

Kenneth A. Readinger set forth on behalf of T.D.K. Coal Sales, Inc., that the applicant's service is required for a portion of 100,000 tons of coal per year for movement to points in eastern Pennsylvania.

Ernest Snyder, on behalf of S.B.P. Coal Company, set forth in a verified statement that the company has coal operations in the counties of Clarion, Armstrong and Jefferson. It produces approximately 40,000 tons of coal per year. The applicant will be used to move a portion of this annual production to points in eastern Pennsylvania.

DISCUSSION AND FINDINGS

The applicant seeks to expand its authority to permit the transportation of coal from points in three western counties, Clarion, Armstrong and Jefferson, to points in eastern Pennsylvania specifically those points which are east of U.S. Highway Route 15. In order to secure the withdrawal of four protestants, the applicant has agreed to exclude service for 62 named shippers and to exclude service in a territory within 50 miles of Pittsburgh and Homestead, Allegheny County, and from that territory to points in Pennsylvania, and vice versa.

The applicant, as a currently certificated carrier, has experience in the Pennsylvania transportation industry and has equipment suitable to provide the amended service. We have no difficulty finding that the applicant possesses the technical ability and has the fitness necessary to render the proposed service, as amended.

In support of the application, the applicant has submitted six statements from supporting shippers who have coal mining operations in this territory. The six supporting shippers seek the availability of the applicant's service to aid them in meeting their transportation requirements as currently certificated carriers often cannot supply the number of dump vehicles necessary to meet demand. The statements of the six supporting shippers are adequate to determine that there is a need for this service to aid them in meeting their requirements.

Turning our attention to the restrictive amendment, we previously note, that the restrictive amendment excludes service for 62 named shippers and eliminates service in a territory comprised of a 50-mile radius of Pittsburgh and the adjoining borough of Homestead, Allegheny County, and from points within this 50-mile radius to points in Pennsylvania, and vice versa. It is our determination that this application should be granted, but that the authority to issue should be "for" the six shippers supporting the application. By issuing this authority to permit service for the six supporting shippers, the bulk of the restrictive amendment which exclude service for the 62 shippers can be eliminated. A grant of authority in this manner will state what service the applicant may provide for six shippers, rather than what the applicant may not do for 62 named shippers. The territorial restriction will remain, but will be modified to (1) eliminate vice versa as the applicant is not requesting vice versa authority, and (2) eliminate the language "coal between or from points located within a distance of fifty (50) statute miles of the borough of Homestead, Allegheny County."

Homestead is a borough just south of the city of Pittsburgh and is included in the fifty mile territory of the limits of the city of Pittsburgh which is included as a restriction in paragraph 3 of the restrictive amendment. All the Pennsylvania points when measured fifty miles from Homestead are within the fifty mile radius of the limits of Pittsburgh, so that a total duplication of excluded territory exists between paragraph 2 and paragraph 3 of the amendment, hence paragraph 2 may be eliminated.

We find:

1. The applicant has the experience, equipment and financial capacity to render the proposed service, as amended, as further modified.

2. Approval of the application to permit the applicant to provide service for the six supporting shippers will aid those shippers in meeting their transportation requirements in this territory.

3. Approval of the application, as amended, as further modified to service for the six supporting shippers is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, as further modified, be and is hereby approved and that the certificate issued February 9, 1989, as amended, be further amended to include the following right:

To transport, as a Class D carrier, coal for Manor Coal Company; S.B.P. Coal Company; C & K Coal Company; Reichard Contracting, Inc.; Colt Resources, Inc.; and T.D.K. Coal Sales, Inc., from their mines, stripping operations and tipples in the counties of Clarion, Armstrong and Jefferson, to points in Pennsylvania east of U.S. Highway Route 15;

subject to the following conditions:

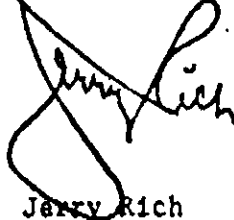
- (1) That no right, power or privilege is granted to provide transportation between points in the city of Pittsburgh, Allegheny County, and within fifty (50) miles of the limits of the said city, and from points in the said territory, to points in Pennsylvania.
- (2) That no right, power or privilege is granted to provide service for C & K Coal Company from its facilities in the county of Jefferson.

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

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

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

BY THE COMMISSION,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: August 16, 1990

ORDER ENTERED: AUG 27 1990

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held June 14, 1990

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice-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 the transfer of all of the operating rights of Richard W. Rupert and Donald H. Rupert (deceased), copartners, under the certificate issued at A-00104520 subject to the same limitations and conditions.

A-00108377
F. 1
Am-C

Vuono, Lavelle & Gray, by William J. Lavelle, for the applicant.
John L. Sheaffer, III, for the protestant, W.H. Johns, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed April 23, 1990. Public notice of the application was given in the Pennsylvania Bulletin of May 19, 1990. One protest was filed but withdrawn without restrictive amendment upon reconsideration of the protestant's interest.

Rosie Banner Amsler and Sheila A. Brocious, are copartners, trading under the properly registered fictitious name "Marianne Industries" (Marianne or applicant). Marianne was initially certificated in 1989 and presently operates under paragraphs of authority. A fleet of twenty-three tractors, twenty-six trailers and four straight trucks are available to perform the additional service. As evidence of its financial capacity, Marianne reports assets of \$343,179, with liabilities of \$158,298, leaving a net worth of \$184,881.

Presently, two orders to show cause are pending against the transferor. The first, adopted January 15, 1988, was issued to investigate the transferor's lack of revenue for the years 1984, 1985 and 1986. The second, adopted February 8, 1990, alleged failure to maintain proper insurance. Since the rights involved are now to be transferred, it would serve no useful public purpose to continue these actions. Upon compliance with the conditions of this order, the orders to show cause will be dismissed.

The total consideration for the rights is \$12,500. No tangible assets are involved. The sales agreement requires the consideration to be paid as follows: \$2,500 at the execution of the sales agreement, \$5,000 at closing after approval of this transfer and the balance within ninety days of the closing.

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 the certificate of public convenience issued on February 9, 1989, as amended, be further amended to include the following rights:

1. To transport, as a Class D carrier, bottles, containers, caps, broken glass, cullet, supplies and materials for the Owens-Illinois Glass Company from its place of business in the borough of Clarion, Clarion County, to points in Pennsylvania, and vice versa.
2. To transport, as a Class D carrier, prefabricated homes and components, furnishings and fixtures of prefabricated homes for Imperial Homes, Inc., from points in the county of Clarion to points in Pennsylvania, and the return of refused, rejected and damaged shipments of prefabricated homes.

3. To transport, as a Class D carrier, raw materials used or useful in the construction and manufacture of pre-fabricated homes for Imperial Homes, Inc., from points in Pennsylvania to points in the county of Clarion.
4. To transport, as a Class D carrier, corrugated fibre-board and pulpboard boxes, containers, sheets and partitions; and supplies and materials used in the manufacturing and distribution of fibreboard and pulpboard boxes and containers from the city of Bradford, McKean County, and points within one (1) mile of the limits of said borough to points in Pennsylvania (except Elk, Potter and Cameron Counties), and vice versa.
5. To transport, as a Class D carrier, milk from farms in the township of Annin, Liberty, Keating and Eldred to milk plants in the borough of Port Allegany, McKean County.
6. To transport, as a Class B carrier, livestock, farm products and supplies between points in the townships of Annin, Liberty, Keating and Eldred, McKean County.
7. To transport, as a Class D carrier, livestock and farm products and supplies from points in the township of Annin, Liberty, Keating and Eldred, McKean County, to points in the borough of Port Allegany, McKean County, and vice versa.
8. To transport, as a Class D carrier, methonal from chemical plants in Barnes, Warren County, Crosby and Coryville, McKean County, Coneville and Genesee, Potter County, Morris, Tioga County, and Port Allegany, McKean County, to the borough of Smethport, McKean County.
9. To transport, as a Class D carrier, anti-freeze from the borough of Smethport, McKean County, to the city of Bradford, McKean County, and boroughs of Coudersport, Potter County, Kane and Mount Jewett, McKean County, and Warren, Warren County.
10. To transport, as a Class D carrier, acetate from the village of Coneville, Potter County, to other points in Pennsylvania, and vice versa.
11. To transport, as a Class D carrier, building materials, such as are usually transported in dump trucks, between points in the counties of Potter and McKean, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.

12. To transport, as a Class B carrier, property between points in the borough of Port Allegany, McKean County.
13. To transport, as a Class D carrier, property from points in the borough of Port Allegany, McKean County, to points within twenty (20) miles by the usually traveled highways of the limits of said borough, and vice versa.
14. To transport, as a Class D carrier, household goods, furniture, manufactured wood products, toys, dolls, glass bottles, glass block, glass insulation material and glass products of all kinds, and raw materials used in the manufacture thereof, tanning extracts, solvents and other materials used in processing and tanning of leather between points in the borough of Port Allegany, McKean County, and within twenty (20) miles by the usually traveled highways of the limits of said borough and from points in said area to points in Pennsylvania, and vice versa;

with right No. 14 subject to the following condition:

That no right, power or privilege is granted to transport liquid in bulk in tank trucks from points in the borough of Port Allegany, McKean County, and within twenty (20) miles of the limits of said borough to points in Pennsylvania, and vice versa.

15. To transport, as a Class D carrier, glass containers, caps, covers, disks and tops therefor, fibreboard boxes and wooden containers, between points in the township of Paint, Clarion County, and from points in the said township of Paint to points in Pennsylvania, and vice versa; excluding the right to render any service to or from the facilities of Knox Glass, Inc., in the boroughs of Knox, Clarion County, Kane, McKean County, and Parker, Armstrong County, and the villages of Marienville, Jenks Township, Forest County, and Sheffield, Sheffield Township, Warren County.
16. To transport, as a Class D carrier, insulating material and materials and supplies used in the manufacture, distribution and installation of insulating material (except commodities in bulk in tank vehicles) between points in the borough of Port Allegany, McKean County and within twenty (20) miles by the usually traveled highways of the limits of said borough and from points in the said borough and territory to points in Pennsylvania, and vice versa.

17. To transport, as a Class D carrier, fibreboard cans and metal ends therefore, and materials and supplies used in the manufacture or distribution of fibreboard cans and metal ends therefore, from the plant site and warehouse facilities of Boise Cascade Corporation located in Oil City, Venango County and within ten (10) statute miles of the limits of said city, to points in Pennsylvania, and vice versa;

with right No. 17 subject to the following condition:

- (a) So as to exclude the transportation of commodities in bulk in tank vehicles or in hopper-type vehicles.

18. To transport, as a Class D carrier, fiberboard and pulp-board boxes, sheets and containers, from the facilities of Owens-Illinois, Inc., located in the township of Bristol, Bucks County, to points in Pennsylvania on and west of U.S. Highway 220.
19. To transport, as a Class D carrier, glass containers and closures therefor and fibreboard boxes, from the facilities of Glass Containers Corporation located in the borough of Knox, Clarion County; the borough of Marienville, Forest County; and the borough of Parker, Armstrong County, to points in Pennsylvania on and west of U.S. Highway 15, and vice versa.
20. To transport, as a Class D carrier, property between the facilities of Owens-Illinois, Inc., and from those facilities to points in Pennsylvania and vice versa;

with right No. 20 subject to the following condition:

That no right, power or privilege is granted to transport household goods or commodities in bulk.

21. To transport, as a Class D carrier, property, for Boise Cascade Corporation, between points in Pennsylvania;

with right No. 21 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport commodities in bulk.
- (b) That no right, power or privilege is granted to transport household goods;
- (c) That no right, power or privilege is granted to transport property, which, because of its size or weight, requires the use of special equipment, such as low-bed, drop-frame trailers and winch trucks.

- (d) That no right, power or privilege is granted to provide service between points in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia.

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 \$12,500 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.
4. That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its utility accounts any amounts representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
5. That the operating authority granted herein, or now held or subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.

6. That the certificate/permit holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 PA C.S.A. §1102(a)(3).

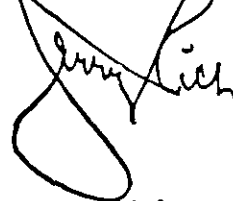
IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of a tariff establishing just and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

IT IS FURTHER ORDERED: That, upon compliance with the conditions set forth above, the orders to show cause issued against the transferror on January 15, 1988, and February 8, 1990, at A-00104520 and A-00104520C901, be and are hereby dismissed.

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 Richard W. Rupert and Donald H. Rupert (deceased), copartners, at A-00104520 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over the typed name below.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: June 14, 1990

ORDER ENTERED: JUN 26 1990

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 6, 1991

Commissioners Present:

William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Frank Fischl, Commissioner
Wendell F. Holland, Commissioner
David W. Rolka, Commissioner

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 property (except household goods and office furniture, in use), for Rosie Banner Amsler and Sheila A. Brocious, t/d/b/a Marianne Industries and Marianne Industries, Inc., between points in Pennsylvania.

A-00108377
F. 1
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Vuono, Lavelle & Gray, by William J. Lavelle, for the applicant.
Peter G. Loftus for the protestant, Seaboard Tank Lines, Inc.
Pillar and Mulroy, P.C., by John A. Pillar, for the protestants, William P. Mauthe, t/d/b/a DGB Trucking, Wayne W. Sell Corp., and McCleary-Christie Trucking, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed April 23, 1990. Public notice of the application was given in the Pennsylvania Bulletin of May 19, 1990. Four protests were filed but withdrawn contingent upon the Commission's acceptance of a restrictive amendment,

restricting movements to those moving into and out of the shippers' Clarion County facilities and eliminating the right to transport petroleum products. The now unprotested application is certified to the Commission for its decision without oral hearing. The record consists of verified statements filed by the applicant and two supporting shippers.

Rosie Banner Amsler and Sheila A. Brocius, are copartners, operating under the properly registered fictitious designation "Marianne Industries" (Marianne Partnership or applicant). The Marianne Partnership was initially certificated as a common carrier in 1989 and currently operates under thirty-two paragraphs of authority. Business is conducted from a facility located on a four acre site in Shippenville, Clarion County, which has an office, garage, and warehouse. A fleet of two dump trucks, twenty-seven tractors, two flatbed trailers and twenty-four dump trailers is available to perform the proposed service. A comprehensive safety program for drivers and equipment is presently in operation. As evidence of its financial capacity to assume the burden of the additional proposed operation, the Marianne Partnership reports assets of \$343,179, with liabilities of \$158,298, leaving a net worth of \$184,881.

Sheila A. Brocius, a partner in the applicant, submitted a verified statement in support of the application for the Marianne Partnership in its role as a shipper. In addition to its common carrier business, the Marianne Partnership also deals in sand, gravel, stone, coal, and other similar bulk commodities and it is a recycler of such materials as glass, aluminum, steel and paper. Shipments move into and out of the Marianne Partnership's Shippenville facility on a daily basis. Potentially, suppliers and customers are located throughout the state. The purpose of this application is to allow the applicant to use vehicles dedicated to common carriage in its private carriage operations. Under our recent reinterpretation of Makovsky Bros. v. Pa. P.U.C., 55 Pa. Commw. Ct. 435 (1980), we declared that common carriers may use vehicles dedicated to common carrier service to transport their own property, to the extent of their certificate's geographical area and commodity restrictions. Application of Gene Fuller Homes, Inc., A-00108928 (Order adopted August 2, 1990) (granting petition for reconsideration and amending order adopted May 10, 1990). Unlike Fuller, which sought to use its common carrier vehicles within the commodity and geographical area restrictions of its certificate, the applicant seeks to go beyond its current certificate rights by transporting property (subject to certain restrictions) from its facilities to points in Pennsylvania, and vice versa. While the applicant may perform some of the proposed service under its present authority, approval of this application will allow it the maximum of operating flexibility based on the record before us and will remove any questions as to commodities that may be transported or geographical area that may be served.

Gerald D. Brocius, traffic manager for Marianne Industries, Inc. (Marianne Corporation), submitted a verified statement in support of the application. The Marianne Corporation is a broker-dealer of various bulk commodities, such as sand, gravel, limestone, stone, cinders, cullet and coal. It purchases these commodities from mines, warehouses, recycling operations and manufacturing companies. The commodities are stored at

facilities in Clarion County and shipped to such distant points as Pittsburgh, Allentown and York in addition to local customers in northwest Pennsylvania. Approximately eight truckloads are moved per day.

After a complete review of the application before us, we find:

1. That the applicant has shown that there is a public need for the proposed service, as amended.
2. That the applicant possesses the necessary equipment, experience, and financial capacity to perform the proposed service, as amended.
3. That approval of the application, as amended, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued to the applicant on February 9, 1989, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property for Rosie Banner Amsler and Sheila A. Brocious, t/d/b/a Marianne Industries and Marianne Industries, Inc., from their facilities located in the county of Clarion, to points in Pennsylvania, and vice versa.

subject to the following conditions:

- (a) That no right, power or privilege is granted to transport household goods and office furniture in use.
- (b) That no right, power or privilege is granted to transport petroleum, and petroleum products in bulk, or dry litharge in bulk.

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

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

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

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over the printed text "BY THE COMMISSION,".

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 6, 1991

ORDER ENTERED: Mar 8 1991

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 29, 1988

Commissioners Present:

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

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

A-00108190

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

O R D E R

BY THE COMMISSION:

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

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

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

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

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

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

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

We find:

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

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

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

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

with Right No. 7 subject to the following condition:

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

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

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

with all of the above subject to the following conditions:

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

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

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

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

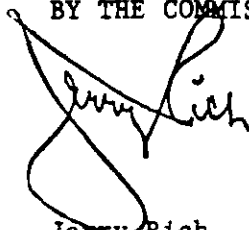
IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

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

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

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

BY THE COMMISSION,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: September 29, 1988

ORDER ENTERED: OCT 5 1988

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 5, 1991

Commissioners Present:

William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Frank Fischl, Commissioner
Wendell F. Holland, Commissioner
David W. Rolka, Commissioner

Application of Bruce Trent Trucking, Inc.,
a corporation of the Commonwealth of
Pennsylvania, for amendment to its common
carrier certificate, which grants the right,
inter alia, to transport, by motor vehicle,
coal from mines or stripping operations in
the counties of Somerset and Cambria to
points in the counties of Somerset, Cambria,
Bedford and Blair, no haul to exceed a
distance of one hundred (100) miles from
point of origin to point of destination:
SO AS TO PERMIT the transportation of
(1) coal and coal products, in bulk, in
dump vehicles, for PBS Coals, Inc., Cooney
Bros. Coal Co., Trent Coal, Inc., H.A.S.
Enterprises, Inc., and B & B Coal Associates,
Inc., between points in Pennsylvania;
and (2) equipment and machinery, for Trent
Coal, Inc., between points in Pennsylvania.

