies and equipment as are used or useful in the production, assembly and distribution of iron and steel and iron and steel articles, for Lockhart Iron and Steel Co., from the facilities of said company, in the borough of McKees Rocks, Allegheny County, to points in Pennsylvania, and vice versa; (2) iron and steel, iron and steel articles and such materials, supplies and equipment as are used or useful in the production, assembly and distribution of iron and steel and iron and steel articles, for Follansbee Metals Co., from the facilities of said company in the borough of McKees Rocks, Allegheny County, 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 dump vehicles; and that no right, power or privilege is granted to provide transportation to or from the facilities of New Enterprise Stone and Lime Company, Inc., and its subsidiaries, Valley Quarries, Inc., and Martin Limestone, Inc.; and (3) property for Combustion Engineering, Inc., from the facilities of said company located in the village of East Monongahela, Forward Township, Allegheny County, to points in Pennsylvania, and vice versa; subject to the following condition: that no right, power or privilege is granted to transport commodities in bulk in dump vehicles; which is to be a transfer and conversion of the contract carrier rights authorized under the permit issued at A-00105202 to James Wright, t/d/b/a Wright Express, subject to the same limitations and conditions. *Attorney:* William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219.

A-00104772, Folder 1, Am-A. Advocate Services, Inc. (P. O. Box 1021, Butler, Butler County, Pa. 16003-1021), a corporation of the Commonwealth of Pennsylvania—property from the facilities of Servistar Corporation, in

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AUG 12 1991

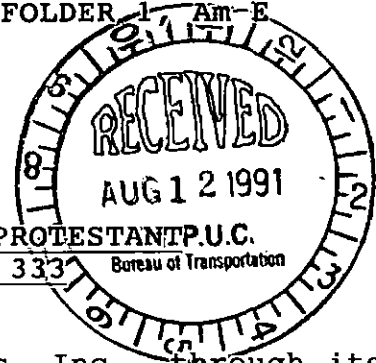
Public Utility Commission

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: APPLICATION OF

TOY TRUCKING COMPANY

APPLICATION DOCKET
A-00099448
FOLDER 1 - Am-E



INTERROGATORIES PROPOUNDED BY THE PROTESTANT P.U.C.
UNDER 62 PA. C.S.A., SECTION 3331

The Protestant, Seaboard Tank Lines, Inc., through its attorney, Peter G. Loftus, Esquire, does hereby propound the following Interrogatories upon the applicant to be answered by him personally and under oath within a reasonable time not to exceed thirty (30) days after the receipt hereof as required by said Act. As used in these Interrogatories, the term "Applicant" shall include, in addition to the named party, their attorneys, agents, servants, employees, representatives, private investigators and others who are in possession of, or who may have obtained information for or on behalf of the said named party.

These Interrogatories shall be deemed to be continuing and any information secured subsequent to the filing of answers thereto which would have been includable in the answers had it been known or available shall be supplied by supplemental answers

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APPLICATION DOCKET
AUG 12 1991
ENTRY No. *[Signature]*

as soon as such information becomes known or available and in all events, prior to the hearing of this matter pursuant to 66 Pa. C.S.A., Section 333.

1. Identify by name and address all proposed shippers you plan to service, if the captioned application is granted.

2. For each said shipper, identify the product or products you propose to haul. If petroleum products, identify specifically what types of petroleum products, their derivatives, and/or by-products, by their generally accepted commercial names.

3. For each such product, identify by name and address to whom said product is to be delivered.

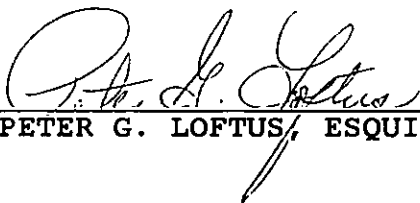
4. For each such product, identify what is the anticipated annual volume.

5. Identify by name, address and telephone number each witness you propose to call at the hearing and the subject matter of their expected testimony.

6. Will you produce, without the necessity of issuing a subpoena duces tecum, all documents, photographs, maps,

recordings or other material whatsoever which you plan to introduce at the hearing? If so, please attach copies of same to your answers.

PETER G. LOFTUS, P.C.

