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JAN 21 1985

SECRETARY'S OFFICE
Public Utility Commission

PILLAR AND MULROY

ATTORNEYS-AT-LAW
1500 BANK TOWER
307 FOURTH AVENUE
PITTSBURGH, PA. 15222
TELEPHONE (412) 471-3300

JOHN A. PILLAR
THOMAS M. MULROY
SALLY A. DAVOREN
KEVIN W. WALSH

January 17, 1985

FILE

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

RE: Application of Pitt-Ohio Express, Inc.
Docket No. A-00102471, F.1, Am-E

Dear Mr. Rich:

Please find enclosed a protest filed on behalf of Newcomer Trucking, Inc. to the above captioned transfer application.

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

Respectfully submitted,

PILLAR AND MULROY, P.C.

By: Kevin W. Walsh
KEVIN W. WALSH

njm
Enclosure
cc: Pitt-Ohio Express, Inc. (w/encl.)
John A. Vuono, Esq. (w/encl.)

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JAN 21 1985

Newcomer Trucking, Inc.
Public Utility Commission

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE
Public Utility Commission

In Re: APPLICATION OF)
)
Pitt-Ohio Express, Inc.) Docket No. A-00102471, F.1, Am-E
)
)

FILE

PROTEST

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

1. The name, address and telephone number of protestant(s) are set forth in Appendix A attached hereto.
2. The name, address and telephone number of protestant(s)' attorney:

PILLAR AND MULROY, P.C.
1500 Bank Tower
307 Fourth Avenue
Pittsburgh, PA 15222
(412) 471-3300

3. Protestant(s) hold(s) authority in conflict with this application as summarized in Appendix A attached hereto. A true copy of the pertinent portions of authority held by protestant(s) is attached hereto as Appendix B.

**DOCUMENT
FOLDER**

DOCKETED
APPLICATION DOCKET
JAN 22 1985
ENTRY No. *NC*

4. The transferor, Breman's Express Company, has abandoned all or a portion of the authority sought to be transferred in this proceeding. Thus, said operating authority is dormant, and there exists no continuing necessity for the service sought to be provided under the operating authority sought to be transferred in this proceeding.

5. The operating authority granted at Docket No. A-80581 is not amenable to a division of said authority, and the proposed transfer of a portion of said authority creates a duplication of motor carrier service without proof of public necessity.

6. Protestant(s) is/are presently providing service in the application area and/or is/are willing and able to provide such service. To the extent of protestant(s) authority, there is no need for additional service. Diversion of traffic and loss of revenues in connection with the transportation proposed by applicant will be seriously detrimental to protestant(s).

7. If a restrictive amendment will satisfy the interest(s) of protestant(s), a proposed amendment is attached hereto as Appendix C.

Respectfully submitted,

By: Kevin Walsh
KEVIN W. WALSH,
Attorney for Protestant(s)

Due Date: February 24, 1985

RE: Application of Pitt-Ohio Express, Inc.

Docket No. A-00102471, F.1, Am-E

APPENDIX A

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

Newcomer Trucking, Inc.
1232 Newcomer Street
Pittsburgh, PA 15204

Newcomer Trucking, Inc. has authority, at Docket No. A-00102265, to transport property from points in Allegheny County to points in Armstrong, Clarion, Forest, Jefferson, Greene and Butler Counties, and vice versa, with certain exclusions. At F.1, Am-F of its certificate, Newcomer is authorized to transport property between points in the City of Pittsburgh, Allegheny County, and within ten miles of the limits of said city, and, as a Class C carrier, from points in said territory to points within thirty miles of the limits of Pittsburgh. Protestant Newcomer also has authority to transport property from the City of Pittsburgh, Allegheny County, to points on various routes in McKean and Elk Counties, and vice versa. Newcomer has authority, at Docket No. A-00102265, F.1, Am-G, to transport property, excluding household goods in use, commodities in bulk, and property, which because of size or weight, requires the use of special equipment, between points in Butler County,

and from points in said county to points in Armstrong, Beaver, Clarion, Greene, Fayette, Forest, Jefferson, Venango, Washington and Westmoreland Counties, and vice versa. In addition, other authority of protestant Newcomer may be in conflict with that sought by this application as more fully set forth on Appendix B hereto.

NEWCOMER TRUCKING, INC.