A-00108190
F. 1
Am-A

Vuono, Lavelle & Gray by William J. Lavelle for the applicant.
McNees, Wallace & Nurick by Herbert R. Nurick for the protestant,
Samuel J. Lansberry, Inc.
Pillar and Mulroy, P.C. by John A. Pillar for the protestants,
David Tesone Trucking, Inc. and John Hruska.
John L. Sheaffer, III for the protestant, W. H. Johns, Inc.
John E. Fullerton for the protestants, William C. Confer, R. J.
Glass, Inc., Powers Trucking Co. and Hiram Wible & Son, Inc.

CORRECTED ORDER

BY THE COMMISSION:

This matter comes before the Commission on an application filed
January 29, 1990. Public notice of the application was given in the

Pennsylvania Bulletin of February 17, 1990. Protests to the application were filed by eight common carriers.

On November 15, 1990, a hearing was held before Administrative Law Judge James Porterfield, at which the applicant entered a restrictive amendment. The restrictive amendment eliminates the proposed service for PBS Coals, Inc. The applicant restricted the proposed transportation of coal and coal products, by subjecting the first right to the following restrictive conditions:

- (1) That no right, power or privilege is granted to transport coal and coal products which originate at the facilities of Cooney Bros. Coal Co. located in Cambria County.
- (2) That no right, power or privilege is granted to transport coal and coal products for H.A.S. Enterprises, Inc. between points in the counties of Indiana and Westmoreland.
- (3) That no right, power or privilege is granted to transport coal and coal products between points in the city of Williamsport, Lycoming County, and within an airline distance of one hundred (100) statute miles of the limits of said city (except that this third restriction does not apply to any points located in the counties of Bedford, Blair, Cambria, Indiana and Jefferson).

As the result of the restrictive amendment, all of the protests were withdrawn.

The now unprotested application is certified to the Commission for the Commission for its decision. The record consists of nine pages of testimony, the applicant's verified statement and verified statements on behalf of four supporting shippers.

DISCUSSION AND FINDINGS

Bruce Trent Trucking, Inc. (applicant or Trent) is a Pennsylvania corporation domiciled at R.D. 1, Friedens, Somerset County. By the instant application, the applicant sought a grant of authority which would have authorized the transportation of (1) coal and coal products, in bulk, in dump vehicles, for PBS Coals, Inc., Cooney Bros. Coal Co., Trent Coal, Inc., H.A.S. Enterprises, Inc. and B & B Coal Associates, between points in Pennsylvania; and (2) equipment and machinery, for Trent Coal, Inc., between points in Pennsylvania.

In response to eight protests, the applicant restrictively amended the proposed first right so as to eliminate transportation of coal and coal products for PBS Coals, Inc. The first right was conditioned to exclude

transportation of coal and coal products which originate at the Sonman Tipple facilities of Cooney Bros. Coal Co., located in Portage Township, Cambria County; coal and coal products for H.A.S. Enterprises, Inc. between points in the counties of Indiana and Westmoreland; and (3) coal and coal products between points in the city of Williamsport, Lycoming County, and within an airline distance of one hundred (100) statute miles of the limits of said city (except that this third restriction does not apply to any points located in the counties of Bedford, Blair, Cambria, Indiana and Jefferson). No restrictions were placed on the second right sought by the instant application.

Trent operates from facilities located on a five-acre site which is situated on Pennsylvania Highway Route 281 near Friedens, Somerset County. The applicant currently employs 22 company drivers and three full-time mechanics, in addition to office personnel. Also available at any one given time are 10 to 15 owner/operators.

Available to provide transportation are 10 tri-axle dump trucks, 12 tractors, 12 dump trailers, two tank trailers, four closed-van trailers, one lowboy trailer and one flatbed trailer. In addition, the applicant has 12 tractors and 12 dump trailers under long-term lease from owner-operators. All of the dump trailers and dump trucks, owned or leased, are capable of transporting approximately 23 tons of bulk materials.

The applicant's services are available to the public six days per week, during normal working hours. Upon request, the applicant will extend its operating day to meet the transportation needs of its customers. Trent will attempt to coordinate its inbound and outbound shipments to minimize empty mileage of its vehicles. This will be accomplished through the utilization of its current existing intrastate authority and interstate authority.

Stephen J. Black, president of B & B Coal Associates, Inc. (B & B Coal), sets forth the following information in support of the pending application. B & B operates from offices located in Friendship Plaza, R.D. 6, Kittanning. B & B Coal operates a mine located in Campbell, Butler County. In addition, it has two tipples, one located in Reesdale, Armstrong County and one located in Seward, Westmoreland County.

Coal is shipped from its mine and tipples to power plants and blending yards throughout the Commonwealth. As a broker of coal, it also has shipments moving directly from other coal suppliers to coal yards and power plants. Outbound shipments weigh approximately 24 tons per shipment. All freight charges are the responsibility of B & B Coal.

A major portion of its traffic originates at the Reesdale and Seward tipples and its Campbell mine. Shipments total approximately 23,700 shipments of coal annually weighing approximately 545,000 tons. As previously stated, primary destinations are power plants and blending yards.

The applicant is being supported due to the shipper's need for a carrier that can transport bulk shipments and provide job site deliveries. Also required are same-day pickup and deliveries. B & B Coal has had

difficulty meeting its daily vehicle equipment needs due to the lack of equipment. The applicant has provided service under its existing authority and has provided a satisfactory service. Approval of the application permitting the applicant to serve B & B Coal should eliminate the problem B & B Coal is having with its inability to acquire sufficient motor vehicles.

Paul A. Cooney, partner in Cooney Bros. Coal Company (Cooney) states in support of the pending application that Cooney runs the largest surface mining operation in Pennsylvania. It also operates the Sonman tipple located in Portage Township, Cambria County. Cooney operates six strip mines located in the counties of Cambria, Blair and Somerset. Coal produced at these facilities is transported by truck to the Sonman tipple. Cooney pays for all freight charges and controls 100 percent of the routing of the coal from the mining facilities and tipple.

Cooney ships approximately 1,360,000 tons of coal from the mines to its tipple each year. This totals approximately 68,000 truckloads with each shipment weighing approximately 20 tons. In addition to its own coal, Cooney also purchases coal from Trent Coal, Inc. and Unionvale Coal. These shipments originate in Portage, Cambria County and from Unionvale's facility in Westmoreland County. Cooney also has shipments originating at Coupon, Dean, Mineral Point, Beaverdale, Dunlo, Potridge and Ridge Road, and are all destined to the Sonman tipple.

A carrier is required that has equipment available to transport bulk shipments to job sites. All shipments must be picked up and delivered on the same day. The carrier providing equipment must be capable of maintaining a schedule. Shipments require transportation in tri-axle dump trucks.

Cooney has relied upon the applicant for service for the past three years under the applicant's existing authority. Prior service has been excellent and it is anticipated that the applicant will be able to provide the expanded service.

Jonathan L. Kimmel, president of H.A.S. Enterprises, Inc. (H.A.S.) states that H.A.S. is a coal broker operating from facilities located at 501 West Main Street, Somerset, Somerset County. H.A.S. currently has a contractual arrangement for the use of two tipples, one of which is located in Boltz, Cambria County and the other in Berlin, Somerset County. H.A.S. purchases coal from strip mines, deep mines and tipples throughout Pennsylvania. The coal is shipped to power plants, tipples, cleaning facilities and facilities owned by other brokers.

H.A.S. ships approximately 140,000 tons of coal each year, requiring approximately 7,000 vehicles. A large portion of these shipments originate at points in Somerset County and are then transported to the tipples in Cambria and Somerset Counties, and to customers in Somerset, Cambria, Indiana and Westmoreland Counties. H.A.S. also purchases coal from mines located in Somerset, Cambria, Indiana and Westmoreland Counties which is then shipped direct to customers throughout the Commonwealth.

The applicant is being supported due to its ability to supply dump trailers and tri-axle dump trucks. The applicant has been providing service for H.A.S. under its existing authority for approximately 1 1/2 years. This service has been dependable and H.A.S. is anticipating having the applicant available to provide service throughout the Commonwealth.

Robert D. Trent, president of Trent Coal, Inc. (Trent Coal) states in support of the pending application that Trent Coal is engaged in the underground mining of coal. Trent Coal operates two deep mines, one of which is located in Portage, Cambria County, and the other is located in Hooversville, Somerset County. Both of the mines receive shipments of mining supplies and mine equipment. When equipment breaks down at the mine, it is shipped to various locations throughout the Commonwealth for repair. The mines produce coal which is then shipped to customer blending and cleaning facilities and to power plants. Trent Coal controls the routing of all of its outbound shipments of coal.

Trent Coal is currently making approximately 20 shipments per day from the Portage mine. The majority of the coal now moves to the Cooney Bros. Sonman tipple in Cambria County. Shipments from the Portage mine total approximately 100,000 tons or 5,000 truckloads. Trent is anticipating that the Hooversville mine will double this production once it becomes operational. At that time, Trent Coal will ship directly to power plants located at such points as Homer City, Oneida, Florence, Conemaugh and Ebensburg.

Trent Coal also has need for the transportation of shipments of mining machinery and equipment between the two mine sites, to and from facilities in Berlin, Somerset County, and to and from repair facilities. Repair destinations will include its own garage in Friedens, Beckwith Machinery Company in Pittsburgh, Highway Equipment Company in Somerset, Joy Manufacturing in Homer City and Simmons-Rand in Indiana.

Shipments to be tendered the applicant require scheduled pickups at the mine sites with the delivery to be made later the same day. Scheduled pickups and deliveries are required due to the limited loading and unloading space available. Shipments of coal must move in either tractor-dump trailers or tri-axle dump trucks. Trent Coal will also require van-type trailers and lowboy trailers for transportation of loaders and other mining equipment and machinery. Trent Coal also requires spotting of van trailers at its mine sites for the storage of rock dust.

Because of the close relationship of common ownership, the applicant and Trent Coal, the shipper is able to coordinate closely its trucking requirements. With approval of the instant application, the applicant will be able to provide a broader service for the transportation of coal and a new service for the transportation of mining equipment and machinery. Trent Coal will tender all of its traffic to the applicant.

The applicant seeks an amendment to its certificate of public convenience, which would include the right to transport coal and coal products for four (4) named shippers and the right to transport equipment and machinery for Trent Coal, Inc. A review of the verified statements entered

on behalf of the four (4) supporting shippers named in the proposed first right, finds that the statements of these shippers contain no demonstrated need for the applicant to transport coal products. After telephonic contact with the applicant's counsel, it was determined that the commodity description of coal and coal products was derived from the applicant's interstate authority held at MC-110365, Sub-12. Since there has been no demonstrated public need for the applicant to transport coal products, the authority hereinafter granted will be modified to eliminate the commodity description of coal products.

After review of the four supporting shipper statements, it was determined that the evidence was insufficient to support a grant of statewide authority for each of the four supporting shippers, as proposed by the amended application. The applicant was advised that the public support fell short of our requirements as delineated in our order in the Application of Bluebird Coach Lines, Inc., A-00088807, F. 2, Am-K. The applicant was provided with an additional thirty (30) days in which to submit further public support or to advise the Commission in writing that the application should be adjudged based upon the current record. We have been advised by letter of March 6, 1991, that the applicant would not be submitting additional public support.

The evidence of support entered on behalf of B & B Coal Associates, Inc., is limited to shipments of coal which originate at tipples and coal mines located in the counties of Armstrong, Butler and Westmoreland, and which are destined to points in the counties of Armstrong, Indiana and Westmoreland. Although the shipper states that it has "... shipments moving directly from other coal suppliers to coal yards and power plants", no Pennsylvania origins or destinations were identified. A grant of authority which authorizes the applicant to transport coal, for B & B Associates, Inc., from points in the counties of Armstrong, Butler and Westmoreland to points in the counties of Armstrong, Indiana and Westmoreland, meets the demonstrated needs of this shipper.

The statement of Cooney Bros. Coal Co., sets forth that its shipments of coal originate at strip mines located in the counties of Cambria, Blair and Somerset. Additional shipments of coal originate at mines located in Portage, Cambria County, and in Westmoreland County. All shipments are destined to the Sonman tipple located in Portage Township, Cambria County. A grant of authority which permits the applicant to transport coal, for Cooney Bros. Coal Co., from points in the counties of Blair, Cambria, Somerset and Westmoreland to points in the counties of Cambria will meet the need of this shipper.

The supporting shipper, H.A.S. Enterprises, Inc., has stated that as a coal broker, it purchases coal from strip mines, deep mines and tipples located throughout Pennsylvania, which is then sold to power plants, tipples, cleaning facilities and facilities of other coal brokers. Shipments of coal from the tipples used by this shipper, which are located in Cambria and Somerset Counties, are destined to customers located in Somerset, Cambria, Indiana and Westmoreland Counties. Other sources of coal are located in the counties of Somerset, Cambria, Indiana and Westmoreland. A grant of authority

counties of Somerset, Cambria, Indiana and Westmoreland. A grant of authority which allows the applicant to transport coal for H.A.S. Enterprises, Inc., between points in the counties of Cambria, Indiana, Somerset and Westmoreland, will meet the need demonstrated by the evidence of record.

The evidence presented by Trent Coal, Inc. in support of the proposed transportation of coal, demonstrates that the shipments of coal to be tendered the applicant will originate at deep mines located in Portage, Cambria County and in Hooversville, Somerset County. Outbound shipments of coal are to be destined for customer blending and cleaning facilities and to power plants located in the counties of Cambria, Fayette, Indiana, Somerset and Washington. Authority which permits the applicant to transport coal for Trent Coal, Inc., between points in the counties of Cambria and Somerset, and from points in said counties to points in the counties of Fayette, Indiana and Washington, will meet the demonstrated need.

The applicant has proposed the transportation of equipment and machinery for Trent Coal, Inc., between points in Pennsylvania. The statement of support entered by this shipper, discloses that shipments of equipment and machinery would originate or be destined for the mines located in the counties of Cambria and Somerset. These shipments would move between mines, or from the mines to repair facilities located in the counties of Cambria, Somerset, Allegheny and Indiana, and vice versa. The evidence provided by this shipper supports a grant of authority which would allow the applicant to transport equipment and machinery for Trent Coal, Inc., between points in the counties of Cambria and Somerset, and from points in said counties to points in the counties of Allegheny and Indiana, and vice versa.

Having modified the authority proposed by the amended application, a review of the restrictive conditions proposed by the applicant and accepted by the protestants, will require further review to determine their relevance to the authority hereinafter granted. The FIRST condition contained in the restrictive amendment of December 4, 1990, which excludes the transportation of coal and coal products which originate at the facilities of Cooney Bros. Coal Co., located in Cambria County, is still relevant and will be retained as stated.

The SECOND condition, which excludes the transportation of coal and coal products for H.A.S. Enterprises, Inc., between points in the counties of Indiana and Westmoreland, is still pertinent to the authority hereinafter granted and will also be retained as stated.

The THIRD condition, which excludes the transportation of coal and coal products between points in the city of Williamsport, Lycoming County, and within an airline distance of one hundred (100) statute miles of the limits of said city (except that this third restriction does not apply to any points located in the counties of Bedford, Blair, Cambria, Indiana and Jefferson), is no longer pertinent to this proceeding, since none of the authorities which are to be granted the applicant, would authorize service in the city of Williamsport, Lycoming County, or any point within one hundred (100) statute miles of said city. This condition will be deleted in its entirety from the authority hereinafter granted.

We find:

1. That the applicant has failed to demonstrate that a public need exists for the transportation of coal products.
2. That the applicant has failed to demonstrate that Cooney Bros. Coal Co., Trent Coal, Inc., H.A.S. Enterprises, Inc. and B & B Coal Associates have need for service between all points in the Commonwealth.
3. That the evidence demonstrates a need for the transportation of coal, for B & B Coal Associates, Inc., from points in the counties of Armstrong, Butler and Washington, and from points in said counties to points in the counties of Armstrong, Indiana and Westmoreland.
4. That the evidence demonstrates a need for the transportation of coal, for Cooney Bros. Coal Co., from points in the counties of Blair, Cambria, Somerset and Westmoreland, and from points in said counties to points in the county of Cambria.
5. That the evidence demonstrates a need for the transportation of coal, for H.A.S. Enterprises, Inc., between points in the counties of Cambria, Indiana, Somerset and Westmoreland.
6. That the evidence demonstrates a need for the transportation of coal, for Trent Coal, Inc., between points in the counties of Cambria and Somerset, and from points in said counties, to points in the counties of Fayette, Indiana and Washington.
7. That the evidence demonstrates a need for the transportation of equipment and machinery, for Trent Coal, Inc., between points in the counties of Cambria and Somerset, and from points in said counties to points in the counties of Allegheny and Indiana, and vice versa.
8. That the THIRD condition contained in the restrictive amendment, dated November 15, 1990, is no longer pertinent to the authority hereinafter granted.
9. That the applicant is fit, willing and able to render the proposed transportation, as amended and further modified.
10. That approval of the application, as amended and further modified, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended and further modified, be and is hereby approved, and that the certificate issued to the applicant on May 18, 1989, be amended to include the following rights:

- (1) To transport, as a Class D carrier, coal, for B & B Coal Associates, Inc., from points in the counties of Armstrong, Butler and Washington, to points in the counties of Armstrong, Indiana and Westmoreland.
- (2) To transport, as a Class D carrier, coal, for Cooney Bros. Coal Co., from points in the counties of Blair, Cambria, Somerset and Westmoreland, to points in the county of Cambria.
- (3) To transport, as a Class D carrier, coal for H.A.S. Enterprises, Inc., between points in the counties of Cambria, Indiana, Somerset and Westmoreland.
- (4) To transport, as a Class D carrier, coal, for Trent Coal, Inc., between points in the counties of Cambria and Somerset, and from points in said counties to points in the counties of Fayette, Indiana and Washington.

with the above rights subject to the following conditions:

FIRST: That no right, power or privilege is granted to transport coal which originates at the facilities of Cooney Bros. Coal Co., located in Cambria County.

SECOND: That no right, power or privilege is granted to transport coal for H.A.S. Enterprises, Inc., between points in the counties of Indiana and Westmoreland.

- (5) To transport, as a Class D carrier, equipment and machinery, for Trent Coal, Inc., between points in the counties of Cambria and Somerset, and from points in said counties to points in the counties of Allegheny and Indiana, and vice versa.

IT IS FURTHER ORDERED: That the application in all other respects be denied for lack of 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 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 service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held January 10, 1991

Commissioners Present:

William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Frank Fischl, Commissioner
Wendell F. Holland, Commissioner
David W. Rolka, Commissioner

Application of Bruce Trent Trucking, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, fertilizer and fertilizer ingredients from the facilities of Bethlehem Steel Corporation in the city of Johnstown, Cambria County, to the facilities of the Agway Fertilizer Chemical Plant in the city of York, York County: SO AS TO PERMIT the transportation of property, for Agway, Inc., between points in Pennsylvania.