BY: 
PETER G. LOFTUS, ESQUIRE

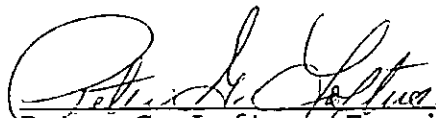
Suite 724, Bank Towers
321 Spruce Street
Scranton, PA 18503-1447

Dated: August 8, 1991

CERTIFICATE OF SERVICE

PETER G. LOFTUS, ESQUIRE, hereby certifies that he served a true and correct copy of the foregoing Protest and Interrogatories in the afore-captioned action by depositing same in the regular United States mail, first-class rate, postage prepaid, and addressed to Blair S. Green, Esquire, 125 North McKean Street, Kittanning, PA 16201, on the 8th day of August, 1991.

PETER G. LOFTUS, P.C.


Peter G. Loftus, Esquire
Attorney for Protestant

Suite 724, Bank Towers
321 Spruce Street
Scranton, PA 18503-1447
(717) 347-1453

LAW OFFICES

VUONO, LAVELLE & GRAY

2310 GRANT BUILDING

PITTSBURGH, PA. 15219-2383

(412) 471-1800

JOHN A. VUONO
WILLIAM J. LAVELLE
WILLIAM A. GRAY
MARK T. VUONO
RICHARD R. WILSON
DENNIS J. KUSTURISS
CHRISTINE M. DOLFI
PETER J. SCANLON

August 19, 1991

TELECOPIER
(412) 471-4477

RF

AUG 19 1991

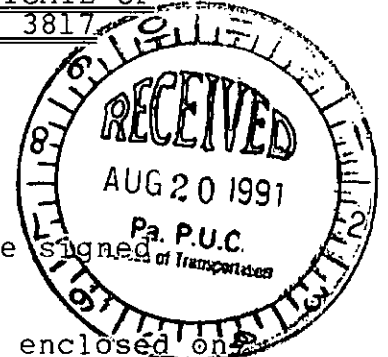
SECRETARY'S OFFICE
Public Utility Commission

* ALSO MEMBER OF FLORIDA BAR

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

Mr. Jerry Rich, Secretary
Pennsylvania Public Utility
Commission
North Office Building
P.O. Box 3265
Harrisburg, PA 17120

MAILED WITH U.S. POSTAL
SERVICE CERTIFICATE OF
MAILING FORM 3817



Dear Mr. Rich:

We enclose for filing with the Commission the original of a protest to the above application.

Please acknowledge receipt and filing of the enclosed on the duplicate copy of this letter of transmittal and return it to the undersigned in the self-addressed, stamped envelope provided..

Very truly yours,

VUONO, LAVELLE & GRAY

William A. Gray
William A. Gray

mm

Enclosure

cc: Blair S. Green, Esq. (w/ enc.) (By certified mail)

**DOCUMENT
FOLDER**

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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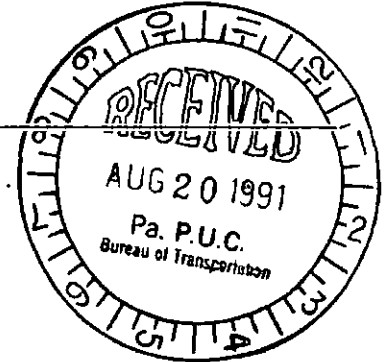
AUG 19 1991

SECRET
Pub. Ut. Com. Sec.

DOCKET NO. A-00099448, Folder 1, Am-E

TOY TRUCKING COMPANY

PROTEST AND REQUEST
FOR ORAL HEARING



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.

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APPLICATION DOCKET
AUG 22 1991
ENTRY No. 114

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.

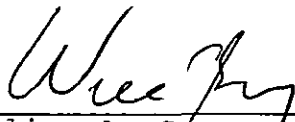
4. Protestants request that the application be set for oral hearing and that applicant be required to prove by competent evidence the elements of proof required by statute. If an oral hearing is held, protestants will appear and present evidence of protestants' own operations and particular interests 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.
ROSIE B. AMSLER AND SHIELA A.
BROCIOUS, COPARTNERS, t/d/b/a
MARIANNE INDUSTRIES
BRUCE TRENT TRUCKING, INC.
TAYLOR SERVICES, INC.
A. D. WEAVER SERVICES, INC.
ROBERT COLE TRUCKING COMPANY
McCLYMONDS SUPPLY & TRANSIT CO., INC.

By: 

William A. Gray
Attorney for Protestants

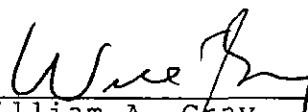
VUONO, LAVELLE & GRAY
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
Of Counsel

Dated: August 19, 1991

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 19th day of August, 1991.



