



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

ISSUED: June 26, 1990

IN REPLY PLEASE  
 REFER TO OUR FILE



A-00102471  
 F001, Am-P

William J. Lavelle, Esquire  
 Vuono, Lavelle & Gray  
 2310 Grant Building  
 Pittsburgh, PA 15222

Application of Pitt-Ohio Express, Inc.  
 a corporation of the Commonwealth of Pennsylvania

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge James D. Porterfield. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this Decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions MUST BE FILED WITH THE SECRETARY OF THE COMMISSION IN ROOM B-18, NORTH OFFICE BUILDING, NORTH STREET AND COMMONWEALTH AVENUE, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17120, within twenty (20) days of the issuance date of this letter. The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of Exceptions/Reply Exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within ten (10) days of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (Name of Party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within twenty (20) days, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.  
 cc:ALJ Porterfield/Office of ALJ/S&C/Trans./Law Bureau/Mr. Bramson/OSA/Chairman

Commissioners/Correspondence/Our File *Very truly yours,*

smk  
 Encls.  
 Certified Mail  
 Receipt Requested

Allison K. Turner  
 Chief Administrative Law Judge

SIMILAR LETTER LIST ATTACHED:

William J. Lavelle, Esquire  
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Charles Kulp, Jr., Traffic Manager  
Kulp & Gordon, Inc.  
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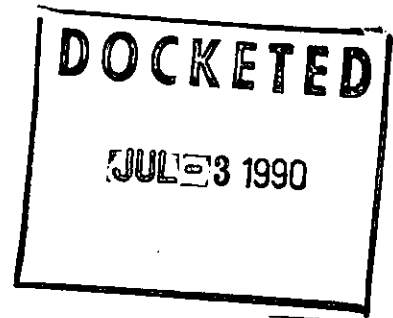
Zane R. Johnsonbaugh, Dir. of Traffic  
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Pittsburgh, Pa. 15222

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Pitt-Ohio Express, Inc., : A-00102471  
a corporation of the Commonwealth of : F. 1, Am-P  
Pennsylvania, for amendment, to its :  
common carrier certificate, which :  
grants the right, inter alia, to :  
transport, by motor vehicle, property, :  
except commodities in bulk and :  
household goods and office furniture :  
in use, for G.C. Murphy Company, :  
between points in Pennsylvania: :  
SO AS TO PERMIT the transportation :  
of property from points in that part :  
of Pennsylvania on and west of U.S. :  
Highway Route 219 to points in that :  
part of Pennsylvania on and east of :  
U.S. Highway 219, and vice versa; :  
with the right to interchange property :  
with Class A, Class B and Class D :  
carriers so authorized; subject to the :  
following condition: That no right, :  
power or privilege is granted to :  
transport household goods and office :  
furniture in use, property in bulk, or :  
property which, because of size or :  
weight, requires the use of special :  
equipment.



INITIAL DECISION

Before  
James D. Porterfield  
Administrative Law Judge

History of the Proceeding

On August 4, 1986, Pitt-Ohio Express, Inc. (hereinafter, at places, "Applicant" or "Pitt-Ohio") filed an application to amend its certificate of public convenience (at Docket No. A-00102471) seeking the following authority:

the transportation of property from points in that part of Pennsylvania on and west of U.S. Highway Route 219 to points in that part of Pennsylvania on and east of U.S. Highway 219, and vice versa; with the right to interchange property with Class A, Class B and Class D carriers so authorized; subject to the following condition: That no right, power or privilege is granted to transport household goods and office furniture in use, property in bulk, or property which, because of size or weight, requires the use of special equipment.