A-00108190
F. 1
Am-C

William J. Lavelle for the applicant.
Dwight L. Koerber, Jr., for the Kephart Trucking Company.
Herbert R. Nurick for Samuel J. Lansberry, Inc.
Peter G. Loftus for Seaboard Tank Lines, Inc.
J. Bruce Walter for D.K. Hershey, Inc.
John E. Fullerton for Roy A. Ayers, RLB Trucking Corp., and
Hiram Wible & Son, Inc.
John A. Pillar for Wayne W. Sell Corporation.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed January 29, 1990. Public notice of the application was given in the Pennsylvania Bulletin of February 17, 1990. Protests were filed by Kephart Trucking Company, Samuel J. Lansberry, Inc., Seaboard Tank Lines, Inc., W.H. Johns, Inc., D.K. Hershey, Inc., Roy A. Ayers, RLB Trucking Corp., Hiram Wible & Son, Inc., and Wayne W. Sell Corporation.

All protests were withdrawn predicated upon our acceptance of a restrictive amendment which provides that service will be provided for Agway, Inc., transporting property from the facilities of Agway, Inc., in Armstrong County to points in the counties of Bedford, Cambria, Indiana, Somerset and Westmoreland; from the facilities of Agway, Inc., in York County to points in the counties of Bedford, Somerset and Westmoreland; and from the facilities of Freeport Terminals, Inc., in Armstrong County to points in the counties of Bedford and Somerset; subject to the condition that no right, power or privilege is granted to transport petroleum, and petroleum products in bulk or dry litharge in bulk.

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 Robert D. Trent, president of the applicant and Thomas D. Faucett transportation manager for the feed and crops division of Agway, Inc.

DISCUSSION AND FINDINGS

The applicant is a Pennsylvania corporation domiciled at R.D. #1, Friedens, Somerset County. The applicant holds various grants of authority to transport commodities within Pennsylvania some of which are the types of commodities shipped by Agway, Inc. Within Pennsylvania Trent transports such commodities as lime, farm materials, farm supplies, fertilizer and fertilizer ingredients.

The applicant currently operates ten tri-axle dump trucks, 12 tractors, 12 dump trailers, two tank trailers, four van trailers, one lowboy trailer and two flatbed or semi-trailers. There are also three service support vehicles. No additional equipment is needed to provide service for Agway, Inc. The applicant's facilities at Friedens is fully equipped to perform all maintenance and repair work on this equipment. The equipment is routinely maintained and safety inspected.

The applicant has provided service for Agway, Inc., transporting fertilizer ingredients to the shipper's facilities in York County under existing authority. It is also provided service for bagged rock salt to the shipper's supply center in Somerset County and fertilizer from York County to Somerset County. Agway, Inc., is also serviced on an interstate basis.

The applicant incorporates its annual report for 1989 as evidence of its stable financial condition. It also includes with its verified statement a balance sheet and income statement for the six month period January 1, 1990 through June 30, 1990. Trent reports total assets of \$1,057,809.70 with total liabilities of \$1,126,215.07. For the first six months of 1990, the applicant reports total income of \$1,479,415.09 with total operating expenses of \$1,432,264.55.

The Feed and Crops Division of Agway, Inc., is an agricultural cooperative which serves Pennsylvania from facilities in the counties of Armstrong, York and Philadelphia. Each of the Pennsylvania facilities manufactures, processes and purchases farm production supplies. Relative to

the instant application at both the Kittanning, Armstrong County location and the York, York County location Agway has a plant and warehouse complex. Agway also uses the dock and warehouse operations of Freeport Terminals, Inc., which are located on the Allegheny River in Armstrong County. From these points shipments move by motor carrier to customers throughout Pennsylvania. Primary outbound commodities are fertilizers either in bulk form or packaged in bags. The destinations for the outbound shipments include Agway stores, independent stores, other Agway plants, storage facilities and farms. All of outbound traffic is routed by Agway which pays 100 percent of the freight charges.

Approval of the instant application, as amended, will permit Agway, Inc., to use Bruce Trent Trucking to supplement existing carriers. It is anticipated that as much as 30 percent of outbound movements would be tendered to the applicant. The retail division of Agway, Inc., has utilized the services of the applicant under existing operating authority for over 20 years. Agway has received excellent service from the applicant in the past and the Feed and Crops Division looks forward to having the applicant's services available.

We find from the record before us that the applicant has the necessary experience, equipment and financial capacity to render the proposed service, as amended. The applicant has the unqualified support of Agway, Inc., and that support is representative of the application as it has been amended. Approval of the amended application will aid the shipper in meeting its Pennsylvania transportation requirements. Approval of the application, as amended, is proper for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued May 18, 1989, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property for Agway, Inc., from the facilities of Agway, Inc., in the county of Armstrong to points in the counties of Bedford, Cambria, Indiana, Somerset and Westmoreland; from the facilities of Agway, Inc., in the county of York to points in the counties of Bedford, Somerset and Westmoreland; and from the facilities of Freeport Terminals, Inc., in the county of Armstrong, to points in the counties of Bedford and Somerset;

subject to the following condition:

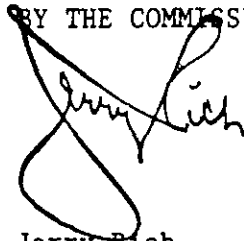
That no right, power or privilege is granted to transport petroleum, petroleum products in bulk or dry litharge in bulk.

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

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

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

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over the printed name and title.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 10, 1991

ORDER ENTERED: JAN 18 1991

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held February 14, 1991

Commissioners Present:

William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Frank Fischl, Commissioner
Wendell F. Holland, Commissioner
David W. Rolka, Commissioner

Application of Bruce Trent Trucking, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, fertilizer and fertilizer ingredients from the facilities of Bethlehem Steel Corporation in the city of Johnstown, Cambria County, to the facilities of the Agway Fertilizer Chemical plant, in the city of York, York County: SO AS TO PERMIT the transportation of scrap metals for: Columbia Trading; Columbia Iron & Metal Company; Daniels & Miller, Inc.; Azcon Corporation; Jacobs Trading Company; Luria Bros., Division of Connell Ltd. Partnership; Steelmet, Inc.; Johnstown Corporation; Joe Krentzman & Son, Inc.; The Burstein Company; and Charles Bluestone Company, Inc., between points in Pennsylvania; subject to the following conditions: That no right, power or privilege is granted to transport 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, except from the city of Altoona, Blair County; and That no right, power or privilege is granted to transport 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.

A-00108190
F. 1
Am-D

Vuono, Lavelle & Gray by William J. Lavelle for the applicant.
Kriner, Koerber and Kirk by Dwight L. Koerber, Jr. for the protestant,
Kephart Trucking Co.

McNees, Wallace & Nurick by Herbert R. Nurick for the protestants, Samuel J. Lansberry, Inc., Michael A. Tokarsky, Jr. and Michael A. Tokarsky, Jr. Trucking, Inc.
Pillar and Mulroy, P.C. by John A. Pillar for the protestants, Don Martin Trucking Co., Gajda Trucking Company and David Tesone Trucking, Inc.
John L. Sheaffer, III, for the protestant, W. H. Johns, Inc.
A. D. Weaver for the protestant, A. D. Weaver Service, Inc.
Sally A. Davoren for the protestants, Dunlo Transfer Co. and John H. Brown.
Wick, Streiff, Meyer, Metz & O'Boyle for the protestant, Jack Gray Transport, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed January 29, 1990. Public notice of the application was given in the Pennsylvania Bulletin of February 17, 1990. Protests to the application were filed by 12 certificated common carriers.

A hearing was held before Administrative Law Judge Larry Gesoff on November 7, 1990. At this hearing, the protests of Gray Transport, Inc. and A. D. Weaver Service, Inc. were dismissed by ALJ Gesoff for lack of prosecution. The remaining 10 protests were withdrawn when the applicant restrictively amended the application by limiting transportation to service for Daniels & Miller, Inc. and Luria Bros., Division of Connell Ltd. Partnership.

The application is now unprotested and the record is certified to the Commission for its decision. The record consists of seven pages of testimony and verified statements submitted by the applicant and two supporting shippers.

DISCUSSION AND FINDINGS

Bruce Trent Trucking, Inc. (applicant or Trent) is a Pennsylvania corporation domiciled at R.D. 1, Friedens, Somerset County. By the instant application, the applicant sought to have its certificate of public convenience amended so that it would be authorized to transport scrap metals for 11 names shippers, between points in Pennsylvania. The proposed authority subject to two conditions which excluded transportation of scrap metals between points in the borough of Nanty Glo, Cambria County, and within twenty-five (25) miles of the limits of said borough, except from the city of Altoona, Blair County and the transportation of 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.

As the result of protests, Trent restrictively amended its application by eliminating nine of the shippers named in the application. The application,

as now amended, proposes transportation of scrap metals for Daniels & Miller, Inc. and Luria Bros., Division of Connell Ltd. Partnership, between points in Pennsylvania, and which is to be subject to the two conditions which were contained in the instant application, as filed.

Trent operates from facilities located on a five-acre site which is situated on Pennsylvania Highway Route 281 near Friedens, Somerset County. The applicant currently employs 22 company drivers and three full-time mechanics, in addition to office personnel. Also available at any one given time are 10 to 15 owner/operators.

Available to provide transportation are 10 tri-axle dump trucks, 12 tractors, 12 dump trailers, two tank trailers, four closed-van trailers, one lowboy trailer and one flatbed trailer. In addition, the applicant has 12 tractors and 12 dump trailers under long-term lease from owner-operators. All of the dump trailers and dump trucks, owned or leased, are capable of transporting approximately 23 tons of bulk materials.

The applicant's services are available to the public six days per week, during normal working hours. Upon request, the applicant will extend its operating day to meet the needs of its customers. Trent will attempt to coordinate its inbound and outbound shipments to minimize empty mileage of its vehicles. This will be accomplished through the utilization of its current existing intrastate authority and interstate authority.

Frederick J. Harvatt, manager of traffic and transportation for Luria Bros., Division of Connell Ltd. Partnership (Luria) states in support of the pending application that Luria is located at 20521 Chagrin Boulevard, Cleveland, Ohio. Pertinent to the instant application are two scrap yards operated by Luria which are located in Koppel, Beaver County and Coatesville, Chester County.

The two scrap yards receive inbound shipments of crushed auto bodies and various unprocessed iron or steel scrap metals and non-ferrous scrap metals such as aluminum, copper and zinc. The inbound shipments are received from scrap dealers, scrap peddlers and auto dismantlers. Luria processes the scrap by extracting the useable components which then are shipped outbound from the scrap yards. These shipments consist of non-ferrous and ferrous scrap metals, and are usually destined to steel mills and foundries.

In addition to the processing of scrap metals, Luria is also engaged in the brokering of scrap iron or scrap steel. Luria purchases scrap materials from dealers and scrap generators, which Luria then resells to steel mills and foundries. On these occasions, shipments move directly from the point of supply to customers without moving through the facilities of Luria. All inbound and outbound shipments total approximately 40,000 pounds or more.

Shipments from the Koppel and Coatesville facilities are destined to such representative destinations as Bolivar, Brackenridge, Burgettstown, Erie, Holsopple, Latrobe, Midland, Bethlehem, Hamburg and McKeesport. Inbound shipment to the Koppel facilities, originate at such points as

Butler, Erie, New Castle and Pittsburgh. Brokered shipments of scrap metal will originate at such points as Erie, Etna, New Castle and New Eagle and will be destined for such points as Brackenridge, Coatesville, New Castle, Butler, Johnstown, Reading, Bolivar, New Castle and Wrightsville.

Shipments to be tendered the applicant will require transportation with either tri-axle dump trucks or dump trailers. At certain locations, Luria will request the applicant to provide tote boxes, which are roll-off type containers which are spotted at the scrap metal supplier. Luria will request that the applicant provide both scheduled pickups and scheduled deliveries and to maintain a minimum amount of transit time. The applicant has been used to provide transportation on an interstate basis for scrap metals. The applicant is being supported for the proposed authority so that Luria will have additional equipment available to reduce if not eliminate a lack of adequate transportation services. Availability of the applicant will also permit Luria to coordinate its intrastate movements with its interstate shipments.

Duffy Friedlander, president of Daniels & Miller, Inc. (Daniels & Miller) sets forth in support of the pending application that Daniels & Miller is a scrap dealer located at 242 North Hamilton Avenue, Greensburg. At this facility, Daniels & Miller processes scrap metal which is then shipped to steel mills, foundries and other scrap yards. On occasion, Daniels & Miller will purchase scrap metals from a scrap dealer and sell the scrap metals directly to a customer, with the scrap metals then moving directly to the customer's destination.

It is the intention of Daniels & Miller to use the services of the applicant primarily for outbound transportation. Trent will be used to a limited extent for inbound shipments as a back-up to Daniels & Miller's own vehicles or the equipment operated by other scrap dealers.

Trent will be tendered shipments moving outbound from the Greensburg facility to Daniels & Miller's major customer, Lukens Steel which is located in Coatesville. Shipments to the Lukens Steel facility total approximately 200 tons a month. In the past, the traffic moving to the Lukens Steel facility was handled by a motor carrier located in eastern Pennsylvania. Equipment used to make deliveries to western Pennsylvania or Ohio were then used to meet shipment requirements of Daniels & Miller. The equipment of this motor carrier is no longer available and Daniels & Miller has a definite need for the services of the applicant for the Coatesville destination.

In addition, Daniels & Miller has several customers located in Butler County, which require transportation of approximately 300 to 400 tons of scrap metals each month. These customers include Armco Steel in Butler and Allegheny Ludlum Steel plants located in Brackenridge and Natrona. Daniels & Miller has additional customers which are located in Latrobe, West Mifflin, Duquesne, Sharon and Milton.

All shipments of scrap metals to be tendered the applicant will require transportation in dump trucks or dump trailers. These shipments will require that the vehicle be equipped with a tarpaulin to protect the shipment

from the elements. Daniels & Miller anticipates that the availability of Trent's service will improve the service currently available.

The record in the instant proceeding contains sufficient evidence to demonstrate that the applicant has the experience and the equipment to provide transportation for the two shippers named in the amended application. The applicant has established that it has gained the necessary experience transporting the commodities involved herein and has shown that it has the wherewithall to meet the transportation needs of the supporting shippers. The support entered on behalf of Daniels & Miller, Inc. and Luria Bros. adequately demonstrates that they have a need for the service being proposed by the amended application.

We find:

1. That the applicant is fit, willing and able to provide the transportation being proposed by the amended application.
2. That the applicant has demonstrated that there exists a public need for the service proposed by the instant application, as amended.
3. That approval of the application, as amended, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved, and that the certificate issued to the applicant on May 18, 1989, as amended, be further amended to include the following right:

To transport, as a Class D carrier, scrap metals for Daniels & Miller, Inc. and Luria Bros., Division of Connell Ltd. Partnership, between points in Pennsylvania;

with the above right subject to the following conditions:

- (a) That no right, power or privilege is granted to transport 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, except from the city of Altoona, Blair County;
- (b) That no right, power or privilege is granted to transport 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.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Public Utility Code and the rules and regulations of 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 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,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over a large, stylized loop that extends downwards.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: February 14, 1991

ORDER ENTERED: FEB 26 1991

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held October 18, 1990

Commissioners Present:

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

Application of Bruce Trent Trucking, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, coal from mines and stripping operations in the counties of Somerset and Bedford to points within fifty (50) miles of the point of origin: SO AS TO PERMIT the transportation of coke and coke products; refractory products and refractory materials; and equipment, materials and supplies used in the manufacture of iron and steel and iron and steel articles, for Bognar and Co., Inc., from its facilities located in the county of Somerset, to points in Pennsylvania, and vice versa.

A-00108190
F. 1
Am-F

William J. Lavelle for the applicant.

O R D E R

BY THE COMMISSION:

This application, filed February 9, 1990, is before the Commission for its decision. Public notice of the application was given in the Pennsylvania Bulletin of April 21, 1990. The record, which consists of statements entered by the applicant and the supporting shipper is now certified to the Commission for its decision.

Bruce Trent Trucking, Inc. (Trent) is a Pennsylvania corporation, located at R.D. #1, Friedens, Somerset County. A statement was entered by Robert D. Trent, president of the applicant. Applicant's facilities are located on state highway route 281. The complex consists of garage facilities on five acres of land and an office building. Trent employs twenty-two (22) drivers and has ten (10) to fifteen (15) drivers under lease.

Equipment consists of ten triaxle dump trucks, twelve tractors, twelve dump trailers, two tank trailers, four van trailers, one low-boy trailer and two flatbed trailers.

Maintenance is performed at the garage facility by three full-time mechanics. Equipment is visually inspected by the drivers on a daily basis. Periodic inspections are performed on a mileage basis. Drivers are constantly monitored for safe driving. All safety regulations and driving guidelines are strictly followed. An unaudited financial statement submitted by the applicant shows total assets of \$982,388.78 with total liabilities of \$1,087,465.49 resulting in shareholder's equity of (\$105,076.71). Net loss resulted from a higher than normal depreciation write-off of \$539,138.

A verified statement in support of the application was entered by Nadine E. Bognar, secretary-treasurer of Bognar and Company, Inc. Bognar supplies recarburizers and refractories to the steel and foundry industries. They produce recarburizers and the refractory materials at plants in Somerset, Somerset County, and Leechburg, Armstrong County. Those commodities are shipped outbound seven days a week to points in the application area. Inbound shipments of coke and coke products, scrap metal, sand, gravel, clay and coal are received. These all may be considered materials or supplies used in the manufacture of iron and steel and iron and steel articles. The inbound commodities are received from clay pits, coal mines, scrap yards, coke producing plants and stone quarries.

The inbound commodities would move in dump trucks or dump trailers. Of the outbound commodities, approximately 5 percent from the Somerset plant would move in bulk equipment and the remainder would move on flatbed trailers. The two heaviest inbound movements to the Somerset plant currently are from Hazelwood, Allegheny County, and Monessen, Westmoreland County. Bognar is supporting this application due to an increase in the amount of materials purchased in Pennsylvania. Bognar can no longer transport all of the raw materials in its own vehicles. The applicant's service is needed to replace private carriage. Bognar has used the applicant for interstate shipments and finds the applicant provides efficient and reliable service.

The applicant has demonstrated that a need exists for the service proposed.

We find:

1. That the applicant has shown that a public need for the proposed service does exist.
2. That the applicant is fit, ready, willing and able to provide the service.
3. That approval of the application is necessary for the 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 May 18, 1989 be further amended to include the following right:

To transport, as a Class D carrier, coke and coke products; refractory products and refractory materials; and equipment, materials and supplies used in the manufacture of iron and steel and iron and steel articles, for Bognar and Co., Inc., from its facilities located in the county of Somerset, to points in Pennsylvania, and vice versa.

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

IT IS FURTHER ORDERED: That in the event 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.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: October 18, 1990

ORDER ENTERED: OCT 26 1990

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held January 19, 1989

Commissioners Present:

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

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

A-00108395

Mark T. Vuono for the applicant.