Docket No. A-00102265

1. To transport, as a Class D carrier, property, from the city of Pittsburgh, Allegheny County, to points on the following route and vice versa, excluding service to or from points on the route between Pittsburgh and the borough of New Bethlehem, Clarion County, and also excluding service to or from the borough of Shippenville, Clarion County:

Beginning in the city of Pittsburgh, thence crossing the Allegheny River and via Highway Route 28 to Kittanning, thence via Highway Route 66 to New Bethlehem, and Clarion, thence via Highway Route 66 to Fryburg, Clarion County, thence via Highway Route 36 to Leeper, Clarion County, thence via Highway Route 68 to Marienville, Forest County, thence returning via Highway Route 68 to Leeper and continuing on Highway Route 68, via Lucinda to its junction with Highway Routes 66 and 322; thence via Highway Routes 66, 68 and 322; to Clarion, thence via Highway Route 68 through Rimersburg and East Brady, to its intersection with Highway Route 268, thence via Highway Route 268 through Cowansville, to its intersection with Highway Route 28, thence to Kittanning via Highway Route 28, and thence returning to the city of Pittsburgh from Kittanning via Highway Route 28.

with right No. 1 above subject to the following conditions:

a. That no right, power or privilege is granted to transport household goods in use, from points in the Borough of New Bethlehem, Clarion County, and within ten (10) miles by the usually traveled highways of the limits of the said borough to points in Pennsylvania, and vice versa.

b. That no right, power or privilege is granted to transport clay products from points in the borough of New Bethlehem, Clarion County, and within ten (10) miles of the limits of the said borough, to points in Pennsylvania.

c. That no right, power or privilege is granted to transport catalogs for Montgomery Ward & Company between points in the borough of New Bethlehem, Clarion County, and from points in the borough of New Bethlehem, Clarion County, to post offices and stores of the said company within fifty (50) miles by the usually traveled highways of the limits of the said borough.

d. That no right, power or privilege is granted to transport peanut butter and peanut products in truckload lots for the H. B. DeViney Company, Inc., from its plant in the borough of New Bethlehem, Clarion County, to points in Pennsylvania.

2. To transport, as a Class D carrier, property over the alternate route between Pittsburgh and the intersection of Highway Routes 268 and 68, near Millerstown, Butler County, via Highway Routes 8 and 68; the purpose of this right being intended to describe merely an alternate route, but the carrier shall not be authorized to pick up or deliver property at any point thereon.

3. To transport, as a Class D carrier, property, from the city of Pittsburgh, Allegheny County, to points on the following extension, and vice versa:

Beginning in the village of Marienville, Forest County, thence via Highway Route 68 to the borough of Kane, McKean County, thence via Highway Route 219 to the village of Wilcox, Elk County.

4. To transport, as a Class D carrier, property, from points in the county of Allegheny to points on the following route and extension thereof, and vice versa, excluding service from points in the county of Allegheny to points on the route between Pittsburgh and the borough of New Bethlehem, Clarion County, and vice versa, and also excluding service to or from the borough of Shippenville, Clarion County:

Beginning in the city of Pittsburgh, thence crossing the Allegheny River and via Highway Route 28 to Kittanning, thence via Highway Route 66 to New Bethlehem and Clarion, thence via Highway Route 66 to Fryburg, Clarion County, thence via Highway Route 36 to Leeper, Clarion County, thence via Highway Route 68 to Marienville, Forest County, thence returning via Highway Route 68 to Leeper and continuing on Highway Route 68, via Lucinda, to its junction with Highway Routes 66 and 322, thence via Highway Routes 66, 68 and 322 to Clarion, thence via Highway Route 68 through Rimersburg and East Brady to its intersection with Highway Route 268, thence via Highway Route 268 through Cowansville to its intersection with Highway Route 28, thence to Kittanning via Highway Route 28, and thence returning to the city of Pittsburgh from Kittanning via Highway Route 28.

Extension beginning in the village of Marienville, Forest County, thence via Highway Route 68 to the borough of Kane, McKean County, thence via Old Highway Route 219 to the village of Wilcox, Elk County;

with right No. 4 above subject to the following conditions:

a. That no right, power or privilege is granted to transport household goods in use, from points in the borough of New Bethlehem, Clarion County, and within ten (10) miles by the usually traveled highways of the limits of the said borough to points in Pennsylvania, and vice versa.

b. That no right, power or privilege is granted to transport clay products from points in the borough of New Bethlehem, Clarion County, and within ten (10) miles of the limits of the said borough, to points in Pennsylvania.

c. That no right, power or privilege is granted to transport catalogs for Montgomery Ward & Company between points in the borough of New Bethlehem, Clarion County, and from points in the borough of New Bethlehem, Clarion County, to post offices and stores of the said company within fifty (50) miles by the usually traveled highways of the limits of the said borough.

d. That no right, power or privilege is granted to transport peanut butter and peanut products in truckload lots for the H. B. DeViney Company, Inc., from its plant in the borough of New Bethlehem, Clarion County, to points in Pennsylvania.

e. That no right, power or privilege is granted to transport property from, to or between the stores and warehouses of the G. C. Murphy Company;

with rights Nos. 1, 2, 3 and 4 above subject to the following conditions:

A. That no right, power or privilege is granted to transport commodities in bulk in tank vehicles;

B. That no right, power or privilege is granted to transport property requiring the use of drop-frame trailers, winch trucks or tractors and/or pole trailers.

