

LAW OFFICES

VUONO, LAVELLE & GRAY

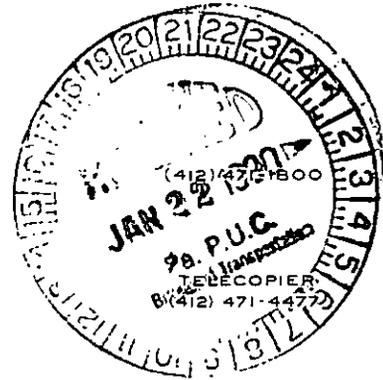
2310 GRANT BUILDING

PITTSBURGH, PA. 15219-2383

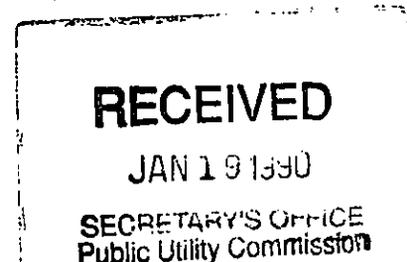
JOHN A. VUONO
WILLIAM J. LAVELLE
WILLIAM A. GRAY
MARK T. VUONO
RICHARD R. WILSON
DENNIS J. KUSTURISS
CHRISTINE M. DOLFI
PAUL J. STELIOTES

• ALSO MEMBER OF FLORIDA BAR

January 17, 1990



Re: Pitt-Ohio Express, Inc.--Purchase(Portion)--
Tose-Fowler, Inc.
Docket No. A-00102471, F. 1, Am-AF
Our File 2691-49-4



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

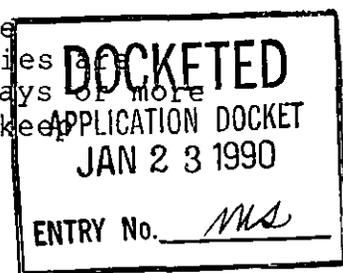
Dear Mr. Rich:

We represent the applicant in the above transfer proceeding which was approved by the order of the Commission entered on November 28. The transaction is directly related to a corresponding proceeding before the Interstate Commerce Commission in which the applicant secured exemption authority to purchase certain interstate rights from Tose-Fowler, the transferor in the proceeding before the PUC. In the PUC's order entered on November 28, the last ordering paragraph on page 6 requests that the applicant forward a copy of the "final order" received from the ICC for inclusion in the Commission's file. The purpose of this letter is explain why it is impossible to meet that requirement since the ICC does not issue specific orders in connection with exemption proceedings of this type.

In ICC proceedings involving notices for exemption filed under 49 U.S.C. §§11341(a) and 11343(e), it is the practice of the ICC to publish notices of exemptions in the ICC Register. The grant of exemption is conditional, subject to the receipt by the Commission of public comments in opposition to the transaction within thirty (30) days of the publication date. If no comments are received, as in this case, the ICC Register notice is deemed the final action of the Commission. The exemption becomes effective sixty (60) days after publication in the ICC Register. See, 49 CFR §1186.7.

No order or decision approving or exempting the transaction is issued by the ICC. Rather, the parties are entitled to consummate the transaction sixty (60) days or more after the date of the ICC Register notice. Please keep

DOCUMENT
FOLDER



Mr. Jerry Rich
Page Two
January 17, 1990

in mind that the ICC's exemption is permissive in nature - it does not require the parties to consummate, it only allows them to do so. Upon being advising by the parties that the transaction has been consummated, the ICC will issue new certificates or permits to the transferee.

We are enclosing pages 23 and 25-26 of the ICC Register for June 22, 1989 which contain notice of the ICC's exemption of the purchase of the interstate and Pennsylvania intrastate operating authority of Tose-Fowler by Pitt-Ohio and which describe the ICC's regulations applicable to these transactions. This will confirm that no comments were received from any party in opposition to the notice. For your information, the transaction was consummated by the parties as of November 30, 1989.

