

PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	:	2. <u>BUREAU AGENDA NO.:</u>
January 8, 1988	:	JAN-88-T-127*
3. <u>BUREAU:</u>	:	
Transportation	:	
4. <u>SECTION</u>	:	5. <u>PUBLIC MEETING DATE:</u>
Technical Review	:	January 29, 1988
6. <u>APPROVED BY:</u>	:	
Director: Ernst 7-2154	:	
Supervisor: Bigelow/Marzolf 3-5945	:	
7. <u>MONITOR:</u>	:	
	:	
8. <u>PERSON IN CHARGE:</u>	:	
Keener-Farley 7-4386	:	
9. <u>DOCKET NO.:</u>	:	A-105900
A-00099073, F. 2, Am-E	:	
10. (a) CAPTION (abbreviate if more than 4 lines)		
(b) Short summary of history & facts, documents & briefs		
(c) Recommendation		

(a) Application of South Hills Movers, Inc., Bethel Park, Allegheny County, a corporation of the Commonwealth of Pennsylvania, for the approval of the transfer to the applicant of part of the rights held by Phoenix Transport, Inc., a corporation of the Commonwealth of Pennsylvania, at A-00105900, subject to the same limitations and conditions.

(b) Transferor proposes to transfer part of its P.U.C. common carrier for a total consideration of \$10,000; no tangible assets are involved in the sale.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the transfer application and that the certificate issued to the transferor be modified by supplemental order.

DOCUMENT
FOLDER

DOCKETED
FEB. 12 1988

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

CONTENT OF MOTION: Staff recommendation adopted.

A-105-900

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held January 29, 1988

Commissioners Present:

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

DOCKETED

FEB 10 1988

Application of South Hills Movers, Inc., a corporation of the Commonwealth of Pennsylvania, for the approval of the transfer to the applicant of part of the rights held by Phoenix Transport, Inc., a corporation of the Commonwealth of Pennsylvania, at A-00105900, subject to the same limitations and conditions.

A-00099073
F. 2
Am-E

**DOCUMENT
FOLDER**

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

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed September 30, 1987. Public notice of the application was given in the Pennsylvania Bulletin of October 24, 1987. No protests were filed and the application is now certified to the Commission for its decision without oral hearing.

South Hills Movers, Inc. (South Hills or applicant), is a Pennsylvania corporation, with its principal place of business in Bethel Park, Allegheny County. The applicant's fleet consists of twenty-six tractors, thirty-eight trailers, eighteen straight trucks, and four packing vans. A comprehensive safety program for drivers and vehicles is currently in operation. South Hills was initially certificated as a household goods mover in 1977 and currently serves the counties of Allegheny, Fayette, Greene and Washington.

As evidence of its financial capacity to perform the additional service, the applicant reports assets of \$2,813,334, with liabilities of \$1,122,818, leaving shareholders' equity of \$1,690,516. Gross intrastate operating revenue was \$930,893 in 1986.

Phoenix Transport, Inc. (Phoenix or transferor) currently holds thirteen paragraphs of rights, under an order adopted March 15, 1985, which lists twelve rights, and a corrected order adopted April 12, 1985, which added the thirteenth right. By this transfer South Hills will receive all of rights number 3, 10, and 11; it will also receive all of the household goods and office furnishings, in use, authority contained in rights number 1, 2, 7, and 8. To avoid duplication, all of Phoenix's ten remaining rights will be restricted so as to prohibit the right to transport household goods and office furnishings, in use. The transferor also included "baggage" in the restriction but this was unnecessary because "baggage" was mentioned only in right number 3 and that right has been eliminated, thus further restriction is not required.

The total purchase price for the rights is ten thousand dollars (\$10,000); no tangible assets are involved in the sale. Pursuant to a sales agreement executed September 8, 1987, the total purchase price will be paid at closing, following the approval of this transfer.

The transferor will remain in business and continue to operate under its remaining authority and will be responsible for all of its business debts and liabilities. It reported gross intrastate operating revenue of \$54,828 in 1985 and \$42,827 in 1986. Phoenix is currently in good standing with the Commission, having filed all required information and reports.

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

The authority to be transferred has been recently 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 Pa. Super. Ct. 94 (1947). Since the record is void of any such evidence, the presumption of continuing public need applies to this transfer application.

We find:

1. That the applicant has the technical and financial ability to provide the service involved herein.
2. That a continuing need exists for the transportation involved herein.
3. That approval of the application is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application for the transfer of part of the rights held by Phoenix Transport, Inc., at A-00105900, be and is hereby approved and that the certificate issued to the applicant on February 18, 1977, as amended, be further amended to include the following rights:

1. To transport, as a Class B carrier, household goods and office furnishings, in use, between points in the city of New Castle and the townships of Taylor, Shenango, Hickory, Neshannock, Union and North Beaver, Lawrence County.
2. To transport, as a Class C carrier, household goods and office furnishings, in use, from points in the city of New Castle and the townships of Taylor, Shenango, Hickory, Neshannock, Union and North Beaver, Lawrence County to points in the counties of Mercer, Lawrence and Beaver and the western part of the county of Butler, extending as far east as the city of Butler but excluding said city.
3. To transport, as a Class D carrier, household goods, in use, and baggage between points in the county of Lawrence and from points in said county to points in Pennsylvania, and vice versa.
4. To transport, as a Class B carrier, household goods and office furnishings, in use, between points in the borough of Ellwood City, Lawrence County.
5. To transport, as a Class C carrier, household goods and office furnishings, in use, from the borough of Ellwood City, Lawrence County, to points within fifteen (15) miles by the usually traveled highways of the limits of the said borough, and vice versa.
6. To transport, as a Class D carrier, household goods in use between points in the borough of Ellwood City, Lawrence County, and within ten (10) miles by the usually traveled highways of the limits of the said borough.
7. To transport, as a Class D carrier, household goods, in use, from points in the borough of Ellwood City, Lawrence County, and within ten (10) miles by the usually traveled highways of the limits of the said borough to other points in Pennsylvania, and vice versa;

with rights 4 to 7, inclusive, subject to the following restrictive condition:

That no right, power or privilege is granted to furnish transportation which originates in the townships of Shenango, Taylor, and North Beaver, Lawrence County.

with all of the rights above subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$10,000, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.
4. That the certificate holder shall comply with all of the provisions of the Public Utility Code as now existing or as may hereafter be amended, and 52 Pa. Code §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.
5. 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(3).

IT IS FURTHER ORDERED: That upon the adoption of this order, the application for temporary authority is hereby dismissed.

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 adoption supplement in accordance with 52 Pa. Code §23.13(c).

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 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, Phoenix Transport, Inc., at A-00105900, be modified and its tariff amended as provided for in the attached Supplemental Order.

BY THE COMMISSION,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 29, 1988

ORDER ENTERED: FEB 05 1988