Docket No. A-00102265 (Cont'd.)

5. To interchange property, as authorized by the certificate, in the city of Pittsburgh, Allegheny County, with Class A carriers, Class B carriers, and Class D carriers operating over regular routes, subject to the provisions of Pa. Code Title 52, Chapter 31.

Docket No. A-00102265, F.1, Am-A

To transport, as a Class D carrier, property, except household goods and commodities in bulk, from points in the county of Allegheny, to points in the county of Greene and vice versa; with the right to interchange property with Class A, B and D carriers so authorized at points in the county of Allegheny;

subject to the following conditions:

(a) That no right, power or privilege is granted to transport motion picture films and accessories, newspapers, magazines, frozen and perishable foods in insulated vehicles equipped with mechanical refrigeration, frozen and perishable foods requiring refrigeration, in temperature controlled vehicles and non-food commodities required by the shipper, in writing, to have protective service in temperature controlled vans.

(b) That no right, power or privilege is granted to transport cement, in bags, originating in terminals in the county of Allegheny.

(c) That no right, power or privilege is granted to transport commodities which, because of their size or weight require special handling or the use of special equipment.

(d) That no right, power or privilege is granted to provide service to or from the facilities of Glenshaw Glass Company in the county of Allegheny.

(e) That no right, power or privilege is granted to provide service to or from the facilities of Datafold Forms, Inc., in the township of Franklin, Greene County.

Docket No. A-00102265, F.1, Am-C

To transport, as a Class D carrier, property (excluding household goods in use, property in bulk and property which, because of size or weight, requires the use of special equipment), from points in the County of Allegheny to points in the Counties of Armstrong, Clarion, Forest and Jefferson, and vice versa;

Provided that no right, power or privilege is granted to transport:

(1) Property to or from the facilities of Amax, Inc. and Climax Molybdenum Corp.

(2) Shipments of iron and steel and iron and steel articles, which weigh in excess of 10,000 pounds from one consignor to one consignee, from points in Allegheny County to the Boroughs of Aliquippa and Ambridge, Beaver County, and vice versa.

Docket No. A-00102265, F.1, Am-D

1. To transport, as a Class A carrier, property between the cities of Butler, Butler County, and Pittsburgh, Allegheny County, via Saxonburg, Culmerville, Curtisville and Russellton, over the following route:

Beginning in the city of Pittsburgh, Allegheny County, thence via Highway Route 8 to Saxonburg Boulevard, thence via Saxonburg Boulevard to Saxonburg, Butler County, thence via an unnumbered highway route to the city of Butler, Butler County; with the right to use Highway Route 8 as an operating route only between the city of Pittsburgh, Allegheny County, and the city of Butler, Butler County, excluding the right to render service between points on said route except as authorized herein.

2. To transport, as a Class D carrier, property from points in the county of Allegheny to points on the following route, and vice versa:

Beginning in the city of Pittsburgh, Allegheny County, thence via Highway Route 8 to Saxonburg Boulevard, thence via Saxonburg Boulevard to Saxonburg, Butler County, thence via an unnumbered highway route to the city of Butler, Butler County; with the right to use Highway Route 8 as an operating route only between the city of Pittsburgh, Allegheny County, and the city of Butler, Butler County, excluding the right to render service between points on Highway Route 8, except as otherwise authorized;

with right No. 2 immediately above subject to the following conditions:

(a) That no right, power or privilege is granted to render service to or from the city of Pittsburgh, Allegheny County, except as hereinabove authorized.

(b) That no right, power or privilege is granted to transport property requiring the use of carryalls, winch trucks, winch tractors or pole trailers.

3. To transport, as a Class D carrier, property from points in the borough of East Butler, Butler County, to points in the city of Pittsburgh, Allegheny County, and vice versa, excluding the right to serve intermediate points.

4. To interchange property with connecting Class A carriers in the city of Pittsburgh, Allegheny County, and to participate in through routes and joint rates with said connecting carriers and to interchange equipment in emergencies.

5. To transport, as a Class A carrier, property between Pittsburgh and Westwood, Allegheny County, via Crafton and Thornburg.

6. To transport, as a Class B carrier, property between points in the city of Butler, Butler County, and within three (3) miles of the limits of the said city.