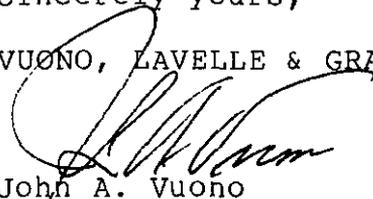
For all of these reasons, it is impossible to comply with the Commission's order and we ask that our failure to submit a "final order" not delay the issuance of a notice that all compliance matters have been met by the applicant.

In that connection, applicant is in the process of filing with the Commission a tariff setting forth the rates contained in the order which is the only remaining compliance matter to be effected.

If you have any questions concerning this matter, please contact us.

Sincerely yours,

VUONO, LAVELLE & GRAY



John A. Vuono

nd
Enclosure
cc: Pitt-Ohio Express, Inc.
Tose-Fowler, Inc.

MOTOR CARRIERS: NOTICE OF EXEMPTION
FROM 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Pursuant to Ex Parte No. 55 (Sub-No. 57), Exemption of Certain Transactions from 49 U.S.C. 11343 (not printed), decided November 21, 1984, 49 FR 48314 (December 12, 1984), Ex Parte No. MC-111 (Sub-No. 1), Transfer Rules, 4 I.C.C.2d 382, (1988), and the regulations at 49 CFR Part 1186, the Commission has exempted transactions among motor carriers of property and between them and noncarriers otherwise subject to regulation under 49 U.S.C. 11343(a)(1)-(5). The following Notices of Exemption are published in order to permit employees to oppose a transaction on the grounds that they may be adversely impacted thereby, and to permit any interested person to oppose a transaction on the grounds that it may be anticompetitive. If no opposing comments are received in the period specified below, the Notice shall be the final action of the Commission, and parties may consummate the transaction described in the Notice 60 days after the date of publication. If opposing comments are received, a decision addressing the comments and either denying the exemption or granting it, with or without conditions, will be served. Parties must await issuance of that decision before consummating an opposed transaction. In addition, for petitions involving purchase or merger exemptions, if either party has less than a satisfactory safety rating, the exemption may be either conditioned on improvement in that rating or disapproved. If parties with less than satisfactory ratings consummate a transaction 60 days after publication of the Notice but prior to our decision, they do so at their own risk and subject to any conditions we subsequently may impose.

ADDRESSES: Send comments to:

(1) Office of the Secretary
Case Control Branch
Interstate Commerce Commission
Washington, DC 20423

and

(2) Petitioners' representative(s) as shown below.

DATES: Comments are due 30 days after publication.

FOR FURTHER INFORMATION CONTACT:

Motor Section Case Tracking Unit
(202) 275-7022 or (275-7023

Volpe holds motor Common Carrier authority issued by the Interstate Commerce Commission which authorizes the transportation of general commodities (with exceptions), over a described regular route between Norristown and Philadelphia, PA, with service authorized at all intermediate points and at off-route points within 3 miles of said route. The Commission, in No. MC-F-19417 TA, previously granted Volpe temporary authority to lease Tose's above-described operating rights pending disposition of the instant exemption petition.

Volume OP4-MCF-240
Decided: March 16, 1989

CORRECTED NOTICE OF EXEMPTION

MC-F-19364

~~FRY-WAGNER INDUSTRIAL MOVERS, INC. - PURCHASE EXEMPTION - H. A. NEVLIN
MOVING & STORAGE CO.~~

~~Petitioner's representative:
Gary L. Smith
1204 South Fourth Street
Springfield, IL 62703~~

~~Comments should refer to No. MC-F-19364.~~

~~Under 49 U.S.C. 11343(e), the Commission has exempted, subject to public comment, the acquisition by Fry-Wagner Industrial Movers, Inc., a wholly owned subsidiary of Fry-Wagner Systems, Inc. (Fry-Wagner) (MC-169343), of the operating authority of H. A. Nevlin Moving & Transfer Co. (Nevlin) (MC-848). This authority involves the transportation, (1) of household goods, radially, within a described territory involving four midwestern States, and (2) of containers, pulp, paper, and related products, and household goods and furniture, between points in 11 States. Fry-Wagner is also purchasing Nevlin's Illinois intrastate authority in 6786 MC. NOTE: The purpose of this republication modify the prior publication of March 22, 1989, and does not affect the 60 day waiting period after that publication.~~

