

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	April 4, 1991	:	2. <u>BUREAU AGENDA NO.</u>	
3. <u>BUREAU:</u>	Transportation	:		APR-91-T-388*
4. <u>SECTION</u>	Technical Review	:	5. <u>PUBLIC MEETING DATE:</u>	
6. <u>APPROVED BY:</u>		:		April 25, 1991
Director:	Ernst 7-2154	:		
Supervisor:	Bigelow/Marzolf 3-5945	:		
7. <u>MONITOR:</u>		:		
8. <u>PERSON IN CHARGE:</u>	White 7-4387	:		
9. <u>DOCKET NO.:</u>	A-00099448, F. 1, Am-D	:		
10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines)		:		
(b) Short summary of history & facts, documents & briefs		:		
(c) Recommendation		:		

DOCKETED

 JUN 24 1991

(a) Application of Toy Trucking Company, a corporation of the Commonwealth of Pennsylvania, Worthington, Armstrong County, for the transfer to it of part of the rights authorized under the certificate issued at A-00105001 to Daniel R. Thomson and William Thomson, Copartners, subject to the same limitations and conditions.

(b) The application is unopposed. The applicant will purchase a portion of the transferor's operating authority for the sum of \$16,000. No tangible assets are involved. We find the applicant to be fit, ready, willing and able to provide the service, and that a continuing public need for service under the authority to be transferred does exist.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application, and that the rights under the certificate issued to the transferor be modified to the extent shown in the supplemental order.

RW:11

BLS

11. <u>MOTION BY:</u>	Commissioner Chm. Smith	Commissioner Rolka - Yes
		Commissioner Rhodes - Yes
<u>SECONDED:</u>	Commissioner Fischl	Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

**DOCUMENT
FOLDER**



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

May 1, 1991

IN REPLY PLEASE
REFER TO OUR FILE

A-99448
F. 1, Am-D

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

Application of Toy Trucking Company, a corporation of the Commonwealth
of Pennsylvania

To Whom It May Concern:

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

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

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

Commission regulations require compliance with the above
requirement within sixty (60) days of the date of this letter. Failure
to comply within the sixty (60) day period will cause the Commission to
rescind the action April 25, 1991 and dismiss the application
without further proceedings.

Very truly yours,

Jerry Rich, Secretary

lg

Enclosure

Certified Mail

Receipt Requested

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

cc:applicant

Toy Trucking Company

R. D. #1, Box 103

Worthington, PA 16262

DOCUMENT
FOLDER

DOCKETED

MAY 07 1991

0001
TOY TRUCKING COMPANY
R.D. #1

BOX 103
WORTHINGTON PA 16262
SELF

0002
BLAIR F GREEN ESQ
125 NORTH MCKEAN STREET
KITTANNING PA 16201
APPLICANT

0003
DANIEL R THOMSON ETC
R D #2
BOX 385
TARENTUM PA 15084
TRANSFEROR

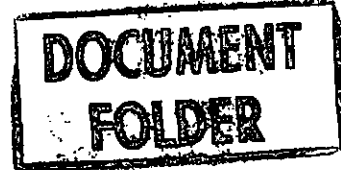
PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 25, 1991

Commissioners Present:

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

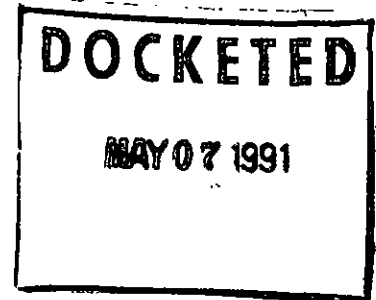
David W. Rolka, Commissioner



Application of Toy Trucking Company, a corporation of the Commonwealth of Pennsylvania, for the transfer to it of part of the rights authorized under the certificate issued at A-00105001 to Daniel R. Thomson and William Thomson, Copartners, subject to the same limitations and conditions.

A-00099448
F. 1
Am-D

Blair F. Green for the applicant.



O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on January 16, 1991, and published in the Pennsylvania Bulletin of March 23, 1991. There are no protests and the record is now certified to the Commission for its decision without oral hearing.

Toy Trucking Company (applicant) was organized under the laws of Pennsylvania on February 21, 1975, and has its principal place of business located at R.D. #1, Worthington, Armstrong County. It is authorized to issue 1,000 shares of common stock having a par value of \$100 per share. All of the shares issued to date are held by Theresa A. Toy, who is president of the corporation. Dannie Dean Toy is vice president; David C. Toy is secretary-treasurer. There is no affiliation with other carriers.