O R D E R

BY THE COMMISSION:

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

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

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

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

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

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

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

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

We find:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

with right No. 9 subject to the following condition:

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

subject to the following general conditions:

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

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

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

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

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

BY THE COMMISSION,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 19, 1989

ORDER ENTERED: JAN 26 1989

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 8, 1990

Commissioners Present:

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

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

A-00108395
F. 1
Am-A

O R D E R

BY THE COMMISSION:

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

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

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

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

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

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

Statements were filed by the supporting shippers; Pine Flats Coal Co., Inc.; Isers Run Coal Company, Inc.; Kajon Materials, Inc.; Millcreek

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

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

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

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

We find:

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

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

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

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

subject to the following condition:

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

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

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

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

BY THE COMMISSION,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 8, 1990

ORDER ENTERED: MAR 16 1990

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held January 19, 1989

Commissioners Present:

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

Application of Taylor Services, Inc., a
corporation of the Commonwealth of Pennsylvania,
for the transfer of all of the operating rights
of Blairsville Transport, Inc., a corporation of
the Commonwealth of Pennsylvania, under the
certificate issued at A-00091005, subject to
the same limitations and conditions.

A-00108395
F. 2

Mark T. Vuono for the applicant.

O R D E R

BY THE COMMISSION:

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

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

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

The officers and shareholders of the applicant are Darryl J. Taylor, President, Jeffrey L. Taylor, Vice-President, Treasurer and Assistant

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

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

The total consideration for the rights is \$2,000. No tangible assets are involved. The sales agreement requires the consideration to be paid as follows: The total payment of \$2,000 will be paid in 84 equal monthly installments of \$319.25 which includes interest computed from October 1, 1988 at the rate of 8.75% a year on the unpaid balance. The total purchase price is secured by a promissory note.

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

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

We find:

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

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

1. To transport, as a Class D carrier, refractory products and refractory materials, for Bognar and Co., Inc., and Union Mining Co. of Allegheny County, Inc., from points in the Township of Derry, Westmoreland County, and the Township of Black, Somerset County, to points in Pennsylvania, and vice versa; excluding transportation from points in the city of

Altoona, Blair County, and excluding transportation of sand from the Pennsylvania Glass Sand Corporation in the Boroughs of Mapleton, Huntington County, and McVeytown, Mifflin County.

2. To transport, as a Class D carrier, lumber and lumber materials and supplies, for the Weyerhaeuser Company, from points in the Borough of Murraysville, Westmoreland County, and the city of Pittsburgh, Allegheny County, to points in that part of Pennsylvania on and west of Highway Route 15, and vice versa; excluding the transportation of commodities in bulk in tank vehicles or in hopper-type vehicles.
3. To transport, as a Class D carrier, refractory products and refractory materials from points in the township of Gilpin, Armstrong County, to points in Pennsylvania, and vice versa.
4. To transport, as a Class D carrier, waste foundry sand and used or broke refractories from points in Pennsylvania to points in the borough of Latrobe and the township of Derry, Westmoreland County, and the township of Gilpin, Armstrong County.

with rights Nos. 3 and 4 subject to the following conditions:

That no right, power or privilege is granted to render service from points in the City of Altoona, Blair County.

That no right, power or privilege is granted to transport sand from the places of business of the Pennsylvania Glass Sand Corporation in the boroughs of Mapleton, Huntington County, and McVeytown, Mifflin County.

That no right, power or privilege is granted to transport firebrick and refractory shapes and forms.

That no right, power or privilege is granted to transport fire clay from points in the Township of Porter, Huntingdon County.

That no right, power or privilege is granted

to transport lime and limestone products from points in the county of York.

That no right, power or privilege is granted to transport clay from points in the county of Clearfield.

5. To transport, as a Class D carrier, property from the facilities of American Hardware Supply Company, located in the borough of East Butler, Butler County, and the borough of Parkesburg and the township of Sadsbury, Chester County, to points in Pennsylvania, and vice versa.

with right No. 5 subject to the following condition:

That no right, power or privilege is granted to transport property in bulk.

subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$2,000, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.
4. That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its utility accounts any amounts representing the rights herein granted in excess of the

actual cost of such rights to the original holder thereof.

5. That the operating authority granted herein, or now held or subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.
6. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 PA C.S.A. Section 1102(a)(3).

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

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

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

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor Blairsville Transport, Inc., at A-00091005 be cancelled and the record be marked closed.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 19, 1989

ORDER ENTERED: JAN 26 1989

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 23, 1984

Commissioners Present:

Linda C. Taliaferro, Chairman
Michael Johnson

Application of A. D. Weaver Service,
Inc., for approval of the transfer
to it of all of the operating rights
held by A. D. Weaver, t/a Weaver
Motor Service, at A-00092076, Fs. 1 and
2.

A-00105182

O R D E R

BY THE COMMISSION:

By application docketed December 6, 1983, A. D. Weaver Service, Inc., a corporation of the Commonwealth of Pennsylvania, seeks approval of the transfer to it of all the rights granted to A. D. Weaver, t/a Weaver Motor Service, under the certificates issued at A-00092076, Fs. 1 and 2.

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

IT IS ORDERED: That the application for the transfer of rights held by A. D. Weaver, t/a Weaver Motor Service, at A-00092076, Fs. 1 and 2 be approved and that a certificate be issued to the applicant granting the following rights:

1. To transport, as a Class D carrier, scrap metal, in bulk in dump vehicles, between points in the county of Allegheny.
2. To transport, as a Class C carrier, scrap metal, in bulk in dump vehicles, from points in the county of Allegheny to points within one hundred (100) miles of the city-county building in the city of Pittsburgh.

3. To transport, as a Class D carrier, used firebrick, in bulk in dump vehicles, between points in the counties of Allegheny and Butler.
4. To transport, as a Class D carrier, coal, coke and other solid fuels 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.
5. To transport, as a Class D carrier, coal from mines or stripping operations in the county of Allegheny to railroad sidings in the said county, 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, building materials, such as are usually transported in bulk in dump trucks, scrap iron and junk between points in the county of Allegheny, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.
7. To transport, as a Class D carrier, fresh fruits and produce between points in the city of Pittsburgh, Allegheny County, and from points in the said city to points in the county of Allegheny.
8. To transport, as a Class D carrier, coal and slag between points in the township of Findlay, Allegheny County, and within an airline distance of twenty-five (25) statute miles of the limits of said township.
9. To transport, as a Class D carrier, scrap metal, from the facilities of Sanford Steel Products Company, located in the borough of Heidelberg, Allegheny County, from the facilities of M. Hartman Co., Inc., located in the city of Pittsburgh, Allegheny County, and from the facilities of Azcon Scrap Corp., located in the borough of Sharpsburg, Allegheny County, to points in Pennsylvania, and vice versa.
10. To transport, as a Class D carrier, scrap metals and metal products, for Luria Brothers & Company, Inc., between points in Pennsylvania;

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

- (a) That no right, power or privilege is granted to provide transportation between points in the counties of Dauphin, York, Lebanon, Lancaster and Cumberland, and from points in said counties to points in that part of Pennsylvania lying east of a line consisting of the eastern boundaries of the counties of McKean and Elk, the southern boundary of the county of Elk to its juncture with the Jefferson County border, the eastern boundaries of the counties of Jefferson and Indiana to the juncture of the Indiana County boundary with the Cambria County boundary, the northern boundaries of the counties of Cambria, Blair and Huntingdon, and the eastern boundaries of the counties of Huntingdon and Fulton, and vice versa, except service may be provided to and from points in the counties of Luzerne, Monroe and Northampton.
- (b) That no right, power or privilege is granted to provide transportation to or from points within an airline distance of thirty (30) statute miles of the city of Altoona, Blair County, except for service to or from the facilities of Luria Brothers & Company, Inc.

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, 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 subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.
5. That the certificate holder shall comply with all of the provisions of the Public Utility Law as now existing or as may hereafter be amended, and Pa. Code Title 52, Chapter 31, as now existing or as may hereafter be amended, and any other rules and regulations as may hereafter be prescribed by the Commission. Failure to comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.
6. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under Section 1102(3) of Title 66, PA C.S.A.

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

IT IS FURTHER ORDERED: That issuance of the certificate be withheld pending submission of transferor's Annual Report for the year 1983.

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, A. D. Weaver, t/a Weaver Motor Service, at A-00092076, Fs. 1 and 2 be cancelled and the records be marked closed.

BY THE COMMISSION,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 23, 1984

ORDER ENTERED: APR 4 1984

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 24, 1987

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Application of A. D. Weaver Service, 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, scrap metal, in bulk in dump vehicles, between points in the county of Allegheny: SO AS TO PERMIT the transportation of property, for Sanford Steel Products Company, Azcon Scrap Corp. and Tube City Iron & Metal Company, between points in Pennsylvania.

A-00105182
F. 1
Am-A

Vuono, Lavelle & Gray by William A. Gray for the applicant.
McNees, Wallace & Nurick by William A. Chestnutt for the protestant, Gilchrist Trucking, Inc.
Peter G. Loftus, P.C. by Peter G. Loftus for the protestant, Seaboard Tank Lines, Inc.
Wick, Rich, Fluke & Streiff by Henry M. Wick, Jr. for the protestant Smith Truck Service, Inc.

TENTATIVE DECISION

BY THE COMMISSION:

This matter comes before the Commission on an application filed October 8, 1986. Public notice of the application was given in the Pennsylvania Bulletin of November 8, 1986. Protests to the application were filed by Gilchrist Trucking, Inc., Seaboard Tank Lines, Inc. and Smith Truck Service, Inc. All of the protests were withdrawn when the applicant restrictively amended the application to exclude the transportation of petroleum and petroleum products, in bulk in tank vehicles; and to exclude the transportation of property (except commodities in bulk and commodities which because of size or weight require the use of special

equipment), between points in the counties of Bradford, Columbia, Lackawanna and Luzerne, and from points in those counties to points in Pennsylvania.

The application is now unopposed and the record is certified to the Commission for its decision without an oral hearing. The record consists of verified statements submitted by the applicant and three supporting shippers.

DISCUSSION AND FINDINGS

A. D. Weaver Service, Inc. (applicant or Weaver) is a Pennsylvania corporation currently holding a certificate of public convenience as a common carrier, which authorizes the transportation of a variety of commodities, including scrap metal, used firebrick, coal, coke and other solid fuels, building materials, fresh fruit and produce, slag and metal products. The applicant now seeks by the amended application, to amend its certificate by acquiring additional authority which would authorize it to transport property for Sanford Steel Products Company, Azcon Scrap Corp. and Tube City Iron & Metal Company, between points in Pennsylvania.

Operations are conducted from facilities located on Route 66, Greensburg, at which is located the applicant's central dispatch and vehicle maintenance. Currently, Weaver operates three tri-axle dump trucks, nine tractors, eleven dump trailers and three flatbed trailers. Also available are three tri-axle dump trucks, three tractors and three dump trailers under long-term lease.

Weaver is familiar with the transportation requirements of the three supporting shippers, since it has been providing them with service under its initial grant of authority. The three shippers are not however receiving a complete transportation package since the applicant's existing authority limits service to transportation from or between points in Allegheny County.

Approval of the amended application will result in duplication of authority, since the applicant currently holds authority to provide transportation for two of the named shippers in the instant proceeding, as well as open authority authorizing the transportation of scrap metals from points in Allegheny County, to points within one hundred (100) miles of the City-County Building in the city of Pittsburgh. Any duplication which might result from approval of the instant application, as amended, shall not be construed as conferring more than one operating right.

Stan Gasiorowski, Weighmaster for Azcon Scrap Corp. (Azcon), states that the shipper is a processor and broker of scrap metal. It has facilities located in Sharpsburg and has shipments moving to and from other points in Pennsylvania. Azcon anticipates using the applicant for approximately twenty-five intrastate shipments per month which will not involve its Sharpsburg facility. The applicant is currently authorized to provide service between the Sharpsburg facility and other points in Pennsylvania and between points in Allegheny to points within one hundred miles of the city of Pittsburgh.

Azcon handles broker shipments which do not involve Allegheny County points. These shipments originate at such points as Aliquippa, Washington and Midland and are destined for such points as Williamsport, Harrisburg, Aliquippa, Johnstown, Erie, Washington, Monessen, Sharon, Butler, Latrobe and Avis.

The applicant's service is needed to handle those broker shipments which do not fall within the applicant's existing authority. A carrier is also needed that can provide equipment as needed and who has available steel-bodied equipment that is not susceptible to damage in hauling scrap metals.

Louis S. Cramer, traffic manager of Tube City Iron & Metal Company (Tube City) states that Tube City is a processor and broker of ferrous and non-ferrous scrap metals. It has facilities located in West Mifflin and Fairless Hills. Its brokerage operations are located in Glassport and Philadelphia. As a broker, it arranges transportation between scrap yards and steel mills and foundries and these shipments do not move to or from its own facilities.

Tube City will tender the applicant approximately two intrastate shipments per day. These shipments will move between scrap yards and steel mills and foundries as well as to Tube City's Fairless Hills facility which Weaver cannot presently serve. Shipments not originating in Allegheny County, originate at such points as Philadelphia, Scranton, Johnstown and Midland and are destined to such points as Aliquippa, Monessen, Johnstown, Midland, Philadelphia, Sharpsville, Harrisburg and Reading. As a broker of scrap metal, Tube City could have a shipment originate or be destined for any point in Pennsylvania.

Tube City seeks a carrier that can provide it with timely and reliable pickup and delivery service. It requires flatbeds and steel trailers, as well as dump trailers to transport scrap metals. Since it is using the services of the applicant for those shipments moving between points in Allegheny and from said county to points in Pennsylvania within one hundred miles of the city of Pittsburgh, Tube City would like to be in the position of using the applicant for all of its traffic within Pennsylvania.

Sanford Berman, president of Sanford Steel Products Company (Sanford Steel), states that his company is a scrap broker which would tender the applicant ten or more intrastate shipments per month. Origin for Sanford Steel's traffic would include such points as Ambridge, Republic (near Brownsville), Harrisburg, Johnstown and Butler. Representative destinations would include Philadelphia, Johnstown, Reading and Harrisburg. Although the applicant is providing Sanford Steel with service, the aforementioned origins and destinations all fall beyond the scope of the applicant's current authority.

Sanford Steel requires dump trailers equipped with gates to unload bundles of scrap metals. Equipment should be available on short notice to provide for fast and expeditious service. Sanford Steel has

found the applicant capable of providing excellent service for a number of years under its existing rights.

The three supporting shippers have indicated in their verified statements that they require the services of the applicant to handle those shipments that will move between two points, of which neither point is located in Allegheny County. Those shipments to be tendered the applicant under the proposed authority will not move to or from the various facilities of the three named shippers located in Allegheny County.

After review of the supporting statements, we have determined that the traffic that is to be tendered the applicant will consist solely of the commodity of scrap metal. Since there has been no need demonstrated for the broad commodity description of property, we will authorize the applicant to transport the commodity of scrap metal for the three named shippers.

Since the commodity description has been changed from property to scrap metal, the first condition set forth in the restrictive amendment with regards to the transportation of petroleum and petroleum products, is no longer pertinent to the proceeding and will be eliminated from any authority hereinafter granted. The second condition found in the restrictive amendment requires modification due to the change in the commodity description. We will modify this condition to exclude transportation between points and from points in the counties of Bradford, Columbia, Lackawanna and Luzerne.

We find:

1. That the evidence demonstrates that the three supporting shippers have a need for the applicant to transport the commodity of scrap metal.

2. That the modification of the commodity description nullifies the need for the first condition set forth in the restrictive amendment with regards to the transportation of petroleum and petroleum products.

3. That modification of the commodity description requires that the second condition, with regards to the transportation of property, requires modification to indicate a change in the commodity description.

4. That the applicant is fit, willing and able to provide the proposed transportation, as amended and further modified.

5. That the applicant has demonstrated that a public need exists for the proposed service, as amended and further modified.

6. That approval of the application, as amended and further modified, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended and further modified, be and is hereby approved, and that the certificate issued to the applicant on July 18, 1984, be amended to include the following right:

To transport, as a Class D carrier, scrap metal, for Sanford Steel Products Company, Azcon Scrap Corp. and Tube City Iron & Metal Company, between points in Pennsylvania;

subject to the following condition:

That no right, power or privilege is granted to render service between points or from points in the counties of Bradford, Columbia, Lackawanna and Luzerne.

IT IS FURTHER ORDERED: That unless exceptions are filed to this order within twenty (20) days of the date the order is entered, the order shall become final.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Public Utility Code and the rules and regulations of 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 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: April 24, 1987

ORDER ENTERED: APR 30 1987

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held February 19, 1987

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Application of A. D. Weaver Service, 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, scrap metal, in bulk in dump
vehicles, between points in the county of
Allegheny: SO AS TO PERMIT the transporta-
tion of property, for American Railway Supply,
Inc., between points in Pennsylvania.

A-00105182
F. 1
Am-B

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

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed October 14, 1986. Public notice of the application was given in the Pennsylvania Bulletin of November 15, 1986. No protests were filed and the record is now certified to the Commission for its decision without oral hearing. The record consists of verified statements submitted on behalf of the applicant and a supporting shipper.

A. D. Weaver Service, Inc. (Weaver or applicant), is a Pennsylvania corporation with its principal place of business in Greensburg, Westmoreland County. It obtained its certificate in 1984 by transfer from its predecessor, A. D. Weaver, t/a Weaver Motor Service, A-00092076. The applicant currently holds ten rights, which include the authority to transport metal products, scrap metal, and building materials.

Weaver owns a fleet of three tri-axle dump trucks, nine tractors, eleven dump trailers, and three flatbed trailers; six other vehicles are currently leased. The applicant is familiar with state and

federal safety regulations and administers a regular program to maintain driver and vehicle compliance.

As evidence of its financial capacity to perform the proposed service, the applicant reports assets of \$289,691, with liabilities of \$197,356, leaving a shareholders' equity of \$92,335. Gross intrastate operating revenue was \$809,310.

Michael E. O'Block, president of American Railway Supply, Inc. (ARSI or shipper), submitted a verified statement in support of the application. ARSI is engaged in the railroad salvage business; existing track structures are removed, reworked, and resold. The commodities to be transported will include rails, ties, other track materials, and scrap. This shipper will tender between 200 and 250 shipments per year. Origins will generally be the place of removal; delivery will be either directly to a customer or to ARSI's facility in Corapolis, Allegheny County, for subsequent reshipment to a customer. Due to the nature of the business, any point in Pennsylvania is a potential origin or destination.

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

We find that:

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

IT IS ORDERED: That the application be and is hereby approved and that the certificate issued to the applicant on July 18, 1984, be amended to include the following right:

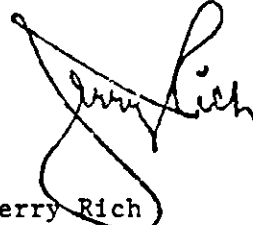
To transport, as a Class D carrier, property, for American Railway Supply, Inc., between points in Pennsylvania.