~~Volume OP4-MCF-234
Decided: June 15, 1989~~

MC-F-19416

~~PITT-OHIO EXPRESS, INC. -- PURCHASE EXEMPTION -- TOSE-FOWLER, INC.~~

~~Petitioners' representatives:~~

~~John A. Vuono, Esq.
Vuono, Lavelle & Gray
2310 Grant Building
Pittsburgh, PA 15219~~

~~and~~

~~James W. Patterson, Esq.
Rubin Quinn Moss & Heaney
1800 Penn Mutual Tower
510 Walnut Street
Philadelphia, PA 19106-3619~~

~~Comments should refer to No. MC-F-19416.~~

Under 49 U.S.C. 11343(e), the Commission has exempted, subject to public comment, the purchase by Pitt-Ohio Express, Inc. (Pitt) (MC-30136), of the operating rights of Tose-Fowler, Inc. (Tose), that are contained in: (1) Tose's Interstate Commerce Commission Permit No. MC-7698 (Sub-No. 20), which authorizes irregular-route motor Contract Carrier service in the transportation of general commodities (with exceptions), between points in the United States (except Alaska and Hawaii), under continuing contract(s) with commercial shippers or receivers of such commodities; and (2) the following portions of Tose's Pennsylvania Public Utility Commission intrastate motor carrier Certificate in Docket No. A-00068623: (a) the authorization in folder 5, AM-E, to transport property between points in and east of the Counties of Adams, Cumberland, Perry, Juniata, Mifflin, Clinton, and Tioga, PA, (b) the authorization in folder 5, AM-F, to transport property, generally between points in the Borough of Moosic, Lackawanna County and within a described distance; (c) the authorization in folder 3, paragraph 5, to transport, household goods between points in the City of Scranton, within 3 miles of its limits; and (d) the authorization in folder No. 15 (second paragraph) to transport household goods from Scranton, and within 3 miles of its limits to other points in Pennsylvania, and vice versa.

Pitt holds Irregular-route motor Common Carrier authority to transport general commodities (with exceptions), between points in Pennsylvania, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Delaware, Maryland, Virginia, Kentucky, North Carolina, West Virginia, Ohio, Indiana, Illinois, Missouri, Michigan, Wisconsin, and the District of Columbia. The Commission, in No. MC-F-19416 TA, previously granted Pitt temporary authority to lease Tose's above-noted operating rights pending disposition of the instant exemption petition.



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

January 23, 1990

IN REPLY PLEASE
REFER TO OUR FILE

John A. Vuono, Esquire
Vuono, Lavelle & Gray
2310 Grant Building
Pittsburgh, PA 15219-2383

In re: A-00102471, F. 1, Am-AF - Application of Pitt-Ohio Express, Inc.

Dear Mr. Vuono:

I am in receipt of your letter of January 17, 1990, explaining why it is impossible for you to meet the condition of the order, adopted November 22, 1989, requiring "That upon receipt of a final order from the Interstate Commerce Commission, the applicant will forward a copy to this Commission for inclusion in its file."

We are well aware of ICC procedures in matters of this type and recognize that the proper notice has been published in the ICC Register and that no comments have been filed. As you correctly state in your letter, "Upon being advised by the parties that the transaction has been consummated, the ICC will issue new certificates or permits to the transferee." It is this documentation, showing that the ICC has notice and has recognized the final consummation of the transaction, that must be filed with this Commission. Without such documentation, this Commission cannot be certain that the ICC transfer procedures have been completed.

Please note, that the order approving this transfer did not make issuance of the right to operate contingent upon the receipt of this documentation. We realize that it may take the ICC several months before it issues a certificate or permit in this matter. The applicant was merely instructed to send to this Commission some final evidence of the completion of the transfer from the ICC.

If you still believe that it is impossible to comply with this requirement, I suggest that you petition the Commission to have the condition waived.

Very truly yours,

Barry Ernst
Director
Bureau of Transportation

cc: Janice Zurat
Kirk House

BE:LK-F:11

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
JAN 24 1990
ENTRY No. 111



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

January 23, 1990

IN REPLY PLEASE
REFER TO OUR FILE

R-16

DOCKETED

MAR 13 1990

John A. Vuono, Esquire
2310 Grant Building
Pittsburgh, PA 15219

Re: A-00102471, F. 1, Am-AF - Pitt-Ohio Express, Inc.