Notice of the application was published in the Pennsylvania Bulletin (Vol. 16, No. 35, at page 3260) on August 30, 1986. As noticed, protests were due on or before September 22, 1986. The following timely protests were filed: Pyramid Lines, Inc.; Central Storage & Transfer Co. of Harrisburg; W.C. McQuaide, Inc. (by Christian V. Graf, Esquire, on September 3 and 10, 1986); Kulp and Gordon, Inc. (by Charles Kulp, Jr., Traffic Manager, on September 8, 1986); Butler Trucking Company (by Dwight L. Koerber, Jr., Esquire, on September 8, 1986); Ward Trucking Corp. (by Zane R. Johnsonbaugh, Director of Traffic, on September 11, 1986 [and by letter dated August 3, 1987, Christian V. Graf, Esquire, entered an appearance on behalf of the protestant]); Evans Delivery Company, Inc. (by Albert L. Evans, Jr., on September 16, 1986); Preston Trucking Company, Inc. (by Brian L. Troiano, on September 17, 1986); Courier Express, Inc. (by John A. Pillar, Esquire, on September 22, 1986); and Ray Brandt Trucking Co.; R H Crawford

Inc.; Hall's Motor Transit Co.; Noerr Motor Freight Inc.; Penn's Best Inc.; Powers Trucking Co.; and S & L Services Inc. (by John E. Fullerton, Esquire, on September 22, 1986).

By letter of counsel, dated November 14, 1986, the protest of Courier Express, Inc., was withdrawn. By letter of counsel, dated November 19, 1986, the protests of Pyramid Lines, Inc., and Central Storage & Transfer Co. of Harrisburg were withdrawn. By letter of counsel, dated August 18, 1987, the protest of Preston Trucking Company, Inc., was withdrawn.

By notice to the parties, dated July 21, 1987, the application was scheduled for hearing on Tuesday and Wednesday, September 22 and 23, 1987, at 10:00 AM, in the 11th Floor Hearing Room, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania, before ALJ Nemec. With the consent of all counsel present, the initial day for hearing was converted into a prehearing conference and the matter continued. At the prehearing conference, appearances were entered on behalf of their respective client-protestants by the following counsel: William J. Lavelle, Esquire (on behalf of the Applicant), and John E. Fullerton, Esquire (on behalf of his client-protestants and as agent for Dwight L. Koerber, Jr., Esquire).

In order to clarify the scope and effect of the application, the following exhibits were identified for the record at the prehearing conference: Applicant's Exh. No. 1 (a

county map of Pennsylvania, showing the approximate scope actually and initially sought in the subject proceeding to be from points west of U.S. Highway 219 to points on and between U.S. Highway 219 and U.S. Highway 15 [approximately the central third of the Commonwealth];<sup>1</sup> Applicant's Exh. No. 2 (a multi-page summary of the operating authority then held by the Applicant);<sup>2</sup> and Applicant's Exh. No. 3 (a three-page exhibit, showing the scope of three applications that the Applicant had pending before the Pennsylvania Public Utility Commission and that were unopposed). (PhTr. 17-18)<sup>3</sup>

Based on an anticipated proposed restrictive amendment to the subject application, in fact later offered by the Applicant, the protest of Kulp and Gordon, Inc., was withdrawn, by letter dated October 13, 1987.

By cover letter, dated January 8, 1988, counsel for the Applicant offered the proposed restrictive amendment in writing and circulated the amendment to the remaining protestants as well

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<sup>1</sup> The subject application will also seek authority involving Clearfield, Cambria, Blair, Huntingdon Counties and portions of Somerset and Bedford Counties. At the first day of the evidentiary hearing, January 17, 1989, the same Applicant's Exh. No. 1 was also identified and admitted in the record as Applicant's Exh. No. 6. (Tr. 6)

<sup>2</sup> An updated version of the Applicant's Exh. No. 2 was identified and admitted into the record during the initial day of the evidentiary hearing, as Applicant's Exh. No. 7.

<sup>3</sup> The transcript of the prehearing conference is 25 pages in length.

as filing the amendment with the Pennsylvania Public Utility Commission (hereinafter, at places, "the Commission"). After the proposed amendment the authority sought in the subject application was, as follows:

to transport, as a Class D carrier, property, from points in that part of Pennsylvania on and west of U.S. Highway 219 to points in that part of Pennsylvania on and east of U.S. Highway Route 219, and vice versa; with the right to interchange property with Class A, Class B and Class D carriers so authorized;

Subject to the following conditions:

FIRST: That no right, power or privilege is granted to transport household goods and office furniture in use; property in bulk; property which, because of size or weight, requires the use of special equipment; or malt beverages, malt beverage containers and pallets.