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

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

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

BY THE COMMISSION,

A handwritten signature in cursive script that reads "Jerry Rich". The signature is written in black ink and is positioned above the typed name and title.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: February 19, 1987

ORDER ENTERED: MAR 03 1987

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held August 20, 1987

Commissioners Present:

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

Application of A. D. Weaver Service, 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, scrap metal, in bulk in dump
vehicles, between points in the county of
Allegheny: SO AS TO PERMIT the trans-
portation of property (except in bulk),
for Beckwith Machinery Company, between
points in Pennsylvania.

A-00105182
F. 1
Am-C

Vuono, Lavelle & Gray, by William A. Gray, for the applicant.
Arthur J. Diskin for the protestant, John D. Clark Trucking, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed February 23, 1987. Public notice of the application was given in the Pennsylvania Bulletin of March 14, 1987. One protest was filed but withdrawn contingent upon the Commission's acceptance of a restrictive amendment. The now unprotested application is certified to the Commission for its decision without oral hearing. The record consists of verified statements submitted by the applicant and the supporting shipper.

A. D. Weaver Service, Inc. (Weaver or applicant), is a Pennsylvania corporation with its principal place of business in Greensburg, Westmoreland County. It obtained its certificate in 1984 by transfer from its predecessor, A. D. Weaver, t/a Weaver Motor Service, at A-00092076. The applicant currently operates under twelve paragraphs of rights and by this application seeks additional authority to transport property for one additional named shipper, between points in Pennsylvania, subject to certain restrictions prohibiting property in

bulk, single pieces of machinery weighing over 55,000 pounds, and service to or from the facilities of Adobe Mining, Amerikohn Mining and Miller & McKnight Coal Company.

Weaver owns a fleet of three tri-axle dump trucks, nine tractors, eleven dump trailers, and three flatbed trailers; nine other vehicles are currently leased. The applicant is familiar with state and federal safety regulations and administers a regular program to maintain driver and vehicle safety.

As evidence of its financial capacity to perform the proposed service, Weaver reports assets of \$271,104, with liabilities of \$167,098, leaving a net worth of \$104,006. Gross intrastate operating revenue for 1986 was \$540,610.

William Cochenour, rental equipment coordinator of Beckwith Machinery Company (Beckwith or shipper); submitted a verified statement in support of the application. Beckwith is engaged in the sale, lease and repair of construction and material handling equipment and machinery. Its principal offices are located in Murrysville, Westmoreland County, other facilities are located in the counties of Allegheny, Blair, Clarion, Clearfield, Erie, Indiana, Somerset and Westmoreland. Most movements will originate and terminate at these various facilities but occasionally transportation may be needed directly between customers and/or shippers. Thus, the shipper supports the application for "between points in Pennsylvania." Beckwith expects to tender the applicant approximately twenty outbound and twenty inbound shipments per month, consisting generally of loaders, dozers, backhoes, excavators and generator sets. Frequently, the shipper needs service on short notice, with expedited service. Weaver has been used in the past for interstate hauling and Beckwith has found the applicant to be a reliable carrier, capable of fulfilling its transportation needs.

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

We find that:

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

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued to the applicant on

July 18, 1984, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property, for Beckwith Machinery Company between points in Pennsylvania;

subject to the following conditions:

1. That no right, power or privilege is granted to transport property in bulk;
2. That no right, power or privilege is granted to provide service to or from the facilities of Adobe Mining, Amerikohl Mining and Miller & McKnight Coal Company;
3. That no right, power or privilege is granted to transport any single piece of machinery weighing in excess of 55,000 pounds per piece of machinery.

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

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

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

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: August 20, 1987

ORDER ENTERED: AUG 31 1987

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held January 19, 1989

Commissioners Present:

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

Application of A.D. Weaver Service, 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, scrap metal, in bulk in dump vehicles, from points in the county of Allegheny to points within one hundred (100) miles of the City-County Building in the city of Pittsburgh: SO AS TO PERMIT the transportation of scrap metal, between points in the county of Westmoreland, and from points in said county, to points in Pennsylvania, and vice versa.

A-00105182
F. 1
Am-E

William A. Gray for the applicant.
Dwight L. Koerber, Jr. for Butler Trucking Company.
John A. Pillar for Don Martin Trucking Co.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed June 7, 1988. Public notice of the application was given in the Pennsylvania Bulletin of June 25, 1988. A protest filed by Butler Trucking Company and Don Martin Trucking Co. were later withdrawn predicated upon our acceptance of a restrictive amendment which limits service for to or and from the facilities of Daniels & Miller, Inc. and National Metal Segregations, Inc. The territory and commodities remain unchanged.

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

DISCUSSION AND FINDINGS

The applicant is represented by A.D. Weaver, its president. A.D. Weaver Service, Inc. has its principal office at R.D. #3, Route 66, Greensburg, Westmoreland County. At this location it has adequate facilities for maintaining and repairing equipment. It operates under a central dispatch procedure. Currently, Weaver owns three tri-axle dump trucks, nine tractors, 11 dump trailers and three flatbed trailers. In addition, it leases such equipment as needed. All equipment is subject to a safety and maintenance program which requires regular inspection and regular routine maintenance.

The applicant has provided extensive service to the supporting shippers in this proceeding under authority issued by the Interstate Commerce Commission. Weaver is familiar with the transportation requirements of the two supporting shippers and stands ready, willing and able to meet their requirements in Pennsylvania.

As evidence of its financial capacity to render the additional service proposed, Weaver entered its balance sheet and income statement dated December 31, 1987, reporting total assets of \$416,071 and total liabilities of \$296,848. For the year ending December 31, 1987, total income of \$1,796,319 produced a net income before taxes of \$18,463.

H. Duffy Freidlander, president of Daniels & Miller, Inc., Greensburg, Westmoreland County, supports the application through a verified statement setting forth that the supporting company is a scrap processor with facilities in Greensburg, Westmoreland County. It expects to tender the applicant an average of seven intrastate shipments per month. It ships scrap metals from its facilities to Pennsylvania points including Sharon, Butler, Johnstown, Coatesville, Latrobe, Pittsburgh, Wrightsville, New Castle and Washington. It also has limited inbound shipments to its Greensburg facility.

The second supporting shipper in this proceeding National Metals Segregation, Inc., New Alexandria, Westmoreland County, is represented by Steven J. Bialas, its president. National Metals is a scrap broker which expects to tender the applicant an average of five to 15 intrastate shipments per month. National has shipments between Latrobe and Delmont, Westmoreland County, and various other points in Pennsylvania.

After review of the record, it is our determination that the applicant has provided evidence that it stands ready, willing and able to properly render the proposed service, as it has been amended. The applicant has the unqualified support of the two named shippers in the amended application. Both shippers require the transportation of scrap metal to and from points which are located in Westmoreland County.

As the application has been amended, service is limited to that provided for or to and from the facilities of Daniels & Miller, Inc. and National Metals Segregation, Inc.

A grant of the authority in this form provides for two possibilities: (1) that service will be provided for the two named shippers but not necessarily

from and to their facilities in Westmoreland County; and (2) that service will be provided to and from the shipper's facilities but not necessarily at their direction of for them. In the first instance, authority "for" the two shippers will serve their interests and is supported by the record. Particularly in the case of National Metals Segregations, Inc., a broker, it is important to have service available between points in Westmoreland County not limited to National facilities. Service for National will entail transportation between its customers' locations at the direction of National.

In the second instance, we have no support for service to and from the facilities of the named shippers except for support entered by these shippers. We have no support from other shippers which may be controlling traffic into or out of the facilities of Daniels & Miller, Inc. and National Metals Segregations, Inc. The applicant was given the opportunity to submit additional support, but has chosen not to do so.

In order to best serve the interests of the supporting shippers and maintain the integrity of the restriction, the authority to issue will permit service "for" the two named shippers, between points in Westmoreland County and from points in the said county to points in Pennsylvania, and vice versa.

We find:

1. The applicant has the necessary experience, equipment, financial capacity to render the proposed service, as amended.

2. The applicant has the support of the two shippers named in the amended application and that support is representative of a desire to have the applicant's service available to aid the shippers in meeting their intrastate transportation requirements.

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

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued July 18, 1984, as amended, be further amended to include the following right:

To transport, as a Class D carrier, scrap metal for Daniels & Miller, Inc. and National Metals Segregations, Inc., between points in the county of Westmoreland, and from points in the said county, to points in Pennsylvania, and vice versa.

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

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Public Utility Code and the rules and regulations of the

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

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

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over a horizontal line.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 19, 1989

ORDER ENTERED: JAN 26 1989

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 95824

Application of ROBERT COLE TRUCKING COMPANY, a
corporation of the Commonwealth of Pennsylvania

REPORT AND ORDER
APPROVING TRUCKING SERVICE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, dated January 27, 1970, to operate motor vehicles as a common carrier, and having been duly presented in accordance with the rules of the Commission, and full investigation of the matters and things involved having been had, and it appearing that the rights granted herein are in effect a transfer of the rights which have been held by ROBERT J. COLE, trading and doing business as ROBERT COLE TRUCKING, under report and order issued at A. 94312 on May 6, 1968, and the certificate of public convenience issued thereunder, as modified and amended, which certificate will be subsequently cancelled, as of the date of this order upon compliance with the tariff and insurance requirements of the Commission by ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, the Commission finds and determines that approval of the application limited to the following rights:

To transport, as a Class D carrier, slag, coal, gravel, aggregates, limestone, subbase material and cinders, in bulk in dump trucks, between points in the counties of Jefferson, Elk and Clearfield, no haul to exceed a distance of twenty-five (25) miles from point of origin to point of destination.

To transport, as a Class D carrier, coal from points in the county of Elk to points in the county of McKean.

To transport, as a Class D carrier, coal for the Doan Coal Company from points in the county of Jefferson to the Pennsylvania Power & Light Company at Shamokin Dam, Monroe Township, Snyder County.

To transport, as a Class D carrier, coal from points in the county of Elk to the Pennsylvania Power & Light Company at Shamokin Dam, Monroe Township, Snyder County.

To transport, as a Class D carrier, salt for the city of DuBois between points in the city of DuBois, Clearfield County, and from points in the said city to points within an airline distance of ten (10) statute miles of the limits of said city;

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

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

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

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

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

NOW, to wit, May 4, 1970, IT IS ORDERED: That upon compliance with the requirements of the Public Utility Law relating to insurance and the filing and acceptance of a tariff establishing just and reasonable rates, a certificate of public convenience issue evidencing the Commission's approval of the right to operate as above determined.

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

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ATTEST:

George A. Bloom
Chairman

J. W. Kimmel
Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 95824
Folder 1, Am-A

Application of ROBERT COLE TRUCKING COMPANY
a corporation of the Commonwealth of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER MODIFYING
CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, dated August 31, 1971, for modification of the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, and having been duly presented in accordance with the rules of the Commission, and full investigation of the matters and things involved having been had, and it appearing that the rights granted herein are in effect a transfer of the rights which have been held by DONALD H. BROCIOSUS, under report and order issued at A. 94851 on December 16, 1968 and the certificate of public convenience issued thereunder, which certificate will be subsequently cancelled as of the date of this order, upon compliance with the tariff requirements of the Commission by ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, January 18, 1972, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, be and is hereby modified and amended so as to include the following right:

To transport, as a Class D carrier, coal between points in the counties of Jefferson, Armstrong, Clarion and Indiana, no haul to exceed a distance of twenty-five (25) miles from point of origin to point of destination.

subject to the following conditions:

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

SECOND: 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.

THIRD: That the applicant charge to Account 1550, Other Intangible Property, \$100, being the amount of the consideration payable by it for the right and going concern value attributable thereto, less any amount recorded under condition 2 above, and subject to further adjustment due to any normal interim transactions to the date of actual transfer.

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

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

George L. Bloom

Chairman

ATTEST:

Will Peters

Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 95824
Folder 1, Am-B

Application of ROBERT COLE TRUCKING COMPANY, a
corporation of the Commonwealth of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, dated August 31, 1972, for modification of the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, and having been duly presented in accordance with the rules of the Commission, and full investigation of the matters and things involved having been had, and it appearing that the rights granted herein are in effect a transfer of the rights which have been held by W. PERSHING STAHLMAN (deceased), under report, order and certificate of public convenience issued at A. 56801, Folder 1 on May 2, 1939 and under report and order issued at Folder 2 on July 9, 1940 and the certificate of public convenience issued thereunder, which certificates will be subsequently cancelled as of the date of this order, upon compliance with the tariff requirements of the Commission by ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, September 26, 1972, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following rights:

1. To transport, as a Class D carrier, coal, coke, slag, rough lumber, amesite and screenings, building materials, excavated materials, and other road building construction materials, such as are usually transported in dump trucks, between points not to exceed a distance of twenty-five (25) miles, from point of origin to point of construction or disposal in the counties of Jefferson, Venango, Forest, Armstrong and Clarion. (Formerly A. 56801, Folder 1)
2. To transport, as a Class D carrier, rigs, stems, boilers, pipe, casing, tools, coal and heavy machinery between points in the borough of Clarion, Clarion County, and within ten (10) miles, by the usually traveled highways, of the limits of said borough. (Formerly A. 56801, Folder 2)

3. To transport, as a Class D carrier, rigs, stems, boilers, pipe, casing, tools, coal and heavy machinery, in emergency, from points in the borough of Clarion, Clarion County, and within ten (10) miles by the usually traveled highways of the limits of said borough, to points within fifty (50) miles, by the usually traveled highways, of the limits of said borough.
(Formerly A. 56801, Folder 2)
4. To transport, as a Class D carrier, oil and gas well equipment and supplies incidental thereto between points in the counties of Clarion, Armstrong, Jefferson, Clearfield, Butler, Forest and Venango, provided that no haul shall be made between points served by the railroads, excepting for the transportation of materials requiring specially equipped trucks in case of a breakdown from leases in said counties to repair shops within ninety (90) miles, by the usually traveled highways, of the limits of the borough of Clarion, Clarion County. (Formerly A. 56801, Folder 2)
5. To transport, as a Class D carrier, machinery requiring the use of specially equipped trucks between points in said counties not to exceed a distance of fifteen (15) miles from point of origin to point of destination.
(Formerly A. 56801, Folder 2)
6. To transport, as a Class D carrier, heavy machinery requiring specially equipped trucks in emergency shipments for the Owens-Illinois Glass Company, from the plant of that company in the borough of Clarion, Clarion County, to Grove City, Mercer County, and return.

with rights Nos. 2 through 6 above subject to the following condition:

That no right, power or privilege is granted to transport property from the cities of Franklin and Oil City, Venango County, provided that the applicant may bring machinery to either of said cities for repair and transport the same machinery to the point of its original shipment.

and subject to the following general conditions:

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

A. 95824
F.1, Am-B

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

THIRD: That the applicant charge to Account 1550- Other Intangible Property, \$125, being the amount of the consideration payable by it for the rights and going concern value attributable thereto, less any amount recorded under condition 2 above.

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

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Georgel Bloom

Chairman

ATTEST:

Will Peter

Secretary

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,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: April 5, 1991

ORDER ENTERED: April 16, 1991

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 95824, Folder 1, Am-D

Application of ROBERT COLE TRUCKING COMPANY

SUPPLEMENTAL REPORT AND ORDER MODIFYING
CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, received December 14, 1973, for modification of the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, March 26, 1974, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following right:

To transport, as a Class D carrier, coal, from points in the township of Gaskill, Jefferson County, to the Pennsylvania Power and Light Company facilities located at the borough of Shamokin Dam, Snyder County.

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

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ATTEST:

Will Peter
Secretary

George B. Sone
Chairman

ORDER ADOPTED: March 26, 1974
ORDER ENTERED: March 27, 1974

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 95824
Folder 1, Am-C

Application of ROBERT COLE TRUCKING COMPANY, a
corporation of the Commonwealth of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, dated August 31, 1972, for modification of report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, and upon protests, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and it appearing that applicant amended his application whereby protests were withdrawn, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, April 10, 1973, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following rights:

To transport, as a Class D carrier, chemically treated wood and/or lumber products from the facilities of the Burke-Parsons-Bowlby Corporation located in the Township of Sandy, Clearfield County, to points in Pennsylvania.

To transport, as a Class D carrier, untreated lumber from points in Pennsylvania to the facilities of the Burke-Parsons-Bowlby Corporation located in the Township of Sandy, Clearfield County;

subject to the following condition:

Providing that no right, power or privilege is granted to provide any service to or from the borough of Montoursville, Lycoming County, and points within an airline distance of (20) statute miles of the limits thereof.

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

ATTEST:

Will Feltner
Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
George W. Johnson
Chairman

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application Docket No. 95824, Folder 1, Am-D

Application of ROBERT COLE TRUCKING COMPANY

SUPPLEMENTAL REPORT AND ORDER MODIFYING
CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, received December 14, 1973, for modification of the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, March 26, 1974, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following right:

To transport, as a Class D carrier, coal, from points in the township of Gaskill, Jefferson County, to the Pennsylvania Power and Light Company facilities located at the borough of Shamokin Dam, Snyder County.

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

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ATTEST:

Will Fisher
Secretary

George B. Loomis
Chairman

ORDER ADOPTED: March 26, 1974
ORDER ENTERED: March 27, 1974

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held September 3, 1975
Harrisburg, Pa. 17120

COMMISSIONERS PRESENT:

Chairman Carter
Commissioner Kelly
Commissioner Bloom

Application Docket No. 95824, Folder 1, Am-F—Application of
ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth
of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, received July 9, 1974, for modification of the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, and upon protests, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and it appearing that the applicant amended their application whereby protests were withdrawn, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, September 3, 1975, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following right:

To transport, as a Class D carrier, coal from points in Indiana County to points in McKean County.

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

BY THE COMMISSION,

(SEAL)

C. J. McElwee

C. J. McELWEE
Acting Secretary

ORDER ADOPTED: September 3, 1975
ORDER ENTERED: September 4, 1975

PUBLIC UTILITY COMMISSION

Public Meeting held September 23, 1975
Harrisburg, Pennsylvania 17120

COMMISSIONERS PRESENT:

Chairman Carter
Commissioner Kelly
Commissioner Bloom

Application Docket No. 95824, Folder 1, Am-G—Application of
ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth
of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, received July 9, 1974, for modification of the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, and upon protests and having been duly heard and submitted by the parties and full investigation of the matters and things involved having been had, and it appearing that the applicant amended their application whereby protests were withdrawn, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, September 23, 1975, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following right:

To transport, as a Class D carrier, coal for Coal Hill Mining Company, P & N Coal Company, Inc., and Ringgold Coal Mining Company from points in Elk County to the Pennsylvania Power & Light Company facilities located at the borough of Washingtonville, Montour County; and for said companies from points in Armstrong and Indiana Counties to the Pennsylvania Power & Light Company facilities located at the borough of Shamokin Dam, Snyder County, and the borough of Washingtonville, Montour County.