Dear Mr. Vuono:

Under date of November 28, 1989, the Secretary's office transmitted to you the Commission's compliance order adopted November 22, 1989, evidencing approval of the above application which is in effect a transfer of a part of the rights formerly held by Tose-Fowler, Inc. at A-00068623, Fs. 3, 5, Am-E and Am-F, and 15. The letter transmitting the order directs attention to the requirement for the filing of a tariff.

Pa. Code, Title 52, Section 23.13(c) provides that in the case of change of ownership, etc., if feasible to do so, the tariffs of the former operator shall be adopted by the new operator, and no change in rates is permitted to cover the transfer of rights.

In this instance it is not possible to meet the tariff requirements by the adoption of the former tariffs for the reason that the transfer is partial in scope and it is, therefore, necessary to file a new tariff.

The new tariff may be issued to become effective on one day's notice under authority of Pa. Code, Title 52, Section 23.42 and should be designated Freight Pa. P.U.C. No. 26.

Very truly yours,
Barry L. Ernst, Director
Bureau of Transportation

By: Joseph M. Machulsky, Chief
Financial Document Section

cc: Pitt-Ohio Express, Inc.
26th and A.V.R.R.
Pittsburgh, PA 15222

Contact Person: G. L. Baker
(717) 783-5936

**DOCUMENT
FOLDER**

Mar 27 3:00

LAW OFFICES

VUONO, LAVELLE & GRAY

2310 GRANT BUILDING

PITTSBURGH, PA. 15219-2383

Buse

(412) 471-1800

TELECOPIER
(412) 471-4477

JOHN A. VUONO
WILLIAM J. LAVELLE
WILLIAM A. GRAY
MARK T. VUONO*
RICHARD R. WILSON
DENNIS J. KUSTURISS
CHRISTINE M. DOLFI
PAUL J. STELIOTES

January 30, 1990

* ALSO MEMBER OF FLORIDA BAR

Re: Pitt-Ohio Express, Inc.--Purchase(Portion)--
Tose-Fowler, Inc.
Docket No. A-00102471, F. 1, Am-AF
Our File 2691-49-4



Mr. Barry L. Ernst
Director
Bureau of Non-Rail Transportation
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17120

Dear Mr. Ernst:

In reply to your letter of January 23 concerning the condition in the order of the Commission adopted on November 22 requiring that a copy of the "final order" of the ICC be submitted to the Commission, we are enclosing a copy of our letter to the ICC dated January 17, 1990 transmitting consummation notices signed by the parties indicating that the transaction was consummated as of November 30, 1989. We received today and we are enclosing a copy of the contract carrier permit issued by the ICC at Docket No. MC-30136 (Sub-4) which was served on January 26, 1990 and contains the authority purchased by Pitt-Ohio from Tose-Fowler.

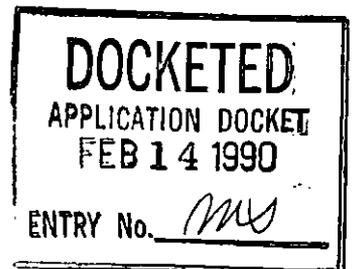
I believe these documents meet the requirements of your letter. In that connection, we understand that the tariff publishing agent for Pitt-Ohio will be submitting the tariff filing which relates to the Tose-Fowler acquisition within the next several days. Upon the effective date of that tariff, I believe that all pending compliance matters will have been completed and I ask that the Commission issue its usual letter confirming that fact.