William A. Gray

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

APPENDIX A

SCOPE OF AUTHORITY SOUGHT:

By application published in the Pennsylvania Bulletin on July 27, 1991 applicant seeks authority to operate as a common carrier, transporting:

(1) Property, in bulk, for Toy Trucking Company, between points in Pennsylvania; and

(2) Property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company located in the city of New Castle, Lawrence County and within an airline distance of 25 statute miles of the limits of said city, to points in Pennsylvania, no haul to exceed a distance of 125 statute miles from point of origin to point of destination.

INTEREST OF PROTESTANTS:

Since this application requests the right to transport property, in bulk, between points in Pennsylvania for the Applicant, all of the operating authority of the protestants to transport bulk commodities of any type would be in conflict with this application. Copies of the operating authorities of the protestants are attached to this 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.

2. 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. This authority is presently being transferred to a corporation owned by Rosie B. Amsler and Sheila A. Brocious by the name of Marianne Industries, Inc. (Docket No. A-00109648). The transfer application was approved by Order adopted August 1, 1991. Upon the issuance of the Certificate of Public Convenience to Marianne Industries, Inc., that company will be the protestant in this proceeding.

3. Bruce Trent Trucking, Inc. (successor to Bruce W. Trent), R. D. #1, Friedans, PA 15541 (814-445-7013) holds authority at Docket No. A-00108190.

4. Taylor Services, Inc., 200 Neal Drive, Blairsville, PA 15717 (412-459-8901) holds authority at Docket No. A-00108395.

5. A. D. Weaver Services, Inc., 1110 Route 66, Export, PA 15632 (412-325-3997) holds operating authority at Docket No. A-00105182.

6. Robert Cole Trucking Company, P. O. Box 679, Falls Creek, PA 15840 (814-371-5134) holds authority at Docket No. A-00095824.

7. McClymonds Supply & Transit Co., Inc., R. D. #1, Portersville, PA 16051 (412-368-3211) holds operating authority at Docket No. A-00105846.

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 January 10, 1986

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Application of Bulk Transportation
Services, Inc. for approval of the
transfer to it of all of the operating
rights held by Charles J. Merlo, Inc.
at A-00085811, F. 2.

A-00101351, F. 1, Am-A

O R D E R

BY THE COMMISSION:

By application docketed January 31, 1985, Bulk Transportation Services, Inc. a corporation of the Commonwealth of Pennsylvania, seeks approval of the transfer to it of all the rights granted to Charles J. Merlo, Inc. a corporation of the Commonwealth of Pennsylvania, under the certificate issued at A-00085811, F. 2.

We find the applicant to be fit to be granted the operating authority sought herein 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 Charles J. Merlo, Jr. at A-00085811, F. 2 be approved and that the original report and order at A-00101351 and the certificate issued pursuant thereto, be modified and amended to include the following rights:

1. To transport, as a Class D carrier, building materials, in bulk in dump trucks, coal, sand, bricks and mine supplies between points in the borough of Nanty Glo, Cambria County, and within twenty-five (25) miles of the limits thereof, 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, sand, gravel, reddog, soil and brick from points in the borough of Nanty Glo, Cambria County, and within twenty-five (25) miles of the limits of the said borough to points in the said territory;

with right no. 2 above subject to the following condition:

That no right, power or privilege is granted to transport coal for domestic consumption from the mines of Bethlehem Collieries Corporation, located in the borough of Nanty Glo, Cambria County, said mine being known as No. 31, formerly Heisley Mine, except as authorized by the first right hereinbefore set forth.

3. To transport, as a Class D carrier, scrap metals between points in the borough of Nanty Glo, Cambria County, and within twenty-five (25) miles of the limits of the said borough, excluding service from the city of Altoona, Blair County.
4. To transport, as a Class D carrier, coal between points within an airline distance of forty-five (45) statute miles of the limits of the borough of Nanty Glo, Cambria County;

with right no. 4 above subject to the following condition:

That no right, power or privilege is granted to transport coal to the steel plants of the Bethlehem Steel Corporation in the county of Cambria, except as presently authorized.