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

(SEAL)

BY THE COMMISSION,

C. J. McElwee

ORDER ADOPTED: September 23, 1975
ORDER ENTERED: October 17, 1975

C. J. McELWEE
Acting Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held September 3, 1975
Harrisburg, PA. 17120

COMMISSIONERS PRESENT:

Chairman Carter
Commissioner Kelly
Commissioner Bloom

Application Docket No. 95824, Folder 1, Am-H—Application of
ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth
of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, filed March 17, 1975, for modification of the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, and upon protests, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and it appearing that the applicant amended their application whereby protests were withdrawn, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, September 3, 1975, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following right:

To transport, as a Class D carrier, coal
in bulk, in dump vehicles, from points
in the counties of Elk and Jefferson to
points in the county of York.

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

BY THE COMMISSION,

(SEAL)

ORDER ADOPTED: September 3, 1975
ORDER ENTERED: September 4, 1975

C. J. McElwee

C. J. McELWEE
Acting Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held September 23, 1975
Harrisburg, Pennsylvania 17120

COMMISSIONERS PRESENT:

Chairman Carter
Commissioner Kelly
Commissioner Bloom

Application Docket No. 95824, Folder 1, Am-I—Application of
ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth
of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, received April 7, 1975, for modification of the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, and upon protest, and having been duly heard and submitted by the parties and full investigation of the matters and things involved having been had, and it appearing that the applicant amended their application whereby the protest was withdrawn, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, September 23, 1975, IT IS ORDERED: That the report and order issued under date of May 4, 1970 and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following right:

To transport, as a Class D carrier, coal, in bulk, in dump vehicles, from points in the county of Elk to points in the counties of Berks and Lehigh;

subject to the following condition:

That no right, power or privilege is granted to render service from points in Elk County within 75 airline miles of the limits of the city of Williamsport, Lycoming County, to points in Lehigh County within 100 airline miles of the limits of the city of Williamsport, Lycoming County; or from points in Elk County within 100 airline miles of the limits of the city of Williamsport, Lycoming County, to points in Lehigh County within 75 airline miles of the limits of the city of Williamsport, Lycoming County.

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

(SEAL)

BY THE COMMISSION,

C. J. McElwee

ORDER ADOPTED: September 23, 1975
ORDER ENTERED: October 22, 1975

C. J. McELWEE
Acting Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held September 3, 1975
Harrisburg, PA. 17120

COMMISSIONERS PRESENT:

Chairman Carter
Commissioner Kelly
Commissioner Bloom

Application Docket No. 95824, Folder 1, Am-J—Application of
ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth
of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility
Commission upon application of ROBERT COLE TRUCKING COMPANY, a
corporation of the Commonwealth of Pennsylvania, received
April 7, 1975, for modification of the report and order
issued under date of May 4, 1970 and the certificate of public
convenience issued thereunder, as modified and amended, and
having been duly heard and submitted by the parties, and full
investigation of the matters and things involved having been
had, the Commission finds and determines that approval of
the proposed modification is necessary or proper for the
service, accommodation or convenience of the public; THEREFORE:

NOW, to wit, September 30, 1975, IT IS ORDERED: That the
report and order issued under date of May 4, 1970 and the
certificate of public convenience issued thereunder, as modified
and amended, be and is hereby further modified and amended so
as to include the following right:

To transport, as a Class D carrier, coal from
points in the county of Elk, to points in the
county of Northampton.

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

(SEAL)

ORDER ADOPTED: September 3, 1975
ORDER ENTERED: September 4, 1975

BY THE COMMISSION,

C. J. McElwee

C. J. McELWEE
Acting Secretary

WJL

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held August 26, 1976
Harrisburg, PA. 17120

COMMISSIONERS PRESENT:

- Chairman Carter
- Commissioner Kelly
- Commissioner Bloom
- Commissioner O'Bannon
- Commissioner Johnson

Application Docket No. 95824, Folder 1, Am-K - Application of
ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth
of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility
Commission upon application of ROBERT COLE TRUCKING COMPANY, a
corporation of the Commonwealth of Pennsylvania, received April 12,
1976 for modification of the report and order issued under date of
May 4, 1970 and the certificate of public convenience issued thereunder,
as modified and amended, and upon protest, and having been duly
heard and submitted by the parties and full investigation of the matters
and things involved having been had, and it appearing that the applicant
amended his application whereby protests were withdrawn the Commission
finds and determines that approval of the proposed modification is
necessary or proper for the service, accommodation or convenience of the
public; THEREFORE,

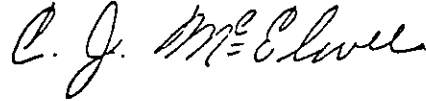
NOW, to wit, August 26, 1976, IT IS ORDERED: That the
report and order issued under date of May 4, 1970 and the certificate
of public convenience issued thereunder, as modified and amended
be and is hereby further modified and amended so as to include
the following rights:

To transport, as a Class D carrier, deicing
materials, defrosting materials and anti-skid
materials (except in bulk in tank vehicles,
or in hopper-type vehicles) from points in
the township of Sandy, Clearfield County,
and the township of Bell, Jefferson County,
to points in the counties of Armstrong,
Clarion, Forest, Indiana, Jefferson, Venango
and Warren.

To transport, as a Class D carrier, deicing
materials, defrosting materials and anti-
skid materials (except in bulk in tank
vehicles, or in hopper-type vehicles), from
points in the township of Sandy, Clearfield
County, and the township of Bell, Jefferson
County, to points in the counties of
Cambria, Cameron, Centre, Clearfield,
Clinton, Elk, McKean and Potter; excluding
sand, gravel, stone and stone substances.

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

BY THE COMMISSION,



C. J. McElwee
Secretary

(SLAL)

ORDER ADOPTED: August 26, 1976

ORDER ENTERED: August 30, 1976

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held February 3, 1977
Harrisburg, PA. 17120

Commissioners Present:

Louis J. Carter, Chairman
James McGirr Kelly
Robert K. Bloom
Helen B. O'Bannon
Michael Johnson

Application Docket No. 95824, F. 1, Am-L - Application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania

SUPPLEMENTAL REPORT AND ORDER
MODIFYING CERTIFICATE OF PUBLIC CONVENIENCE

BY THE COMMISSION:

This matter being before the Pennsylvania Public Utility Commission upon application of ROBERT COLE TRUCKING COMPANY, a corporation of the Commonwealth of Pennsylvania, dated August 20, 1976, for modification of the report and order issued under date of May 4, 1970, and the certificate of public convenience issued thereunder, as modified and amended, and having been duly presented in accordance with the rules of the Commission, and full investigation of the matters and things involved having been had, and it appearing that the right granted herein is in effect a transfer of the rights which have been held by CLYDE BUSKIRK, JR., under report and order issued at A. 96713 on October 18, 1971, and the certificate of public convenience issued thereunder, as modified and amended, which certificate will be subsequently cancelled as of the date of this order, the Commission finds and determines that approval of the proposed modification is necessary or proper for the service, accommodation or convenience of the public; THEREFORE,

NOW, to wit, February 3, 1977, IT IS ORDERED: That the report and order issued under date of August 20, 1976, and the certificate of public convenience issued thereunder, as modified and amended, be and is hereby further modified and amended so as to include the following right:

To transport, as a Class D carrier, gasoline, kerosene and fuel oil, from points in the counties of Indiana, Venango, McKean, Jefferson, Warren and Blair, to the places of business of Allen Oil Company, Green & Green, and John B. Green Oil Co., Inc., in the township of Washington, Jefferson County, and the city of DuBois, Clearfield County and to service stations supplied by said Allen Oil Company, Green & Green, and John B. Green Oil Co., Inc., located in the counties of Jefferson and Clearfield;

subject to the following conditions:


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

SECOND: 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.

THIRD: That the applicant charge to Account 1550, Other Intangible Property, \$350, being the amount of the consideration payable by it for the right and going concern value attributable thereto; less any amount recorded under condition 2 above.

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

BY THE COMMISSION,



C. J. McElwee
Secretary

(SEAL)

ORDER ADOPTED: February 3, 1977

ORDER ENTERED: February 24, 1977

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held August 24, 1978
Harrisburg, PA 17120

Commissioners Present:

Louis J. Carter, Chairman
Robert K. Bloom
Michael Johnson
W. Wilson Goode

Application of Robert Cole Trucking Company

A. 95824

F. 1

Am-M

O R D E R

BY THE COMMISSION:

The Commission adopted as its action the Initial Decision of Administrative Law Judge Lewis dated June 29, 1978; THEREFORE,

IT IS ORDERED:

It is ordered subject to Commission approval, that the application of Robert Cole Trucking Company at A. 95824, Folder 1, Am-M, as amended, be and is hereby approved and that the Certificate of Public Convenience heretofore issued to applicant be modified to include the following rights:

- (1) To transport, as a Class D carrier, coal, in bulk, in dump vehicles, from points in the County of Clearfield to points in the Counties of Berks, Lehigh, Chester, Lancaster and Northampton.

subject to the following conditions:

1. That no right, power or privilege is granted to provide service for Benjamin Coal Company to points in the Counties of Berks, Lehigh and Northampton.
2. That no right, power or privilege is granted to provide service for Apple Coal, Westvaco Corp., Kristian & Johnson Coal Co., and Rhodes Coal Co.
3. That no right, power or privilege is granted to provide service from points in Clearfield County within 75 air-line miles of the limits of the city of Williamsport, Lycoming County, to points in the Counties of Berks,

Lehigh, Lancaster and Northampton within 100 airline miles of the limits of the city of Williamsport, Lycoming County; or from points in Clearfield County within 100 airline miles of the limits of the city of Williamsport, Lycoming County, to points in Lehigh County within 75 airline miles of the limits of the city of Williamsport, Lycoming County.

- (2) To transport, as a Class D carrier, coal, in bulk, in dump vehicles, from points in the County of Jefferson to points in the Counties of Berks, Lehigh, Chester, Lancaster and Northampton.

subject to the following conditions:

1. That no right, power or privilege is granted to provide service for Benjamin Coal Company to points in the Counties of Berks, Lehigh and Northampton.
 2. That no right, power or privilege is granted to provide service from points in Jefferson County within 100 airline miles of the limits of the city of Williamsport, Lycoming County, to points in Lehigh County within 75 airline miles of the limits of the city of Williamsport, Lycoming County.
- (3) To transport, as a Class D carrier, coal, in bulk, in dump vehicles, from points in the County of Elk to points in the Counties of Chester, Lancaster and Lehigh.

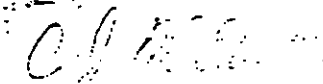
subject to the following condition:

1. That no right, power or privilege is granted to provide service from points in Elk County within 75 airline miles of the limits of the city of Williamsport, Lycoming County, to points in the Counties of Lancaster or Lehigh within 100 airline miles of the limits of the city of Williamsport, Lycoming County; or from points in Elk County within 100 airline miles of the limits of the city of Williamsport, Lycoming County, to points in Lehigh County within 75 airline miles of the limits of the city of Williamsport, Lycoming County.

Provided further that all of the above authority is restricted so that no right, power or privilege is granted to perform service for Thomas Coal Company, Inc., McDonald Land & Mining Co., Inc., and Thomas Coal Sales, Inc. to points in Berks and Northampton Counties.

- (4) That upon compliance with the requirements of the Public Utility Law relating to the filing and acceptance of a tariff establishing just and reasonable rates a Certificate of Public Convenience establishing the Commission's approval of the right to operate as above be issued.
- (5) That in the event said applicant has not, on or before thirty days from the date of service of this Order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

BY THE COMMISSION,


C. J. McElwee
Secretary

(SEAL)

ORDER ADOPTED: August 24, 1978

ORDER ENTERED: **SEP 5 1978**

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 27, 1981

Commissioners Present:

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

Application of Robert Cole Trucking Company Inc.

A-00095824, F. 1, Am-0

CORRECTED ORDER

BY THE COMMISSION:

In accordance with the provisions of Act 294 of 1978 (66 Pa.C.S. §332(h)), the decision of Administrative Law Judge Clements dated August 19, 1980 has become final without further Commission action; THEREFORE,

IT IS ORDERED:

1. That the application of Robert Cole Trucking Company, Inc. be and is hereby approved, and the certificate issued to applicant at A-00095824, F. 1, be amended to include the following rights:

To transport as a Class D carrier salt and salt products (except in bulk in tank carriers or in hopper-type vehicles) for the account of Morton Salt Company and from the facilities of or used by Morton Salt Company, located in the counties of Erie, to points in the Counties of Armstrong, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Indiana, Jefferson, McKean, Potter, Venango, and Warren.

2. That the applicant shall not operate or engage in any transportation under the above rights until the applicant has complied with the requirements of the Public Utility Code relevant to the filing and acceptance of a tariff establishing just and reasonable rates.

3. That in the event said applicant has not, on or before sixty (60) days of the date of service of this order, complied with the requirements set forth above, the application shall be dismissed without further proceedings.

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 3, 1980

Commissioners Present:

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

Application of Robert Cole Trucking Company, a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, coal for Coal Hill Mining Company, P & N Coal Company, Inc., and Ringgold Coal Mining Company from points in Elk County to the Pennsylvania Power & Light Company facilities located at the borough of Washingtonville, Montour County; and for said companies from points in Armstrong and Indiana Counties to the Pennsylvania Power & Light Company facilities located at the borough of Shamokin Dam, Snyder County, and the borough of Washingtonville, Montour County: SO AS TO PERMIT the transportation of coal, in bulk, in dump vehicles, from points in the counties of Elk, Indiana, Jefferson and Clearfield to points in the county of Centre; coal, in bulk, in dump vehicles, from points in Centre County to the facilities of Pennsylvania Power & Light Company located in the borough of Washingtonville, Montour County; fly ash, in bulk, in dump vehicles, from the facilities of Pennsylvania Power & Light Company located in the borough of Washingtonville, Montour County to points in the counties of Lehigh, Northampton, Berks and Centre; and coal, in bulk, in dump vehicles, from the city of Scranton, Lackawanna County, and points within an airline distance of twenty-five (25) statute miles of the limits of the said city, and from the city of Wilkes-Barre, Luzerne County, and points within an airline distance of twenty-five (25) statute miles of the limits of said city, to the facilities of Pennsylvania Power & Light Company located in the borough of Shamokin Dam, Snyder County.

A-00095824
F. 1
Am-P

Wick, Vuono & Lavelle by William J. Lavelle and David M. O'Boyle, for applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed March 30, 1979. Public notice of the application was given in the Pennsylvania Bulletin of April 28, 1979. Protests were filed by C. L. Feather, Inc., Ritchey Trucking, Inc., Raymond J. Gallaher, Samuel J. Lansberry, Inc., William C. Confer, Powers Trucking Co., W. A. Emrick Trucking, Inc., and Thomas L. Quinn. All protests were withdrawn predicated upon the Commission's acceptance of an amendment limiting service to the transportation of coal, in bulk, in dump vehicles, for Ringgold Coal Mining Company from points in the counties of Elk, Indiana, Jefferson, Clearfield to the facilities of Ringgold Coal Mining Company located in Union Township, Centre County.

The application is now unopposed and the record is certified to the Commission without hearing. The record consists of verified statements submitted by the applicant and the supporting shipper.

Robert J. Cole, president of Robert Cole Trucking Company (herein Cole or applicant) sets forth that Cole is a common carrier holding authority from the Commission and it specializes in the hauling of bulk commodities in dump vehicles. General offices, terminal and garage are maintained at Falls Creek, Jefferson County and 28 drivers, 18 mechanics and 10 office employees thereat. are stationed there. A central dispatch system is used at the terminal.

Applicant operates 14 dump trucks, 42 tractors and 50 dump trailers. Cole owns 22 tractors, 30 dump trailers and nine dump trucks. Applicant leases 20 tractor-dump trailer units and five dump trucks under long-term lease arrangements in compliance with the Commission's requirements. All equipment utilized is suitable for transporting coal. At least 25 percent of the owned equipment is idle and the leased equipment is operating at only 50 percent of capacity. Applicant operates a comprehensive safety and maintenance program for its drivers and on all equipment. Service is currently being supplied to the supporting shipper under interstate and intrastate authorities presently held.

Cole offers service 24 hours a day, seven days a week, will spot equipment at shipper's facilities upon request, make emergency deliveries, scheduled pickups and delivery and provides same day service in the subject area sought. Extensive operations are conducted in western and central Pennsylvania which is the area where the five counties involved are located and Cole sees no problem with coordinating the proposed service with its existing operations to insure maximum utilization of equipment.

An unaudited balance sheet as of July 31, 1979 indicates current assets of \$751,605, total assets of \$1,761,304, current liabilities of \$563,490, total liabilities of \$933,422 and retained earnings of \$402,582. An income statement for the same period reveals revenues of \$1,473,045, expenses of \$1,384,964 and an operating income of \$88,081.

Arthur Sherman, vice president of Ringgold Coal Mining Company (Ringgold or shipper) states that its main office is domiciled at Butler and that it is involved in the mining and sale of coal and its coal producing facilities are located in Butler County. Ringgold's support involves its coal broker business. It operates a storage and loading facility at or near Milesburg, Union Township, Centre County. The facility consists of 100 acres of land and is equipped with a fast loading device for loading of coal trains. Ringgold as an agent purchases coal to meet the specifications of its customers and Ringgold must be very selective as to the sulfur content of coal purchased since its customers require a grade of low sulfur content coal. The loader at Milesburg can load the coal train with 10,000 to 13,000 tons of coal in four to six hours. The Milesburg facility has the capacity to ship 80,000 tons monthly, but Ringgold currently is shipping only 15,000 tons monthly. At present 100-150 truckloads per week are transported from Clearfield County to the Milesburg facility. Market conditions and the availability of the type of coal required determine to a large extent the amount of traffic shipped in the four county area involved as origin points. No concrete figures are available as to traffic volume to Milesburg, however, it handles and brokers for two large power utilities which in the past have need considerable tonnages of coal for use at their facilities. In addition, it has a third major customer who is an exporter of coal. Origins would be any tippie or coal mine where coal producers operate located in the counties of Elk, Indiana, Jefferson and Clearfield. Private carriage by coal producers and transportation by common carriage is now utilized. Motor transportation by the coal producer is not always reliable due to lack of dump truck vehicles being available in quantities required. Common carriers are currently utilized from Clearfield County. It is supporting applicant in order to have service available not only from said county, but also from the counties of Elk, Indiana and Jefferson.

Ringgold needs a carrier who has a substantial number of dump vehicles available, and who can supply a large number of vehicles during a short period of time, who is authorized from all four counties, who can render same day service and who can provide coordinated and scheduled deliveries. Ringgold has been satisfied with applicant's service both interstate and intrastate and believes applicant can supply reliable and satisfactory service intrastate based on past experience.