Sincerely yours,

VUONO, LAVELLE & GRAY

John A. Vuono

John A. Vuono



nd
Enclosures
cc: Pitt-Ohio Express, Inc.
Tose-Fowler, Inc.
Ms. Janice Zurat



LAW OFFICES

VUONO, LAVELLE & GRAY

2310 GRANT BUILDING

PITTSBURGH, PA. 15219-2383

JOHN A. VUONO
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(412) 471-1800

TELECOPIER
(412) 471-4477

*ALSO MEMBER OF FLORIDA BAR

January 17, 1990

Re: Pitt-Ohio Express, Inc.--Purchase Exemption--
Tose-Fowler, Inc.
Docket No. MC-F-19416
Our File 2691-49

Ms. Noreta R. McGee, Secretary
Interstate Commerce Commission
Room 2215
12th and Constitution Avenues, N.W.
Washington, DC 20423



Dear Ms. McGee:

We represent Pitt-Ohio Express, Inc. in connection with the above transaction which was consummated by the parties as of November 30, 1989.

In that connection, we are enclosing original notices of consummation which have been executed by authorized officers of the parties in counterparts.

We believe that applicant has complied with all of the requirements of the Commission's order of approval and we respectfully request that the Commission promptly issue a new permit containing the contract carrier authority purchased by Pitt-Ohio Express, Inc. In order to assist the Commission, we are enclosing a copy of the permit previously held by Tose-Fowler, Inc. at Docket No. MC-7698 (Sub-20).

Sincerely yours,

VUONO, LAVELLE & GRAY

John A. Vuono

nd
Enclosure
cc: Pitt-Ohio Express, Inc.

Re: Pitt-Ohio Express, Inc.--Purchase Exemption--
Tose-Fowler, Inc.
Docket No. MC-F-19416
Our File 2691-49

Ms. Noretta R. McGee, Secretary
Interstate Commerce Commission
Room 2215
12th and Constitution Avenues, N.W.
Washington, DC 20423

Dear Ms. McGee:

This will confirm that pursuant to 49 U.S.C. §§11341(a) and 11343(e) the above transaction was consummated by the parties as of November 30, 1989.

It is respectfully requested that the Commission issue a permit to Pitt-Ohio Express, Inc. encompassing the operating rights which are the subject of this proceeding. In order to assist you, we are enclosing a copy of the permit presently held in the name of the Transferor.

Sincerely yours,

PITT-OHIO EXPRESS, INC.

By: 
Robert F. Hammel
Secretary-Treasurer

TOSE-FOWLER, INC.

By: _____
Robert Walton, President

Re: Pitt-Ohio Express, Inc.--Purchase Exemption--
Tose-Fowler, Inc.
Docket No. MC-F-19416
Our File 2691-49

Ms. Noreta R. McGee, Secretary
Interstate Commerce Commission
Room 2215
12th and Constitution Avenues, N.W.
Washington, DC 20423

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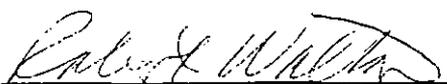
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Sincerely yours,

PITT-OHIO EXPRESS, INC.

By: _____
Robert F. Hammel
Secretary-Treasurer

TOSE-FOWLER, INC.

By: 
Robert Walton, President

PM-31
(Rev. 10/84)

INTERSTATE COMMERCE COMMISSION

PERMIT

No. MC-30136 Sub 4*

PITT-OHIO EXPRESS, INC.
PITTSBURGH, PA

SERVICE DATE

JAN 26 1990

This Permit is evidence of the carrier's authority to engage in transportation as a contract carrier by motor vehicle.

This authority will be effective as long as the carrier maintains compliance with the requirements pertaining to insurance coverage for the protection of the public (49 CFR 1043); the designation of agents upon whom process may be served (49 CFR 1044); the execution of contracts (49 CFR 1053)*; and for passenger carriers, tariffs or schedules (49 CFR 1312).

This authority is subject to any terms, conditions, and limitations as are now, or may later be, attached to this privilege.

The transportation service to be performed is described on the reverse side of this document.

By the Commission.

NORETA R. MCGEE
Secretary.

(SEAL)

*While the execution of contracts must be accomplished, it is unnecessary to file them with the Commission.

NOTE: If there are discrepancies regarding this Permit, please notify the Commission within 30 days.

No. MC-30136 Sub 4*
Sheet No. 2

To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii), under continuing contract(s) with commercial shippers or receivers of such commodities.

*This Permit cancels Permit No. MC-7698 Sub 20, issued May 5, 1986, acquired pursuant to MCF-19416.