5. To transport, as a Class D carrier, scrap metal and scrap iron, in bulk, in dump vehicles, from points in Pennsylvania to the facilities of Bethlehem Steel Corporation located in the counties of Cambria and Dauphin;

with right no. 5 above subject to the following conditions:

- (a) That no right, power or privilege is granted to render service from Avis, Clinton County, and points within five (5) miles of the limits of Avis.
- (b) That no right, power or privilege is granted to render service from the Mountain City Junk Company or Charles Caracciola Steel and Metal Yard.
- (c) That no right, power or privilege is granted to render service from Hodes Industries from its facilities in Centre County, the city of Lock Haven, Clinton County, or the city of Tyrone, Blair County.

6. To transport, as a Class D carrier, coal, in bulk, in dump vehicles, for Bethlehem Mines Corporation, from its mines and facilities located in the counties of Butler, Cambria and Washington, to points in that part of Pennsylvania on and west of U.S. Highway Route 15;

with right no. 6 above subject to the following conditions:

- (a) That no right, power or privilege is granted to provide service to or from the Bethlehem Mines Corporation Fawn No. 91 Mine located in Saxonburg, Butler County.
- (b) That no right, power or privilege is granted to transport coal for Bethlehem Mines Corporation, from its mines and facilities located in the county of Washington, to points in the counties of Allegheny, Fayette, Greene, Washington and Westmoreland.

with all of 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 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, \$1,000, 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 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 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 Charles J. Merlo, Inc. a corporation of the Commonwealth of Pennsylvania at A-00085811, F. 2 be cancelled and the record be marked closed.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 10, 1986.

ORDER ENTERED: JAN 23 1986

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.

O R D E R

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

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held November 23, 1988

Commissioners Present:

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

Application of Rosie Banner Amsler and
Sheila A. Brocius, copartners, t/d/b/a
Marianne Industries for the transfer of all
of the operating rights of WER Trucking, Inc.
under the certificate issued at A-00101353
subject to the same limitations and
conditions.

A-00108377

Rosie B. Amsler, Pro Se.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed September 19, 1988. Public notice of the application was given in the Pennsylvania Bulletin of October 20, 1988. The unopposed application is certified to the Commission for its decision without oral hearing.

Rosie Banner Amsler and Sheila A. Brocius, copartners, t/d/b/a Marianne Industries, the applicant, have their place of business at R.D. #1 Shippenville, Clarion County. The applicant operates thirty-two (32) tractors and thirty-two (32) dump trailers, WER Trucking has discontinued its operations and has offered its operating authority for sale.

The total consideration for the rights is \$500. No tangible assets are involved. The sales agreement requires the consideration to be paid upon approval of the instant transfer by this Commission.

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 right(s):

To transport, as a Class D carrier, coal, from mines and stripping operations in the county of Clarion to points within an air-line distance of one hundred (100) statute miles of the point of origin.

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 \$500 consideration paid by applicant for the rights 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.

5. 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.
6. 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.


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 issuance of the certificate be withheld pending submission of proof of compliance with the provisions of the Fictitious Names Act.

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 WER Trucking, Inc. at A-00101353 be cancelled and the record be marked closed.

BY THE COMMISSION,

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: November 23, 1988
ORDER ENTERED: DEC 1 1988

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 Fallentimber, Cambria County.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held August 16, 1990

Commissioners Present:

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

Application of Rosie Banner Amsler and Sheila A. Brocious, Copartners, t/d/b/a Marianne Industries, for amendment to their common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, coal from mines and stripping operations in the county of Clarion to points within an airline distance of one hundred (100) statute miles of the point of origin: SO AS TO PERMIT the transportation of coal from mines, stripping operations and tipples in the counties of Clarion, Armstrong and Jefferson, to points in that part of Pennsylvania lying on and east of U.S. Highway Route 15.

A-00108377
F. 1
Am-B

Kent S. Pope for the applicant.
Dwight L. Koerber, Jr. for Kephart Trucking Co.
John A. Pillar for Wayne W. Sell Corporation and William P. Mauthe,
t/d/b/a DGB Trucking
Herbert R. Nurick for Samuel J. Lansberry, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed February 28, 1990. Public notice of the application was given in the Pennsylvania Bulletin of March 17, 1990. Protests were filed by Kephart Trucking Co.; Wayne W. Sell Corporation; William P. Mauthe, t/d/b/a DGB Trucking; and Samuel J. Lansberry, Inc.