DISCUSSION AND FINDINGS

Robert Cole Trucking Company, seeks by the amended application to transport coal in bulk in dump vehicles, for Ringgold Coal Mining Company from points in four counties to its rail loading facilities in Union Township, Centre County. Said shipper is the only shipper supporting the application. Ringgold has been unable to find enough certificated carriers with the proper authority and with sufficient equipment that is necessary to provide the large scale movements on short notice needed to replenish its Union Township stockpile when coal trains have been loaded. Applicant's service will help Ringgold ensure that an adequate supply of coal is available at its rail loading facilities in Union Township, Centre County, when replenishment of the stockpile is needed.

We find that:

1. Applicant has the necessary equipment, experience and financial capacity to render the service as amended.
2. Applicant has established that a need exists.
3. Existing service is inadequate due to lack of proper authority and lack of equipment necessary to render service on short notice.
4. Approval of the amended application appears to be an accommodation and convenience to the public; THEREFORE,

IT IS ORDERED: That the amended application be and is hereby approved and that the certificate issued to applicant on June 8, 1970, as amended, be further amended to include the following right:

To transport, as a Class D carrier, coal, in bulk, in dump vehicles, for Ringgold Coal Mining Company, from points in the counties of Clearfield, Elk, Indiana and Jefferson, to the facilities of Ringgold Coal Mining Company in the township of Union, Centre County.

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

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of the 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



William P. Thierfelder
Secretary

(SEAL)

ORDER ADOPTED: April 3, 1980

ORDER ENTERED: APR 9 1980

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 13, 1981

Commissioners Present:

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

Application of Robert Cole Trucking Company, a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate: SO AS TO PERMIT the transportation of salt, in bulk, in dump vehicles, from points in the township of Sandy, Clearfield County, and the township of Bell, Jefferson County, to points in the counties of Erie, Crawford, Mercer, Lawrence, Beaver, Allegheny, Butler, Westmoreland, Washington, Greene, Fayette, Somerset, Bedford, Fulton, Blair and Huntingdon.

A-00095824
F. 1
Am-Q

Donald J. Balsley, Jr., for Robert Cole Trucking Company.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed October 23, 1980. Public notice of the application was given in the Pennsylvania Bulletin of November 29, 1980. A protest was filed by Wayne W. Sell Corporation, but it was later withdrawn upon reconsideration. The application is now unopposed and the record is certified to the Commission for its decision without hearing. The record consists of verified statements entered by the applicant and its supporting shipper.

Robert J. Cole, president of Robert Cole Trucking Company (Cole or applicant), set forth in his verified statement that he has full familiarity with the authority, operations, equipment and facilities of the applicant and is authorized to submit a verified statement. Cole is authorized by the Commission to transport such bulk commodities as slag, coal, gravel, aggregates, limestone, subbase material and cinders. As pertinent herein, Cole holds authority to transport deicing materials, defrosting materials and anti-skid materials, except in bulk in tank vehicles or in hopper-type vehicles, from points in the township of Sandy, Clearfield County, and the township of Bell, Jefferson County, to

points in the counties of Armstrong, Clarion, Forest, Indiana, Jefferson, Venango and Warren; and deicing materials from points in the two subject townships to points in the counties of Cambria, Cameron, Centre, Clearfield, Clinton, Elk, McKean and Potter. In addition to authority from the here subject townships, Cole holds authority to transport salt and salt products for Morton Salt Company from the county of Erie to points in the counties of Armstrong, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Indiana, Jefferson, McKean, Potter, Venango and Warren. The applicant conducts extensive operations throughout the area involved in the instant application.

Cole operates from its general office, terminal and garage at Falls Creek, Jefferson County. The garage facility is fully equipped to handle maintenance and repair on the applicant's equipment. The applicant now operates 10 dump trucks, 58 tractors and 68 dump trailers. Thirty-five tractors and 35 trailers of the total number are on long-term lease. All equipment operated by Cole is suitable for the transportation of salt as here involved. This equipment is not now utilized to full capacity and as much as 25 percent of owned equipment and 50 percent of leased equipment is idle on a daily basis. All equipment is serviced and inspected on a daily basis or at the conclusion of its use. Cole operates a preventative maintenance program which requires that each piece of equipment go through a thorough check every 30 days. Cole maintains insurance in amounts required by the Commission and the Interstate Commerce Commission.

As previously set forth, Cole specializes in the transportation of bulk commodities in dump vehicles and is experienced in the transportation of deicing materials, defrosting materials and anti-skid materials from points in the two township here subject. Cole offers service 24 hours a day, seven days per week as requested. The applicant provides scheduled pickup and delivery at the customer's request. The equipment operated by the applicant has tarpaulins which protect loads from the elements. The applicant believes that the proposed service will be operationally feasible and will coordinate with current operations conducted from the points of origin. Cole currently has authority to move similar commodities from these loading points into other central and western Pennsylvania counties. Approval of the proposed application will permit Cole to use more of its vehicles in a more flexible manner.

In support of its financial capacity to maintain the proposed authority, Cole entered its balance sheet as of August 31, 1980. Cole reports total current assets of \$452,845, total assets of \$2,020,639, total current liabilities of \$528,060 and total liabilities of \$1,414,746. Cole's annual report for 1979 indicates intrastate gross revenue of \$141,092. Total revenue of \$2,953,099 produced a net operating income of \$26,668 after expenses.

John A. Nimerosky, transportation manager for International Salt (shipper or International Salt), set forth in his verified statement that his duties include the supervision of matters relating to the

of Sandy, Clearfield County, and the township of Bell, Jefferson County, to points subject in the instant application. He is authorized by International Salt to tender a supporting statement. International Salt is the largest producer of rock salt in the United States. The company has salt mines at Retsof, New York; Cleveland, Ohio; Detroit, Michigan; Avery Island, Louisiana; and a refinery at Watkins Glen, New York. It operates numerous warehouses and stockpiles throughout the eastern United States, two of which are in Pennsylvania, in Jefferson County and Clearfield County.

As here pertinent, International Salt requires a carrier to load salt at its facilities in the township of Sandy, Clearfield County, and the township of Bell, Jefferson County, for delivery within the destination area. It is expected that International Salt will tender to the applicant between five and 50 shipments per week. The amount of traffic will vary significantly from time to time depending upon seasonal fluctuations. During the winter months, traffic moving under the subject authority could reach as many as 50 shipments per week. The origin for all traffic will be the two townships here subject to points in the destination area. As Schedule 2 to his verified statement, the witness lists some 39 representative points of destination.

International Salt now has the services of several for-hire motor carriers for the transportation of salt to points in the destination territory. Points in the counties of Bedford, Blair, Fulton, Huntingdon and Somerset are now served by the applicant under temporary authority granted by the Commission. International Salt has, from time to time, had difficulty in locating motor common carriers with either the authority or the interest in transporting salt from the two townships to points in western Pennsylvania. The applicant has provided suitable motor carrier equipment and drivers experienced in the transportation and distribution of salt pursuant to its current authority. International Salt requires the applicant's service on an expanded basis to assure the availability of adequate motor vehicle equipment during peak demand periods.

DISCUSSION AND FINDINGS

Cole desires to expand his operating territory relative to the transportation of salt to include the additional counties of Erie, Crawford, Mercer, Lawrence, Beaver, Allegheny, Butler, Westmoreland, Washington, Greene, Fayette, Somerset, Bedford, Fulton, Blair and Huntingdon. The origin points for the service are the townships of Sandy, Clearfield County, and Bell, Jefferson County. The applicant now provides service from these two townships to points in the counties of Armstrong, Clarion, Forest, Indiana, Jefferson, Venango and Warren. By permitting the addition of the 16 counties requested, Cole will be able to serve nearly all of western Pennsylvania from the two townships. The applicant appears to have the necessary equipment and financial capacity to maintain this extensive service and by virtue of past authorized service provided has the experience to handle the transportation involved.

points in the subject destination territory from stockpiles in the two subject townships. The shipper lists 39 representative points of destination in the proposed territory, which evidence need for service throughout the application area. Cole now provides service to International Salt from the two subject townships to points in the counties of Bedford, Blair, Fulton, Huntingdon and Somerset under temporary authority. International Salt desires the availability of an experienced common carrier with specific authority from the two townships particularly during peak demand periods. The volume of salt tendered to Cole is substantial ranging from five truckloads to as many as 50 truckloads per week.

We determine from the evidence before us that approval of the application will aid International Salt in meeting its salt distribution requirements in western Pennsylvania while providing the applicant with authority to operate in an expanded area in conjunction with service now provided the shipper on a limited basis. This expansion in service should coordinate with current service and permit more efficient and complete utilization of applicant's equipment.

We find:

1. The applicant has the equipment, fitness and experience necessary to render the proposed service.
2. The supporting shipper requires the availability of the applicant to aid it in meeting its full transportation requirements.
3. Approval of the application is an accommodation and convenience to the public; THEREFORE,

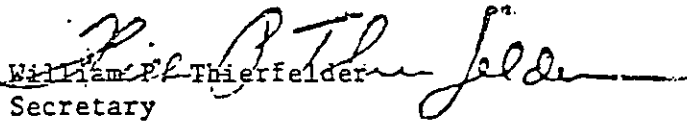
IT IS ORDERED: That the application be and is hereby approved and that the certificate issued June 8, 1970, as amended, be further amended to include the following right:

To transport, as a Class D carrier, salt in bulk in dump vehicles, from points in the township of Sandy, Clearfield County, and the township of Bell, Jefferson County, to points in the counties of Erie, Crawford, Mercer, Lawrence, Beaver, Allegheny, Butler, Westmoreland, Washington, Greene, Fayette, Somerset, Bedford, Fulton, Blair and Huntingdon.

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

not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

BY THE COMMISSION,


~~William P. Thierfelder~~
Secretary

(SEAL)

ORDER ADOPTED: March 13, 1981

ORDER ENTERED: MAR 24 1981

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, Pa. 17120

Public Meeting held September 30, 1983

Commissioners Present:

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

Application of Robert Cole Trucking Company,
a corporation of the Commonwealth of Penn-
sylvania, for amendment to its common carrier
certificate, which grants the right, inter
alia, to transport, by motor vehicle, coal,
in bulk, in dump vehicles, for Ringgold Coal
Mining Company from points in the counties of
Clearfield, Elk, Indiana and Jefferson, to
the facilities of Ringgold Coal Mining Company
in the township of Union, Centre County:
SO AS TO PERMIT the transportation of coal, in
bulk, in dump vehicles, for I.U.E. Coal Sales
Company, from points in the counties of Elk
and Jefferson, to points in the county of Erie.

A-00095824
F.1
Am-T

Vuono, Lavelle & Gray by William J. Lavelle for applicant.
Kriner and Koerber by Dwight L. Koerber, Jr. for Kephart Trucking Co.
Pillar & Mulroy by Kevin Walsh for Tajon, Inc.

O R D E R

BY THE COMMISSION

This matter comes before the Commission through an application
filed August 8, 1982. Notice of the application was published in the
Pennsylvania Bulletin of September 4, 1982. A protest was originally
filed by Tajon, Inc., but with the filing of a transfer application to
transfer Tajon's rights to Kephart, Kephart became the protestant of
interest in the instant proceeding. Kephart withdrew its protest upon
reconsideration.

Robert J. Cole, president and sole stockholder of the applicant, Falls Creek, states that he has 24 years experience in the transportation business. He is totally familiar with the equipment and operations of the applicant. The applicant is a currently certificated bulk commodity carrier.

The terminal and office facilities are located at Falls Creek in Jefferson County. It has a central dispatch system at said facilities. The garage portion of said facility is equipped for fleet repairs and maintenance. All of the equipment is checked on a daily basis or upon completion of a trip. The safety and maintenance program is a comprehensive one.

The applicant owns 33 tractors, 33 dump trailers and 11 tri-axle dump trucks. It also has 10 tractors and 10 dump trailers on long term lease. All of the equipment is suitable for the type of transportation herein proposed and is in excellent condition. Approximately 25 percent of the equipment is currently idle each day.

It specializes in the transportation of bulk commodities and it is familiar with the transportation of coal. Service is currently rendered to the supporting shipper and its parent company under existing authority.

Under the proposed service, the applicant will render service from mines and tipples in the counties of Elk and Jefferson. It will render scheduled pickup and delivery as directed and will also make equipment available in the evening if early morning delivery is required.

The unaudited balance sheet as of December 31, 1982, shows total current assets of \$667,625.14; total assets of \$1,709,457.90; total current liabilities of \$370,651.09; total liabilities of \$1,155,085.91 and stockholders equity of \$554,371.99. The unaudited income statement at the end of the same period shows total income of \$6,677,558.50; total expenses of \$6,674,686.70 and net earnings after taxes of \$2,851.65.

Michael Buechele, sales manager for I.U.E. Coal Sales Company, Punxsutawney, states that he is responsible for purchasing, selling and transporting coal. I.U.E. is a subsidiary of P & N Coal Company and is responsible for marketing and distributing coal produced by P & N Coal Company.

P & N has various types of facilities near Medix Run in Elk County and near Bells Mills and Brockway in Jefferson County. It also acts as a broker and purchases coal from mines at Brockport and Kylers Corners, Elk County, and Westville and Beechwoods, Jefferson County. Shipments will go to Erie County for such companies as Codan Construction, General Electric, Hammermill Paper, Lord Mfg. and Pennsylvania Electric Company. These companies require a total of approximately 35,400 truckloads of coal annually at 22 tons a truckload.

Shipments to Erie County will be given to the applicant if the application is approved. Service is currently rendered by other carriers. Some problems have arisen because of the failure to have sufficient equipment available and the failure to perform scheduled pickup and deliveries at the prearranged times. Business has been lost in the past due to its inability to have a carrier render service when requested.

DISCUSSION AND FINDINGS

The instant application proposes service for the transportation of coal for a specific shipper from points in Elk and Jefferson Counties to points in Erie County. The applicant currently renders service to the supporting shipper within the scope of its intrastate and interstate authorities.

The applicant and its predecessor* have held authority from this Commission since 1968. It is an experienced carrier that specializes in the transportation of bulk commodities as herein proposed.

Although the supporting shipper currently receives service from other certificated carriers, said service has been unsatisfactory because of the failure to supply sufficient equipment to meet its needs and the failure to make prearranged scheduled pickups and deliveries. The applicant, on the other hand, has rendered satisfactory service to I.U.E. in the past and appears ready and willing to fulfill additional transportation requirements proposed herein.

We find that:

1. The applicant has the experience and fitness necessary to render the proposed service.
2. Sufficient evidence has been submitted to establish necessity for the proposed service.
3. Approval of the application is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved and that the certificate issued to the applicant on June 8, 1970, as amended, be further amended to include the following right:

To transport, as a Class D carrier, coal, in bulk, in dump vehicles, for I.U.E. Coal Sales Company, from points in the counties of Elk and Jefferson, to points in the county of Erie.

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.

* Robert J. Cole t/a Robert Cole Trucking was issued a certificate of public convenience on June 11, 1968. The authority held under said certificate was transferred to Robert Cole Trucking Company, the applicant herein, and a certificate issued to said carrier on June 8, 1970.

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

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

BY THE COMMISSION

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: September 30, 1983

ORDER ENTERED: OCT 6 1983

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 7, 1985

Commissioners Present:

James H. Cawley, Acting Chairman
Michael Johnson
Frank Fischl
Bill Shane

Application of Robert Cole Trucking Company, a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, coal in bulk in dump vehicles, from points in the counties of Elk and Jefferson to points in the county of York: SO AS TO PERMIT the transportation of coal, in bulk in dump vehicles, from points in the counties of Elk and Jefferson, to points in the county of Warren.

A-00095824
F. 1
Am-V

Vuono, Lavelle & Gray, by William J. Lavelle for the applicant.
Kriner and Koerber, by Dwight L. Koerber, Jr., for protestant,
Kephart Trucking Co.
Pillar and Mulroy, by Sally A. Davoren for protestants: C.L. Feather, Inc.,
Wayne W. Sell Corp., and Ritchey Trucking, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on February 27, 1984. The application was advertised in the Pennsylvania Bulletin of March 31, 1984.

Four carriers lodged protests. One carrier withdrew upon reconsideration of its interest in the matter and the remaining three withdrew when the applicant restrictively amended the application so that service is now limited for a specifically named shipper, from the facilities of a certain named coal company in Elk and Jefferson Counties, to points in Warren County.

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

DISCUSSION AND FINDINGS

Robert Cole Trucking (Cole or applicant) holds numerous grants of authority from this Commission which includes the right to transport various types of bulk commodities, including coal. By the immediate application as it is amended, Cole seeks additional authority to transport coal for IUE Coal Sales Company (or shipper) from the facilities of P & N Coal Co., in Elk and Jefferson Counties to points in Warren County. None of the present authority conflicts with the authority sought here.

As pertinent to the applicant's fitness, we believe it is well qualified to provide the service adequately. The applicant's Falls Creek terminal in Jefferson County is fully equipped to properly maintain its vehicles and its close proximity to the shipper's facilities in Jefferson and Elk Counties should result in efficient and economical service.

The applicant's operating fleet is certainly sufficient to absorb the additional traffic anticipated from the proposed authority. The fleet consists of 40 tractors, 36 dump trailers, one tank truck and one lowboy trailer, all company-owned with the exception of five tractors and three dump trucks which are leased from other sources. Cole has a safety and maintenance program in effect and it appears to be very safety conscious.

Financially, Cole has a history of operating profitably. As of June 30, 1984, its assets exceeded liabilities by approximately \$800,000. During the first six months of 1984 it operated with an after tax profit of \$243,908.

IUE Coal Sales Company (IUE or shipper) is a subsidiary of P & N Coal Sales Company, Inc., and acts as the exclusive sales arm for the marketing and distribution of the coal produced by P & N, having total control of all transportation functions. P & N Coal has mines, storage and tipple facilities in the vicinity of Medix Run in Elk County, and in the vicinity of Bells Mills in Brockway, Jefferson County. A substantial amount of traffic moves into Warren County, primarily to the Penelec Warren generating station which amounts to approximately 13,000 truckloads annually. IUE, for whom the coal is shipped, has experienced service failures by the existing carriers wherein they have failed to furnish a sufficient amount of equipment during peak periods, and have failed to adhere to scheduled pickups and deliveries.

Considering all matters of record, we do believe that IUE has a genuine need for the service proposed here. The applicant is cautioned however, that the coal as it is shipped from the P & N facilities must move for IUE. Although IUE states that it is the exclusive sales arm for P & N, we do not find it uncommon in the case of buyers and sellers of coal (brokers), such as IUE appears to be, that the coal will occasionally move for others. The applicant should use sound judgment in the selection of the traffic moving under the authority as it is issued hereinafter.

We find:

1. That the supporting shipper is the marketing and sales arm for coal that is produced by P & N Coal Company, Inc.

2. That P & N Coal Company, Inc., is affiliated with the supporting shipper, IUE Coal Sales Company.

3. That IUE Coal Sales Company assumes direction and control of the coal shipments made from the P & N Coal Company facilities in Elk and Jefferson Counties.