SECOND: That no right, power or privilege is granted to transport property to or from the facilities of American Home Foods Division of American Home Products Corporation located in the township of Turbot and the borough of Milton, Northumberland County.

THIRD: That no right, power or privilege is granted to transport such merchandise, as is dealt in by wholesale, retail and chain grocery and food business houses to or from points in York County.

FOURTH: That no right, power or privilege is granted to transport limestone, limestone products or fertilizer from points in York County.

FIFTH: That no right, power or privilege is granted to transport such commodities as are dealt in by wholesale, retail and general grocery business houses for Dauphin

Distribution Services Co. from points in the townships of Hampden and Silver Spring, Cumberland County.

SIXTH: That no right, power or privilege is granted to transport finished and unfinished products, materials and supplies, armaments and munitions to or from the Standard Steel Works Division of Baldwin Locomotive Works in the borough of Burnham, Mifflin County.

SEVENTH: That no right, power or privilege is granted to transport property from the facilities of C.H. Masland and Sons in the borough of Carlisle, Cumberland County, and in the township of Granville, Mifflin County, to the facilities of Volkswagen Manufacturing Corp. of America in the township of East Huntingdon, Westmoreland county, or vice versa.

EIGHTH: That no right, power or privilege is granted to transport property to or from the facilities of Carlisle Tire & Rubber Co. and Carlisle Syntec Systems in the county of Cumberland.

NINTH: That no right, power or privilege is granted to transport glass and glass products from the facilities of Chromalloy American Corporation in the township of Granville, Mifflin County, or glass and property used in the manufacture, processing and production of glass and glass products to the facilities of Chromalloy American Corporation in the township of Granville, Mifflin County.

TENTH: That no right, power or privilege is granted to transport property for Owens Corning Fiberglas Co.

ELEVENTH: That nor [sic] right, power or privilege is granted to transport wood and wood products, to or 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.



TWELFTH: That no right, power or privilege is granted to transport property to or from the facilities of International Paper Co. in Kelly Township, Union County.

By counsel's letter dated February 1, 1988, the following protests were withdrawn, subject to the acceptance by the Commission of the foregoing restrictive amendment: Ray Brandt Trucking Co.; R H Crawford Inc.; Hall's Motor Transit Co.; Noerr Motor Freight Inc.; Penn's Best Inc.; Powers Trucking Co.; and S & L Services Inc.

By notice to the parties, dated October 4, 1988, the presiding officer in the subject proceeding was changed from ALJ Nemec to ALJ Porterfield.

The evidentiary hearing on the subject application was held on January 17, 1989, March 7 and 8, 1989, June 19, 1989, and August 24, 1989. W.C. McQuaide, Inc., and Ward Trucking Corp. were the only protestants which participated in the hearing.<sup>4</sup> The Applicant presented oral and written testimony from an operating witness and testimony from representatives of 18 supporting shippers. Representatives testified on behalf of the two active protestants.

During the course of the first day of hearing, on January 17, 1989, the scope of the subject application was

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<sup>4</sup> Although the protest of Evans was not formally withdrawn, it did not participate in the evidentiary hearing, and the protest will be dismissed in the order accompanying this Initial Decision.

further restrictively amended, and is offered in the following final form for the Commission's consideration (Applicant's Exh. No. 5):

(1) To transport, as a Class D carrier, property from points in Allegheny County to points in the counties of Blair, Huntingdon and Bedford, and those points in the counties of Clearfield, Cambria and Somerset which are located on and east of U.S. Highway Route 219, and vice versa; with the right to interchange property with Class A, Class B and Class D carriers so authorized.

(2) To transport, as a Class D carrier, property, from points in that part of Pennsylvania on and west of U.S. Highway 219 (except points in Allegheny County) to points in that part of Pennsylvania on and east of U.S. Highway Route 219 and west of U.S. Highway Route 15, and vice versa; with the right to interchange property with Class A, Class B and Class D carriers so authorized;

Subject to the following conditions:

FIRST: That no right, power or privilege is granted to transport household goods and office furniture in use; property in bulk; property which, because of size or weight, requires the use of special equipment; or malt beverages, malt beverage containers and pallets.

