

PENNSYLVANIA PUBLIC UTILITIES COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: June 5, 1986	2. BUREAU AGENDA NO. JUN-86-T-716*
3. BUREAU: Transportation	
4. SECTION(S): Technical Review	5. PUBLIC MEETING DATE: June 26, 1986
6. APPROVED BY: Director: Ernst 7-2154 Supervisor: Bigelow/Marzolf 3-5945	
7. MONITOR:	
8. PERSON IN CHARGE: Hoshour 7-5513	
9. DOCKET NO: A-00106218	

DOCKETED
 JUL 1 1986

- 10. (a) CAPTION (abbreviate if more than 4 lines)**
(b) Short summary of history & facts, documents & briefs
(c) Recommendation

(a) Application of Dutch Gold Honey, Inc., Lancaster, Lancaster County, a corporation of the Commonwealth of Pennsylvania, for the right to begin to transport, as a common carrier, by motor vehicle, (1) honey, glass containers and metal closures and materials, equipment and supplies used or useful in the production of said products, between points in the county of Lancaster, and from points in said county, to points in Pennsylvania, and vice versa; and (2) pet products and flavoring extracts and materials, equipment and supplies used or useful in the production of said products, between points in the county of Lancaster, and from points in said county, to points in the counties of Philadelphia, Chester, Bucks, Carbon, Schuylkill, Adams, Jefferson, Clarion and Fulton, and vice versa.

(b) The application is unopposed and the applicant and four supporting shippers have entered verified statements in this proceeding. The applicant indicates that the purpose of the application is to eliminate empty miles caused by a lack of backhauls in its private fleet operations. After review of the record we determine that a grant of contract carrier authority providing for transportation for the 4 supporting shippers is the appropriate grant of authority. Approval of the application as modified, will be consistent with the policy declared in 66 Pa. C.S.A. §2501(a).

11. MOTION BY: Commissioner Fischl - Commissioner Chm. Taliaferro - Yes
 Commissioner
SECONDED: Commissioner Shane - Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

DOCUMENT

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order, as modified, granting the applicant contract carrier authority.



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

July 8, 1986

IN REPLY PLEASE
REFER TO OUR FILE
A-00106218

J. Bruce Walter, Esquire
410 North Third Street
P.O. Box 1166
Harrisburg, PA 17108

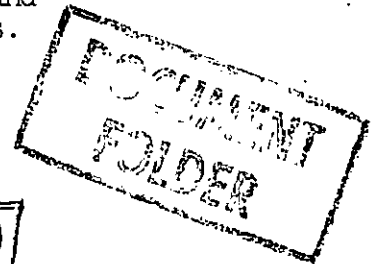
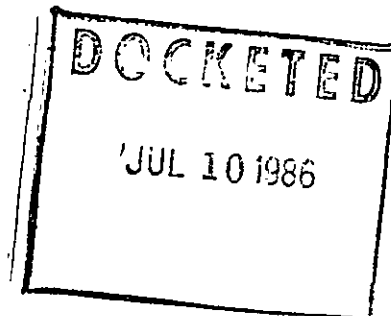
Application of Dutch Gold Honey, Inc., a corporation of the
Commonwealth of Pennsylvania

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

A Contract Carrier Permit evidencing the Commission's approval
of the right to operate will not be issued until the applicant has
complied with the following insurance and tariff requirements:

1. Arrange through an insurance agent to have an
insurance company file the following forms with
the Commission:
 - a. A Form E as evidence of minimum public
liability and property damage insurance
coverage as shown on the back of this
page.
 - b. A Form UCPC-31 as evidence of cargo insurance
coverage in an amount not less than that
provided by contract with each shipper.
Exemption from the cargo insurance requirement
may be secured by having the shipper(s) file the
enclosed UCPC-34.

- II. Prepare and file a schedule of minimum rates and
charges according to the enclosed instructions.



Public Liability and Property Damage Insurance
 Minimum Limits for Pa. Public Utility Commission Authority

Common Carriers and Contract Carriers

		Limit for Bodily Injuries to or Death Of One Person	Limit for Bodily Injuries to or Death of All Persons in Any One Accident	Limit for Loss or Damage in Any One Accident to Property of Others, Excluding Cargo
Passenger Carriers (seating capacity)	7 or less	\$25,000	\$100,000	\$10,000
	8 to 12	25,000	150,000	10,000
	13 to 20	25,000	200,000	10,000
	21 to 30	25,000	250,000	10,000
	31 or more	25,000	300,000	10,000
Property Carrier		25,000	100,000	10,000

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

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No motor carrier shall operate or engage in any transportation until all of the above requirements have been complied with and a contract carrier permit issued authorizing actual operations. Motor carriers operating without complying with the above requirements will be subject to the penalty provisions of the Public Utility Law.

Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of June 26, 1986 and dismiss the application without further proceedings.

If you foresee any problems with any of the requirements please direct your questions to the following contact persons:

Insurance Filings: Mr. James McCarthy-Insurance Section (717)787-1227

Tariff Filings:

Tariff Section (717)787-5521

Enclosures
Certified Mail
Receipt Requested
cc: Applicant
2220 Dutch Gold Drive
Lancaster, PA 16061

Very truly yours,



Jerry Rich, Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

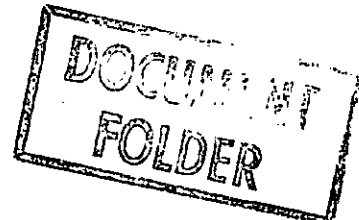
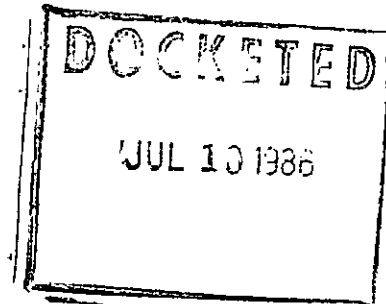
Public Meeting held June 26, 1986

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Application of Dutch Gold Honey, Inc.,
a corporation of the Commonwealth of
Pennsylvania, for the right to begin
to transport, as a common carrier, by
motor vehicle, (1) honey, glass
containers and metal closures and
materials, equipment and supplies
used or useful in the production of
said products, between points in
the county of Lancaster, and from
points in said county, to points in
Pennsylvania, and vice versa; and
(2) pet products and flavoring
extracts and materials, equipment
and supplies used or useful in the
production of said products, between
points in the county of Lancaster,
and from points in said county, to
points in the counties of Phila-
delphia, Chester, Bucks, Carbon,
Schuylkill, Adams, Jefferson,
Clarion and Fulton, and vice versa.

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Rhoads & Sinon by J. Bruce Walter for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed May 7, 1985. Public notice of the application was given in the Pennsylvania Bulletin of June 22, 1985. No protests were filed.

The application is 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 four supporting shippers.

DISCUSSION AND FINDINGS

Dutch Gold Honey, Inc. (applicant), seeks by the instant application, an initial grant of common carrier authority which would authorize it to transport as a common carrier, honey, glass containers and metal closures and materials and equipment and supplies used or useful in the production of said products, between points in the county of Lancaster, and from points in said county, to points in Pennsylvania, and vice versa. The applicant seeks a second right which would authorize the transportation of pet products and flavoring extracts and materials, equipment and supplies used or useful in the production of said products, between points in the county of Lancaster, and from points in said county, to points in the counties of Philadelphia, Chester, Bucks, Carbon, Schuylkill, Adams, Jefferson, Clarion and Fulton, and vice versa. Although the applicant holds no Pennsylvania intrastate authority, it is authorized to engage in interstate transportation of general commodities.

The primary operation of the applicant is the production and distribution of honey. This operation is conducted from facilities at 2220 Dutch Gold Drive, Lancaster, Lancaster County. Shipments originate in Lancaster and are destined for points throughout the Commonwealth. Currently the applicant is transporting its own production via its private carriage fleet. The instant application results from the applicant's desire to eliminate empty miles which results from the lack of backhauls for its private carriage equipment. The applicant will combine intrastate and interstate traffic to enable it to provide shippers with efficient and flexible distribution system.

The applicant's motor carrier operations will be provided from the aforementioned address. The applicant is projecting that it will not require any additional equipment to render the proposed common carrier service.

Supporting the applicant for the transportation of glass containers and metal closures and materials, equipment and supplies used or useful in the production of said products, are Gamber Glass Container Company and Kitchen Kettle Foods, Inc. Both businesses will tender the applicant shipments moving from Lancaster County to points in Pennsylvania, and vice versa. Both shippers believe the applicant to be highly qualified to handle their Pennsylvania traffic.