The protests were withdrawn predicated upon our acceptance of a restrictive amendment which reads as follows:

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 east of U.S. Highway Route No. 15;

subject to the following conditions:

- (1) That no right, power or privilege is granted to provide service for the following shippers: Coal Hill Mining Company, Inc.; H. N. Hartwell & Co., Inc.; Hall's Coal Co., Inc.; Seaview Fuels, Inc.; Calgon Carbon Corporation; International Salt; Therm-O-Rock Products, Inc.; D. C. Guelich Explosive Company; New Enterprise Stone and Lime Company, Inc.; Martin Limestone, Inc.; Valley Quarries, Inc.; Union Equipment Co., Inc.; Tomark Company; Glen O. Hawbaker, Inc.; Robert H. Herrle; IUE Coal Sales Company; Producer's Liason, Inc.; Original Fuels; Valier Coal Yard; Foote Mineral Company; Malho Coal Company, Inc.; Kimmel Coal Company; Kimmel's Coal Services; Hall's Coal Company, Inc.; Final Coal Company; Don H. Richards Coal Co., Inc.; Westmoreland Coal Sales Corporation; Tri-County Petroleum, Inc.; Ames-Burns Company, Inc.; Curwensville Feed Store, Inc.; Hickman Williams & Company; Davis Water & Waste Industries; Warner Company; Tyler Blasting, Incorporated; S & S Coal Sales, Inc.; Peters Chemical Company; J. J. Powell, Inc.; Minerals International Corporation; Freeport Terminals, Inc.; American Stone Mix, Incorporated; Douglas Explosives, Inc.; Freeport Bruck Company; Central Chemical Corp.; Hoffman Industries, Inc.; Pennsylvania Agricultural Cooperative Marketing Association (PACMA); Ball-Incon Glass Packaging Corp.; Cargill, Inc.; and Goodman Brothers, Inc.;
- (2) That no right, power or privilege is granted to transport coal between or from points located within a distance of fifty (50) statute miles of the limits of the borough of Homestead, Allegheny County; or to provide service to or from the facilities of Reddinger Coal Co., Inc.; Terry Coal Sales, Inc.; and Kittanning-Freeport Coal, Inc.; and
- (3) That no right, power or privilege is granted to transport coal between points in the city of Pittsburgh, Allegheny County and within fifty (50) miles of the limits of said city and from points in said territory to points in Pennsylvania, and vice versa; or to provide service for the

following shippers: Keystone Coal Company; C & K Coal Company from its facilities in the county of Jefferson; S.S.M. Coal North America, Inc.; P & S Coal Company; I.U.E. Coal Sales Company; H. N. Hartwell & Co., Inc.; Hawley Fuels, Inc.; United Eastern Coal Sales, Inc.; Hepburnia Coal Co.; Connecticut Coal Company; and Don H. Richards Coal Company, Inc.

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

Rosie Banner Amsler and Sheila A. Brocious, in a joint verified statement, set forth that they currently hold authority from the Commission having received their certificate February 9, 1989. They now operate primarily a dump truck business transporting such commodities as coal, building materials, limestone, sand, gravel, de-icing materials, anti-skid materials and cinders in western Pennsylvania. The applicant's terminal is at R.D. 1, Shippenville. The applicant owns and leases dump equipment and has a fleet of 24 vehicles. All equipment is inspected on a daily basis and is subject to a preventative maintenance program.

The applicant under the proposed amended authority, will transport coal in bulk in dump vehicles with normal service six days per week. It expects that same-day service can be provided within the amended territory.

Robert G. Groft, set forth in a statement on behalf of Manor Coal Company, that the company is a mine operator with locations in the counties of Clarion, Armstrong and Jefferson. It has an annual coal production of approximately 120,000 tons. The applicant will be used to the extent that it has trucks available. Due to the large demand for transportation in dump vehicles, many existing carriers do not have trucks available to meet this demand.

James R. Callihan, set forth in a verified statement on behalf of Colt Resources, Inc., that the company is a mine operator with locations in the counties of Clarion, Armstrong and Jefferson. It has an annual production of approximately 200,000 tons of coal. The applicant will be used to transport a portion of this annual tonnage.

Kevin L. Reichard, set forth that Reichard Contracting, Inc., mines coal in the county of Clarion with an annual production of approximately 45,000 tons. The applicant will be used to transport a portion of this tonnage to points in Pennsylvania which are east of U.S. Highway Route 15.

Gerald Pasqualette on behalf of C & K Coal Co., set forth in a verified statement that the applicant will be used to handle a portion of the company's annual production of approximately 2,000,000 tons. Coal moves from operations in the county of Clarion to points in Pennsylvania east of U.S. Highway Route 15.

FILE

CONTINUED