An unaudited balance sheet shows that the applicant has current assets of \$87,578, total assets of \$308,163, with current liabilities of \$27,955 and total liabilities of \$77,955, leaving stockholder equity of \$230,208. The applicant has held a certificate from this Commission since

February 4, 1976, under which it provides service primarily as a coal hauler in western Pennsylvania. It provides service with nine company-owned tri-axle dump trucks.

Under the terms of the sales agreement dated January 9, 1991, the applicant will pay the sum of \$16,000 for the operating authority. No tangible assets are involved. Payment will be made upon receipt of our order approving the transaction.

The transferors hold seven individual rights under the certificate issued to them on April 16, 1984. Six of those rights are being purchased by the applicant. In order to avoid any duplication of authority between the rights being transferred to the applicant and the rights being retained by the transferor, the rights being transferred will be conditioned to avoid such duplications.

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. That the applicant is fit, willing and able to provide the service proposed.
2. That 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 application be and is hereby approved and that the certificate issued to the applicant on February 4, 1976, as amended, be further amended to include the following rights:

1. To transport, as a Class D carrier, coal, coke, boney and other building materials, in bulk, (excluding brick), in dump trucks, from points in the borough of Springdale, Allegheny County, to points in the counties of Allegheny, Butler, Westmoreland and Armstrong, 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, coke, boney, slag and building materials, in bulk, (excluding brick), in dump vehicles, and which

are unloaded by dumping, between points in the counties of Butler, Westmoreland, Indiana and Armstrong, provided no haul shall exceed a distance of thirty-five (35) miles from point of origin to point of destination, excluding the transportation of coal and coke to or from points in Butler County, except as presently authorized.

3. To transport, as a Class D carrier, concrete blocks, haydite blocks and cinder blocks between points in the county of Allegheny.
4. To transport, as a Class D carrier, sand and gravel, in dump vehicles and which are unloaded by dumping, from the facilities of Davison Sand and Gravel Company, in the counties of Allegheny, Armstrong and Westmoreland, to points in Pennsylvania, and vice versa.
5. To transport, as a Class D carrier, coal for domestic consumption and to railroad cars between points in the city of New Kensington, Westmoreland County, and within fifteen (15) miles by the usually traveled highways of the limits of said city, provided no haul shall exceed a distance of fifteen (15) miles from point of origin to point of destination.
6. To transport, as a Class D carrier, gravel, sand, soil, slag, cinders and building blocks, between points in the city of New Kensington, Westmoreland County, and within twenty-five (25) miles by the usually traveled highways of the limits of the said city, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.

with the above rights subject to the following condition:

That no right, power or privilege is granted to transport construction and building sand and gravel, in dump vehicles, for the Davison Sand and Gravel Company, from its plant site in the city of New Kensington, Westmoreland County.

with all of the above 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, \$16,000, 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 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 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 applicant, shall not be construed as conferring more than one operating right.

IT IS FURTHER ORDERED: That upon compliance with this order, part of the rights granted the transferor, Daniel R. Thomson and William Thomson, Copartners, at A-00105001 be cancelled and the record be marked closed.

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, looping initial "J".

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: April 25, 1991

ORDER ENTERED: MAY 1 1991

SENDER: Complete items 1 and 2 when additional services are desired and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: <i>A-99448, F. I. Am-D Order Blair J. Green, Cg</i>	4. Article Number 044611
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
5. Signature - Addressee X	Always obtain signature of addressee or agent and DATE DELIVERED.
6. Signature - Agent <i>S. Bower</i>	8. Addressee's Address (ONLY if requested and fee paid)
7. Date of Delivery <i>5/3/91</i>	

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 **DOMESTIC RETURN RECEIPT**

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: <i>A-99448, F. I. Am-D Order Daniel R. Thomson, etc.</i>	4. Article Number 044616
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input type="checkbox"/> Certified <input type="checkbox"/> COD <input checked="" type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
5. Signature - Addressee X	Always obtain signature of addressee or agent and DATE DELIVERED.
6. Signature - Agent <i>William Thomas</i>	8. Addressee's Address (ONLY if requested and fee paid)
7. Date of Delivery <i>5/3/91</i>	

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 **DOMESTIC RETURN RECEIPT**