SECOND: That no right, power or privilege is granted to transport property to or from the facilities of American Home Foods Division of American Home Products Corporation located in the township of Turbot and the borough of Milton, Northumberland County.

THIRD: That no right, power or privilege is granted to transport such merchandise, as is dealt in by wholesale, retail and chain grocery and food business houses to or from points in York County.

FOURTH: That no right, power or privilege is granted to transport limestone, limestone products or fertilizer from points in York County.

FIFTH: That no right, power or privilege is granted to transport such commodities as are dealt in by wholesale, retail and general grocery business houses for Dauphin Distribution Services Co. from points in the townships of Hampden and Silver Spring, Cumberland County.

SIXTH: That no right, power or privilege is granted to transport finished and unfinished products, materials and supplies, armaments and munitions to or from the Standard Steel Works Division of Baldwin Locomotive Works in the borough of Burnham, Mifflin County.

SEVENTH: That no right, power or privilege is granted to transport property from the facilities of C.H. Masland and Sons in the borough of Carlisle, Cumberland County, and in the township of Granville, Mifflin County, to the facilities of Volkswagen Manufacturing Corp. of America in the township of East Huntingdon, Westmoreland county, or vice versa.

EIGHTH: That no right, power or privilege is granted to transport property to or from the facilities of Carlisle Tire & Rubber Co. and Carlisle Syntec Systems in the county of Cumberland.

NINTH: That no right, power or privilege is granted to transport glass and glass products from the facilities of Chromalloy American Corporation in the township of Granville, Mifflin County, or glass and property used in the manufacture, processing and production of glass and glass products to the facilities of Chromalloy American Corporation in the township of Granville, Mifflin County.

TENTH: That no right, power or privilege is granted to transport property for Owens Corning Fiberglas Co.

ELEVENTH: That nor [sic] right, power or privilege is granted to transport wood and wood products, to or 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.

TWELFTH: That no right, power or privilege is granted to transport property to or from the facilities of International Paper Co. in Kelly Township, Union County.

THIRTEENTH: That no right, power or privilege is granted to transport property on flatbed trailers.

By letter of counsel, dated February 1, 1989, the protest of Butler Trucking Company was withdrawn, conditioned upon the acceptance of the foregoing amendment to the subject application by the Commission.

The record in this proceeding includes the transcript of the prehearing conference (25 pages in length), the transcript of hearing (612 pages in length), twenty-four applicant exhibits (identified and numbered sequentially 1 through 24), applicant's sixteen rebuttal exhibits (identified and admitted as P-6-A, P-8-A, P-8-B, P-9-A, P-10-A, P-10-B, P-11-A, P-12-A, P-13-A, P-14-A, P-15-A, P-15-B, P-16-A, P-16-B, P-17-A, and P-17-B), thirty-one protestant exhibits (P-1 through P-17 were used during the cross-examination of Applicant's operating witness, P-18 through P-25 relate to Ward Trucking Corp., and P-26 through P-31

relate to W.C. McQuaide, Inc.), the Main Brief of Pitt-Ohio Express, Inc. (hereinafter, at places, "AMB"), the Reply Brief of Pitt-Ohio Express, Inc. (hereinafter, at places, "ARB"), and the Brief on Behalf of W.C. McQuaide, Inc. and Ward Trucking Corp., Protestants (hereinafter, at places, "PB").<sup>5</sup>

### Summary and Description of the Evidence

#### I. IN SUPPORT OF THE APPLICATION

- A. Robert F. Hammel, Secretary-Treasurer, Pitt-Ohio Express, Inc. (Exhs. No. A-4 to A-24; P-6A to P-17B; Tr. 7-102 and Tr. 504-532)

Pitt-Ohio Express, Inc., the Applicant, is a Pennsylvania corporation, with its principal place of business located at 26th and A.V.R.R., Pittsburgh, PA 15222. (Applicant's Exh. No. 4, pp. 1-2) The Applicant is a motor common carrier of property, holding operating authority granted by the Interstate Commerce Commission [MC-30136 (Sub-2)], the Pennsylvania Public Utility Commission [A-00102471], and the