A statement of support has been entered by Nolt's Ponds, Inc. From its facility in Lancaster County, the shipper will tender the applicant such items as pet cushions, pet beds and cages. The applicant is currently handling interstate shipments for this shipper, and the proposed intrastate service should result in a ten per cent increase in traffic for the applicant.

The statement on behalf of Shank's Extracts, Inc., indicates that if the proposed authority is granted, the applicant will be tendered shipments of extracts in glass bottles for transportation from Lancaster

County to various points in Philadelphia, Chester, Bucks, Carbon, Schuylkill, Adams, Jefferson, Clarion and Fulton Counties, and vice versa. The shipper anticipates receiving reliable and efficient service from the applicant, since the applicant will be delivering its own honey to approximately 95 per cent of this shipper's existing customers.

It is evident from the record that the applicant is engaged in a business that is not associated with the transportation industry. The applicant is seeking the proposed authority as a means of reducing its own private carriage transportation costs, by providing transportation for compensation for shippers located in Lancaster County. The applicant is quite clear about the purpose of the application, by its statement that "The purpose of the application is to eliminate empty miles caused by lack of backhauls in the private fleet operations".

After review of the record, it is our determination that a grant of contract carrier authority to serve Gamber Glass Container Company, Kettle Foods, Inc., Shank's Extracts, Inc. and Nolt's Ponds, Inc. is the appropriate authority. A grant of contract carrier authority will permit the applicant to continue its private carriage operations without running afoul of the decision in Makovsky Bros., Inc. v. Pennsylvania Public Utility Commission, 55 Pa. Cmmwlth. Ct. 435, 423 A2d. 1089 (1980), which enjoins a common carrier from utilizing the same vehicles in both its common carriage operations and its private carriage operations.

Since the only support for the transportation of honey and related commodities was provided by the applicant, who will be able to continue to provide transportation via private carriage for these commodities after receiving the appropriate contract carrier authority, we will dismiss this portion of the application as not being in our jurisdiction.

We find:

1. That the appropriate authority in the instant proceeding is a grant of contract carrier authority to serve Gamber Glass Container Company, Kettle Foods, Inc., Shank's Extracts, Inc. and Nolt's Ponds, Inc.

2. That the transportation of honey is to be performed in private carriage which is not in the Commission's jurisdiction.

3. That a grant of contract carrier authority will be consistent with the policy declared in 66 Pa. Code §2501(a).

4. That approval of the application, as modified, will not interfere with the service, safety and regulation of common carriers; THEREFORE,

IT IS ORDERED: That the application, as modified, be and is hereby approved, granting the applicant the following contract carrier rights:

To transport, as a contract carrier, glass containers and metal closures and materials, equipment and supplies used or useful in the production of said products, for Gamber Glass Container Company and Kitchen Kettle Foods, Inc., between points in the county of Lancaster, and from points in said county, to points in Pennsylvania, and vice versa.

To transport, as a contract carrier, pet products and materials, equipment and supplies used or useful in the production of said products, for Nolt's Ponds, Inc., between points in the county of Lancaster, and from points in said county, to points in the counties of Philadelphia, Chester, Bucks, Carbon, Schuylkill, Adams, Jefferson, Clarion and Fulton, and vice versa.

To transport, as a contract carrier, flavoring extracts, and materials, equipment and supplies used or useful in the production of said products, for Shank's Extracts, Inc., between points in the county of Lancaster, and from points in said county, to points in the counties of Philadelphia, Chester, Bucks, Carbon, Schuylkill, Adams, Jefferson, Clarion and Fulton, and vice versa.

IT IS FURTHER ORDERED: That the application in all other respects be and is hereby denied for not being in the public interest.

IT IS FURTHER ORDERED: That the issuance of the permit is subject to the applicant filing four (4) acceptable contracts in accordance with 52 Pa. Code §31.45 with this Commission for our review and acceptance.

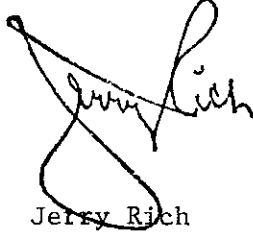
IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a schedule of minimum rates and charges.

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 upon compliance with the requirements of the Public Utility Code relating to insurance and the filing and acceptance of a schedule of minimum rates and charges and four (4) contracts, a permit issue evidencing this Commission's approval of the right to operate as above determined.

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: June 26, 1986

ORDER ENTERED: JUL 8 1986