4. That the shipper has experienced service failures by the existing carriers.

5. That a public need for the proposed authority as amended does exist.

6. That the applicant is fit, ready, willing and able to render the service as proposed and amended.

7. That approval of the application, as amended, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved as amended, and that the certificate issued to the applicant on June 8, 1970, as amended, be further amended to include the following right:

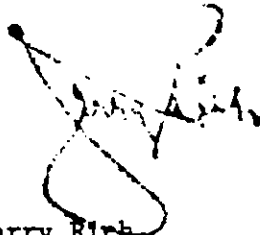
To transport, as a Class D carrier, coal,
in bulk in dump vehicles, for IUE Coal Sales
Company, from the facilities of P & N Coal
Company, Inc., in the counties of Elk and
Jefferson, to points in the county of Warren.

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

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

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

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 7, 1985

ORDER ENTERED:

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 15, 1985

Commissioners Present:

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

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

A-00105846

O R D E R

BY THE COMMISSION:

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

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

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

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

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

with right number 5 above subject to the following conditions:

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

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

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

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

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

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

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

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

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

BY THE COMMISSION,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 15, 1985

ORDER ENTERED: MAR 22 1985

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 6, 1986

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

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

A-00105846
F. 1
Am-A

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

O R D E R

BY THE COMMISSION:

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

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

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

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

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

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

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

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

DISCUSSION AND FINDINGS

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

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

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

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

We find:

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

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

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


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

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

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

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

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 6, 1986

ORDER ENTERED: MAR 13 1986

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 11, 1986

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

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

A-00105846
F. 1
Am-B

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

O R D E R

BY THE COMMISSION:

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

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

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

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

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

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

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

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

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

DISCUSSION AND FINDINGS

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

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

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

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

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

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

We find:

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

IT IS ORDERED: That the application be and is hereby approved as amended and modified, granting the following right:

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

subject to the following conditions:

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

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

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

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

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

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is stylized with a large, sweeping initial "J" and "R".

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: September 11, 1986

ORDER ENTERED: SEP 17 1986

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held June 11, 1987

Commissioners Present:

Bill Shane, Chairman
Linda C. Taliaferro
Frank Fischl

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

A-00105846
F. 1
Am-C

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

O R D E R

BY THE COMMISSION:

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

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

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

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

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

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

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

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

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

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

We find that:

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

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

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

subject to the following conditions:


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

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

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

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

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: June 11, 1987

ORDER ENTERED: JUN 22 1987

ORIGINAL

BLAIR F. GREEN
ATTORNEY AT LAW
125 NORTH MCKEAN STREET
KITTANNING, PA. 16201-1517
TEL. (412) 543-2219
FAX (412) 543-2310

September 13, 1991

RECEIVED
SEP 16 1991
SECRETARY'S OFFICE
Public Utility Commission

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

Re: Application of Toy Trucking Company.
Docket No. A. 99448, F. 1 Am-C

Dear Mr. Rich:

Enclosed for filing is a new Restrictive Amendment in the above captioned case. The hearing in this case is set for September 24, 1991, at 10:00 o'clock a.m., before Judge Larry Gesoff in Pittsburgh, PA.

At this time I am sending this final Restrictive Amendment before hearing to counsel for all protestants, except David A. Radcliff, counsel for R. T. Merryman Trucking, Inc., who withdrew Merryman's protest by letter of the Commission dated July 2, 1991, copied to counsel for applicant.

Very truly yours,

Blair F. Green

Blair F. Green

BFG/sb

CC: Judge Larry Gesoff
John E. Fullerton, Esq.
William J. Lavelle
John A. Pillar
Herbert R. Nurick
Sally A. Davoren
Dwight L. Koerber, Jr.

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of
TOY TRUCKING COMPANY

Docket No. A-00099448, F. 1, Am-C

DOCUMENT
FOLDER

PROPOSED RESTRICTIVE AMENDMENT

AND NOW COMES TOY TRUCKING COMPANY, by its attorney,
Blair F. Green, and restrictively amends the above application to
read as follows:

To transport coal, for B & B Coal Associates,
Inc., Pittsburgh & Shawmut Coal Company,
Amerikohl, Inc., and Amerikohl Mining, Inc.,
from points within 125 statute miles of the
borough of Worthington, Armstrong County, to
points in Pennsylvania;

subject to the following conditions:

PROVIDED THAT no haul shall exceed 125 statute
miles from point of origin to point of
destination; and

FURTHER PROVIDED THAT no right, power or
privilege shall be granted to provide
transportation for Amerikohl, Inc., and
Amerikohl Mining, Inc., to or from the
facilities of United Eastern Coal Sales Corp.,
White Star Coal Co., Inc., Kent Coal Mining
Company, or Purco Coal Company, Inc.; and

FURTHER PROVIDED THAT transportation for B & B
Coal Associates, Inc., shall be limited to
transportation to and from the facilities of
B & B Coal Mining, Inc., B.M.B. Management
Inc., Bill Turner Enterprises, Daybrook Coal
Co., S.D. Bowers, Inc., Atwell Coal Co.,
Eastern Materials Corp., Cherep's Excavating,
Glacial Minerals, Walter L. Houser Coal Co.,
Wm. McIntire Coal Co., M.R.C. Mining, Perry
Brothers Coal Co., Reddinger Coal Co., Rosebud
Mining Co., Triple K Coal Co., Valley Coal
Co., and VanLeer Coal Co; and

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SEP 18 1991

FURTHER PROVIDED THAT transportation for Pittsburgh & Shawmut Coal Company shall be limited to transportation to and from the facilities of Allegheny River Mining Co., Pittsburgh & Shawmut Railroad Co., Shawmut Development, Inc., TDK Coal Sales, Inc., Walter L. Houser Coal Co., SBP Coal Co., D.J.W. Mining, Inc., Hilliard Mining, Inc., D.W.L. Coal Co., Mahoning Mining, Eastern Materials Corp., and Canterbury Coal Co.

Respectfully submitted,

By: Blair F. Green
Blair F. Green
Attorney for
TOY TRUCKING COMPANY,
Applicant

DATED: September 13, 1991

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
September 17, 1991

In Re: A-00099448, F001, Am-E

(See attached list)

Application of Toy Trucking Company

Amendment so as to permit the transportation of (1) property, in bulk, for Toy Trucking Company, between points in Pennsylvania; and (2) property, in bulk, in dump vehicles, from the facilities of A. A. Ryan Topsoil Company, located in the city of New Castle, Lawrence County and within an airline distance of twenty-five (25) statute miles of the limits of said city, to points in Pennsylvania, no haul to exceed a distance of one hundred twenty-five (125) statute miles from point of origin to point of destination.

RLS

NOTICE

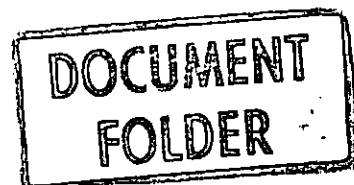
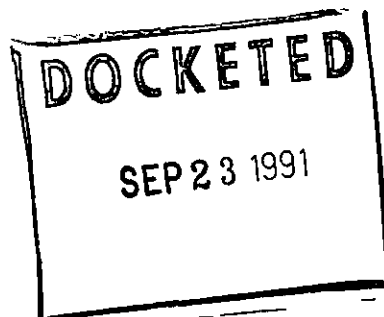
The Public Utility Code directs that hearings shall be commenced in this case by the Administrative Law Judge within 90 days after the proceeding is initiated.

In compliance with this directive, an initial hearing is hereby scheduled for Wednesday, November 6, 1991, at 10:00 a.m., in the 11th Floor Hearing Room, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

The presiding officer in this proceeding is Administrative Law Judge James Porterfield. Judge Porterfield can be contacted at 1103 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222; telephone (412) 565-3550.

If you intend to file exhibits, please be advised that two copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

cc: Judge Porterfield
Mr. Bramson
Ms. Kelly
Mrs. Howell
Docket Room



Blair F. Green, Esquire
Green & Bish
125 North McKean Street
Kittanning, PA 16201-1517

Toy Trucking Company
R.D. #1, Box 103
Worthington, PA 16262

John A. Pillar, Esquire
Pillar & Mulroy
Suite 700
312 Boulevard of The Allies
Pittsburgh, PA 15222

Peter G. Loftus, Esquire
Suite 724
Bank Towers
Scranton, PA 18503

William A. Gray, Esquire
Vuono, Lavelle & Gray
2310 Grant Building
Pittsburgh, PA 15219

KRINER, KOERBER & KIRK, P.
ATTORNEYS-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830

ORIGINAL

TELEPHONE (814) 765-9611

FAX (814) 765-9503

WILLIAM C. KRINER
DWIGHT L. KOERBER, JR.
ALAN F. KIRK

COUNSEL TO THE FIRM
WILLIAM T. DAVIS

September 18, 1991

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

RLS

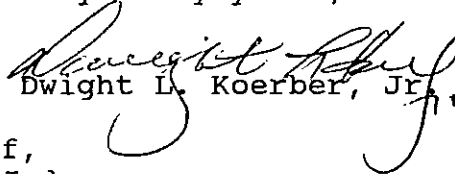
RE: TOY TRUCKING COMPANY
A-99448, F.1, Am-C

Dear Mr. Rich:

I am in receipt of a further Restrictive Amendment filed by the applicant under letter dated September 13, 1991. On behalf of my client, Kephart Trucking Co., I wish to reaffirm that this Restrictive Amendment satisfies our interests. In this regard, I would note that I specified by my letter dated April 17, 1991 that the earlier Restrictive Amendment, as presented at the prehearing conference, satisfied the interests of Kephart Trucking Co.

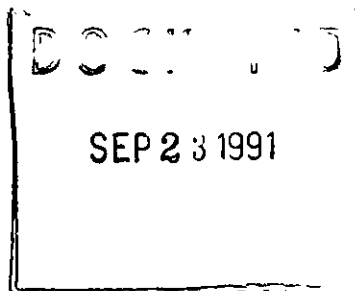
I reaffirm that Kephart Trucking Co. has withdrawn its protest to this case and does not plan to participate in any further hearings.

Very truly yours,


Dwight L. Koerber, Jr.

cc: The Honorable Larry Gesoff,
Administrative Law Judge
Blair F. Green, Esquire
John A. Pillar, Esquire
Kephart Trucking Co.

DLK/jsr



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SEP 19 1991
SECRETARYS OFFICE
Public Utility Commission

INDEXED

ORIGINAL

SALLY A. DAVOREN
ATTORNEY AT LAW
201 PILGRAMS BUILDING
508 ALLEGHENY RIVER BOULEVARD
OAKMONT, PA 15139
(412) 826-1413

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SEP 23 1991

SECRETARYS OFFICE
Public Utility Commission

DOCKETED
SEP 25 1991

September 20, 1991

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

Re: Application of Toy Trucking Company
Docket No. A-00099448, F.1, Am-C
File No. 358

AMEND
ORDER

Dear Mr. Rich:

I represent Coal Transport, Inc., a protestant to the above application. On April 17, 1991, I sent to the Commission a letter withdrawing my client's protest to the application, contingent upon the Commission's acceptance of a Restrictive Amendment to the application dated April 9, 1991. This Restrictive Amendment limited the authority sought to transportation for B & Coal Associates, Inc., Pittsburgh & Shawmut Coal Company, Amerikohl, Inc., and Amerikohl Mining, Inc., and excluded transportation to or from the facilities of United Eastern Coal Sales Corp., White Star Coal Co., Inc., Kent Coal Mining Company, or Purco Coal Company, Inc.

Subsequently, on June 21, 1991, the applicant submitted to the Commission a further Restrictive Amendment, dated June 20, 1991. This Restrictive Amendment would not have satisfied the interest of Coal Transport, Inc., since it broadened the authority sought in the application to include authority to provide transportation for numerous shippers not named in the Restrictive Amendment of April 9, 1991, and added "vice versa" authority, which was not included in the original application, to the authority sought.

I understand that the applicant has now, by a letter dated September 13, 1991, submitted to the Commission a third Restrictive Amendment to the above application, also dated September 13, 1991. This Restrictive Amendment would satisfy the interest of Coal Transport, Inc., since it would limit service to transportation for the four shippers named in the Restrictive Amendment of April 9, 1991, and would exclude transportation to and from the facilities of the four shippers to and from whose

Jerry Rich, Secretary
September 20, 1991
Page 2

facilities transportation was excluded in the April 9, 1991, Restrictive Amendment. I presume that the September 13, 1991, Restrictive Amendment nullifies the prior two Restrictive Amendments to the application.

I am writing this letter to inform the Commission that, contingent upon the Commission's acceptance of either the Restrictive Amendment of September 13, 1991, or that of April 9, 1991, the protest of Coal Transport, Inc., to the application is withdrawn. Normally, I would not write to confirm the withdrawal of my client's protest, but I think that this is necessary in this case, due to the broadening of the application by the Restrictive Amendment of June 20, 1991.

Since the interest of Coal Transport, Inc., is satisfied by the September 13, 1991, Restrictive Amendment, I do not plan to attend the hearing on the case that has been scheduled for September 24, 1991. I am, however, sending a copy of this letter to the Administrative Law Judge assigned to the case, and am requesting that the Commission inform me if any consideration is to be given to the June 20, 1991, Restrictive Amendment or to any other Restrictive Amendment that would broaden the authority sought beyond that sought in the Restrictive Amendment of April 9, 1991. Thank you.

Sincerely,



Sally A. Davoren

SAD/dlt

cc: Hon. Larry Gesoff,
Administrative Law Judge
Blair F. Green, Esq.
Coal Transport, Inc.

JR358CRP.091

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SEP 23 1991
SECRETARYS OFFICE
Public Utility Commission

BR

LAW OFFICES

JOHN E. FULLERTON
407 NORTH FRONT STREET
HARRISBURG, PENNSYLVANIA 17101

SEP 25 1991 AREA CODE 717
236-9318

September 20, 1991

Public Utility Commission

The Secretary
PaPUC
Harrisburg, PA 17120

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SEP 23 1991

RE: A. 99448 Fl,
TOY TRUCKING

DO NOT
AM-C
CO. FOR SEP

Public Utility Commission

Dear Sir:

The undersigned represents the following in protest of the above docketed application.

William C. Confer
R J Glass Inc.
Powers Trucking Co.
Hiram Wible & Son Inc.

DUCKETED
SEP 26 1991

RLS

Applicant has made an amendment, copy attached.

Conditioned upon its acceptance by the Commission and any grant being consistent therewith, I am authorized to withdraw the protest(s).

I desire to remain a party of record.

Yours truly,

John Fullerton
JOHN FULLERTON

F/f
attach

cs: Blair Green, Esq.
App Atty

Client(s)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of
TOY TRUCKING COMPANY

Docket No. A-00099448, F. 1, Am-C

PROPOSED RESTRICTIVE AMENDMENT

AND NOW COMES TOY TRUCKING COMPANY, by its attorney, Blair F. Green, and restrictively amends the above application to read as follows:

To transport coal, for B & B Coal Associates, Inc., Pittsburgh & Shawmut Coal Company, Amerikohl, Inc., and Amerikohl Mining, Inc., from points within 125 statute miles of the borough of Worthington, Armstrong County, to points in Pennsylvania;

subject to the following conditions:

PROVIDED THAT no haul shall exceed 125 statute miles from point of origin to point of destination; and

FURTHER PROVIDED THAT no right, power or privilege shall be granted to provide transportation for Amerikohl, Inc., and Amerikohl Mining, Inc., to or from the facilities of United Eastern Coal Sales Corp., White Star Coal Co., Inc., Kent Coal Mining Company, or Purco Coal Company, Inc.; and

FURTHER PROVIDED THAT transportation for B & B Coal Associates, Inc., shall be limited to transportation to and from the facilities of B & B Coal Mining, Inc., B.M.B. Management Inc., Bill Turner Enterprises, Daybrook Coal Co., S.D. Bowers, Inc., Atwell Coal Co., Eastern Materials Corp., Cherep's Excavating, Glacial Minerals, Walter L. Houser Coal Co., Wm. McIntire Coal Co., M.R.C. Mining, Perry Brothers Coal Co., Reddinger Coal Co., Rosebud Mining Co., Triple K Coal Co., Valley Coal Co., and VanLeer Coal Co; and

FURTHER PROVIDED THAT transportation for Pittsburgh & Shawmut Coal Company shall be limited to transportation to and from the facilities of Allegheny River Mining Co., Pittsburgh & Shawmut Railroad Co., Shawmut Development, Inc., TDK Coal Sales, Inc., Walter L. Houser Coal Co., SBP Coal Co., D.J.W. Mining, Inc., Hilliard Mining, Inc., D.W.L. Coal Co., Mahoning Mining, Eastern Materials Corp., and Canterbury Coal Co.

Respectfully submitted,

By:

Blair F. Green

Blair F. Green
Attorney for
TOY TRUCKING COMPANY,
Applicant

DATED:

September 13, 1991

APPEARANCE SHEET

ALJ HEARING REPORT

DOCKET NO. A-00099448, F001, Am-C
 CASE NAME Toy Trucking Company
 HEARING LOCATION Pittsburgh, PA.
 HEARING DATE Sept. 24, 1991
 ALJ Gesoff

CHECK THOSE BLOCKS WHICH APPLY:

Hearing held YES NO
 Testimony taken YES NO
 Hearing concluded YES NO
 Further hearing needed YES NO
 Estimated add'l days two
 RECORD CLOSED YES NO
 Briefs to be filed YES NO
 BENCH DECISION YES NO

REMARKS: Please ~~schedule~~ schedule
for two ~~consecutive~~ consecutive
days in a row in Pittsburgh

RLS

RECEIVED

SEP 25 1991

Office of A. L. J.
 Public Utility Commission

DOCKETED
 SEP 26 1991

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD
 PLEASE PRINT CLEARLY
 INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS	APPEARING FOR
Blair F. GIEPNAH 175N McKean Street Kittanning Pa 16701 1517 Telephone No. (412) 543-2219	City State Zip	Applicant
WILLIAM J. LAVELLE Telephone No. (412) 471-1800	2310 Grant Bldg. City State Zip Pittsburgh Pa. 15219	Bulk Transportation Services Wayne W. Friedline Marianne Adustria, Inc. Bruce Trent Trucking, Inc. Homer R. Sleek & Sons, Inc. Taylor Services, Inc. William J. Brown Trucking, Inc. C. D. Ambrosini Trucking Co. McClymont Supply & Transit Co., Inc.
Telephone No. ()	City State Zip	

CHECK THIS BOX IF ADDITIONAL PARTIES OR COUNSEL OF RECORD APPEAR ON BACK.

Reporter

HERBERT R. NORICK
By
WILLIAM J. LAVELLE

Address

100 Pine Street

Samuel J. Lazebny
Inc.

City	State	Zip
Harrisburg	Pa.	17108-1166

Telephone No. (717) 232-8280

Address		
City	State	Zip

Telephone No. ()

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