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<sup>5</sup> Counsel for Evans Delivery Company, Inc., Christian V. Graf, Esquire, reserved for late submission Protestant Exh. Nos. P-32 (the Pennsylvania intrastate operating authority held by Evans) and P-33 (a copy of the "interstate order" approving both the interstate and intrastate transfer of certificates to Arrow Carrier Corporation); however, counsel represents in a letter, dated September 25, 1989, that his efforts to get a response from the purchaser of the operating authority of Evans Delivery Company, Inc., (viz., Arrow Carrier Corporation) was unsuccessful. Furthermore, counsel represents that he had no authority to represent Arrow Carrier Corporation. Protestant Exh. Nos. P-32 and P-33 were not submitted. (See, also PB, p. 3)

Public Service Commission of West Virginia [F-6388].  
(Applicant's Exhs. No. 4, pp. 5-7; No. 8; No. 10; No. 22; No. 24;  
Tr. 505-508) The Applicant handles general freight shipments of  
all sizes and specializes in the transportation of  
less-than-truckload shipments; about 95% of all shipments  
transported weigh less than 10,000 pounds and 40% less than 1,000  
pounds. (Applicant's Exh. No. 4, p. 13)

Subject to specific exceptions and conditions, the  
Applicant seeks authority, by the subject application, as finally  
amended, to complement its existing operating authority and  
thereby be authorized to provide service nearly statewide  
(Applicant's Exh. No. 5):

(1) To transport, as a Class D carrier,  
property from points in Allegheny County to  
points in the counties of Blair, Huntingdon  
and Bedford, and those points in the counties  
of Clearfield, Cambria and Somerset which are  
located on and east of U.S. Highway Route  
219, and vice versa; with the right to  
interchange property with Class A, Class B  
and Class D carriers so authorized.

(2) To transport, as a Class D carrier,  
property, from points in that part of  
Pennsylvania on and west of U.S. Highway 219  
(except points in Allegheny County) to points  
in that part of Pennsylvania on and east of  
U.S. Highway Route 219 and west of U.S.  
Highway Route 15, and vice versa; with the  
right to interchange property with Class A,  
Class B and Class D carriers so authorized[.]

The Applicant, at the time of hearing, provided service  
to and from all points in central Pennsylvania, pertinent to the

subject application, under its interstate authority and under certain intrastate grants of authority for specific shippers; service was then also being provided to and from the entire central Pennsylvania area with respect to Allegheny County except for points in Blair, Huntingdon, and Bedford Counties and portions of Clearfield, Cambria, and Somerset Counties; service to the central Pennsylvania counties of Somerset, Bedford, Huntingdon, Blair, Cambria, Clearfield, and Centre is provided by way of Applicant's Cumberland, Maryland, terminal under interstate authority. (Applicant's Exhs. No. 4, pp. 15-16; No. 15; No. 16; No. 17; No. 18; No. 19; No. 20; Tr. 18-19, 21-23)

If the subject application is granted, the Applicant proposes to handle less-than-truckload shipments directly through the Pittsburgh and/or Harrisburg terminals and to handle truckload shipments directly from origin to destination. (Tr. 25-33) Furthermore, if the authority sought is granted, the Applicant intends to serve the central Pennsylvania area by extending the pickup and delivery runs now operated from the Pittsburgh and Harrisburg terminals, as well as using line-haul units currently transporting interstate and intrastate shipments to and from the central Pennsylvania area; as business develops, the Applicant proposes to establish and locate another terminal in the central Pennsylvania area, according to operational needs. (Applicant's Exh. No. 4, p. 10) The Applicant expects to be able

to deliver most LTL (less-than-truckload) shipments on an overnight basis and truckload shipments on a same day or overnight basis; upon shipper request, the Applicant proposes to provide a split pickup and multiple stop-off delivery service, and it will spot trailers for the loading or unloading convenience of shippers and receivers. (Applicant's Exh. No. 4, pp. 14-15)