7. To transport, as a Class C carrier, property for Colbert and Matlick, Nicks Radiator & Body Shop, Standard Motor Company, John Kemper, Franklin Glass Corporation, Hoffman Auto Parts Company, Butler Hardware Company, American Mirror Works, Standard Oil Company, Watson Standard Paint and Glass Company, and L. & L. Auto Parts Company and Valvoline Oil Company from points in the city of Butler, Butler County, and within three (3) miles of the limits of the said city to points within thirty (30) miles by the usually traveled highways of the limits of the city of Butler and to points in the county of Allegheny;

with rights Nos. 6 and 7 immediately above subject to the following condition:

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

8. To transport, as a Class D carrier, office records and similar property to be stored in the underground warehouse of National Underground Storage, Inc., from points in the county of Allegheny and the city of Butler, Butler County and within an airline distance of three (3) statute miles of the limits of the said city, to the said warehouse located in the townships of Marion and Cherry, Butler County, and vice versa.

Docket No. A-00102265, F.1, Am-E

To transport, as a Class D carrier, property, from points in the county of Allegheny, to points in the county of Butler, and vice versa.

subject to the following conditions:

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

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

That no right, power or privilege is granted to transport property which, because of size or weight, requires the use of special equipment.

Docket No. A-00102265, F. 1, Am-F

1. To transport, as a Class D carrier, property between points in the city of Pittsburgh, Allegheny County, and within ten miles, by the usually traveled highways, of the limits of said city.
2. To transport, as a Class C carrier, property from points in the city of Pittsburgh, Allegheny County, and within ten (10) miles, by the usually traveled highways, of the limits of said city, to points within thirty miles, by the usually traveled highways, of the limits of said city.
3. To transport, as a Class D carrier, property for O. Hommel Company, Inc., from the city of Pittsburgh and within ten miles, by the usually traveled highways of the limits of said city to points within thirty-five miles, by the usually traveled highways, of the limits of said city;

Docket No. A-00102265, F. 1, Am-F

with rights no. 1, 2 and 3 above subject to the following condition:

That no right, power or privilege is granted to operate dump trucks or to transport property requiring the use of winches or other special equipment.

4. To transport, as a Class D carrier, property for the Aylite Manufacturing Company from its plant in the borough of Carnegie, Allegheny County, to points within one-hundred (100) miles of the limits of the said borough.

Docket No. A-00102265, F.1, Am-G

To transport, as a Class D carrier, property, between points in Butler County, and from points in said county, to points in the counties of Armstrong, Beaver, Clarion, Greene, Fayette, Forest, Jefferson, Venango, Washington and Westmoreland.

To transport, as a Class D carrier, property, from the facilities of Kreiser Distributing Co., located in the township of North Huntingdon, Westmoreland County, to points in the county of Butler.

with both of the above rights subject to the following conditions:

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

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

That no right, power or privilege is granted to transport property which, because of size or weight, requires the use of special equipment.

RE: Application of Pitt-Ohio Express,
Inc.

Docket No. A-00102471, F.1, Am-E

APPENDIX C

Proposed Restrictive Amendment

Protestant knows of no restrictive amendment which would satisfy its interest in this application proceeding at this time.

PENNSYLVANIA PUBLIC UTILITY COMMISSION



RECEIPT

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

Pitt-Ohio Express, Inc.
27th & A.V.R.R.
Pittsburgh, PA 15222

DOCKETED
DOCKET
JAN 28 1985

Date January 24, 1985

CR 112693A

DOCUMENT
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In re application of Pitt-Ohio Express, Inc.
A-00102471, F.I, Am-E.....\$125.00

Revenue account 01780-17001-102 (ck)
ck 2774 Checks \$125.00 Currency _____
Utility account 50:26

C. Joseph Meisinger
For Department of Revenue

PENNSYLVANIA PUBLIC UTILITY COMMISSION



RECEIPT

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

Pitt-Ohio ~~EXPRESS~~ Inc.
27th & A.V.R.R.
Pittsburgh, PA 15222

Date January 24, 1985

CR 112702A

DOCKETED
JAN 30 1985

In re application of Pitt-Ohio Express, Inc.
A-00102471, F.I., Am-E.....\$75.00

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Revenue account 01780-17001-102 (ck)

ck: 3107 Checks \$75.00 Currency

C. Joseph Melsinger
For Department of Revenue

Utility account 50.26

PENNSYLVANIA PUBLIC UTILITY COMMISSION



RECEIPT

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

Pitt-Ohio Express, Inc.
27th & A.V.R.R.
Pittsburgh, PA 15222

Date January 24, 1985

CR 112703 A

DOCKETED
JAN 30 1985

In re application of Pitt-Ohio Express, Inc.
A-00102471, F.1, Am-E.....\$25.00

DOCUMENT
FOLDER

ck 3107
Revenue account 01780-17001-102 (ck)
Checks \$25.00 Currency _____
Utility account 50:26

C. Joseph Malsinger
For Department of Revenue