The Applicant has its main administrative office, terminal, central dispatch and maintenance facilities in Pittsburgh, PA; the Pittsburgh terminal is a 34-door, cross-dock general freight terminal and is the hub for pickup and delivery operations in western Pennsylvania, northern West Virginia and eastern Ohio; the Applicant operates seven other terminals including Pennsylvania terminals in Allentown, Harrisburg and Oaks (Philadelphia), an Ohio terminal in Cleveland, and a Maryland terminal in Cumberland. (Applicant's Exhs. No. 4, p. 8-9; No. 11)

The Applicant's Harrisburg, PA, terminal is a 14-door, cross-dock facility assigned eight tractors and eight straight trucks; the Oaks, PA, terminal is a 24-door, cross-dock facility assigned 12 tractors and 13 straight trucks; the Allentown, PA, terminal is a 12-door facility, assigned 8 tractors and 9 straight trucks. (Applicant's Exhs. No. 4, p. 8-9; No. 11)



The Applicant employs 264 drivers and dockmen, 24 supervisory personnel, 67 administrative and clerical personnel, 14 sales personnel, and 4 mechanics, for a total work force of 373. (Applicant's Exh. No. 4, p. 10) Toll-free telephone numbers are available to both drivers and shippers, in order to contact the Pittsburgh terminal to obtain service, receive instructions, change itineraries, etc. (Applicant's Exh. No. 4, p. 9)

The Applicant leases its operating equipment from two affiliated equipment leasing companies; the equipment consists of 9 straight trucks, 207 closed van trailers, 89 tractors, and 5 dollie trailers; the Applicant also leases approximately 6 to 8 tractors and flatbed trailers from independent owner-operators. (Applicant's Exhs. No. 4, pp. 10-11; No. 12; Tr. 17-18)

The Applicant has a comprehensive safety and preventative maintenance program intended to fully comply with all federal and state regulations; the Applicant maintains insurance in excess of the Commission's minimum prescribed limits. (Applicant's Exh. No. 4, pp. 11-13)

The Applicant, as at December 31, 1987, had shareholder equity in excess of \$1.8 million, net income for the year, after taxes, of \$572,162, on gross revenues of \$16.8 million, and the current asset to current liability ratio exceeded two to one. (Applicant's Exhs. No. 4, p. 12; No. 13; No. 14)

B. John Stuver, Tuscarora Plastics Corporation (Tr. 108-119)

Tuscarora Plastics, Inc., whose facility is located in New Brighton, Beaver County, fabricates an expandable polystyrene product, and it uses the Applicant's services, both interstate and intrastate, as much as it can. Tuscarora ships about a dozen shipments a year into the central third of Pennsylvania, and it will expand its use of the Applicant's services into the central part of the state, if the subject application is granted. (Tr. 109-115)

C. James K. Sines, Highway Equipment Company (Tr. 119-172)

Highway Equipment Company sells and ships heavy mining and construction equipment and parts, ranging in weight from 100 pounds to 18,000 pounds; it utilizes private carriage and regulated carriage. (Tr. 121-125) Highway Equipment Company has production plants in DuBois, Clearfield County, Somerset, Somerset County, Zelienople, Butler County, and McKean, Erie County; it ships both between plants and from plants to customers within the application area. (Tr. 121-125, 126-129, 131-132, 134-137, 140-143, 149, 153-154)

Highway Equipment Company uses the services of the Applicant and supports the application. If the subject application is granted, Highway Equipment will use the

Applicant's proposed service and consider reducing private carriage in favor of the Applicant's service. (Tr. 156-157, 160)

D. Jim Feucht, Pittsburgh Mack Sales (Tr. 172-185)

Pittsburgh Mack Sales sells and services Mack and Nissan trucks and sells parts for the trucks. (Tr. 174)

Pittsburgh Mack Sales has a facility in Pittsburgh, Allegheny County, and receives shipments of parts from dealers located in, among other places, Bedford, Bedford County, and Altoona, Blair County. (Tr. 174-177)

Pittsburgh Mack Sales uses the Applicant's services both interstate and intrastate, and if the subject application is granted, Pittsburgh Mack will give the Applicant additional shipments to be transported into the application area. (Tr. 179-181)

E. John R. Rihn, Neville Chemical Company (Tr. 185-206)

Neville Chemical Company produces synthetic resins and anti-oxidants and distributes various solvents. (Tr. 187-188) Neville has customers, to which it makes a substantial number of shipments, in the application territory, including such destination locations as Bedford, Somerset, Ebensburg, and Johnstown. (Tr. 189-190)

Neville uses the services of the Applicant, along with other regulated carriers and private carriage, for both

interstate and intrastate shipments. (Tr. 190-192) Neville supports the subject application both because the Applicant provides services not provided by other regulated carriers and because it may reduce private carriage in favor of the use of the Applicant's proposed service. (Tr. 194-196)

F. Douglas B. Field, Lincoln Aluminum Distributing Company  
(Tr. 207-230)

Lincoln Aluminum Distributing Company, whose plant is located in Jeannette, Westmoreland County, distributes and ships aluminum products to glass shops both interstate and intrastate. Lincoln makes a substantial number of shipments within the application area, and it uses the Applicant's services via the Maryland terminal. (Tr. 212-216)

G. William T. Murphy, Alling & Cory (Tr. 235-259)

Alling & Cory is a wholesale distributor of paper products, whose warehouse is located in Pittsburgh. (Tr. 237)

Alling & Cory uses both regulated carriage (including the Applicant's services) and private carriage to ship to customers both interstate and intrastate (including a significant number of shipments into the application area). Alling & Cory selects the carrier for shipments from a supplier's facility in Erie, Pennsylvania. (Tr. 239-243; 245-246, 250-255)

If the subject application is granted, Alling & Cory will use the Applicant's services from its warehouse into the six county area sought and vice versa; it will also designate the Applicant as the carrier for the Erie traffic that moves into the involved six county area of Pennsylvania. (Tr. 256)

H. Bob McAfee, J.A. Williams (Tr. 260-279)

J.A. Williams is an exclusive wholesale distributor of consumer goods (including parts therefor). A sales office and warehouse of J.A. Williams are located in Pittsburgh, Pennsylvania. J.A. Williams supports the subject application. (Tr. 261-262)

J.A. Williams has approximately 300 dealer-customers located in virtually every county in Pennsylvania, along with others located in areas of Ohio and West Virginia. (Tr. 262, 264) J.A. Williams makes shipments from Pittsburgh, Allegheny County, weighing from 150 to 5,000 pounds, to central Pennsylvania on a daily basis. Under certain circumstances, there are return shipments, from dealer-customers to Pittsburgh, and shipments between dealer-customers. (Tr. 263-270, 274)

J.A. Williams uses primarily Pitt-Ohio for its interstate and intrastate traffic in the tri-state area; traffic which the Applicant is handling separately under interstate and

intrastate authority would be matched up so that additional freight could be put on the same vehicle. (Tr. 273)

I. Daniel McKenna, Cardell Sales (Tr. 279-302)

Cardell Sales is a rapidly growing manufacturer's representative in the electrical industry. It represents and ships (for 18 manufacturers) to electrical distributors in western Pennsylvania and West Virginia and to home centers in the eastern United States. (Tr. 280, 294)

Cardell has two warehouses in Pittsburgh, from which it ships on a two-week schedule, using private carriage for 60% of the traffic: from one warehouse, the shipments range from 1,000 to 20,000 pounds and from the other warehouse, the shipments range from 5,000 to 15,000 pounds. (Tr. 280-281, 283) Cardell ships to Somerset County, Bedford County, and Clearfield County, and to other points within the application area.

To satisfy its common carriage needs, Cardell uses the Applicant's services on nearly an exclusive basis; if the subject application is granted, Cardell will have both conveniences and services that it cannot obtain at the time of hearing. (Tr. 87-288, 293-295). If the subject application is granted, Pitt-Ohio's service would replace private carriage in certain areas and for certain types of shipments. (Tr. 284-285, 289, 294)

J. Bill Carlin, A.R. Chambers (Tr. 302-339)

A.R. Chambers is a wholesaler and shipper of construction, industrial and packaging supplies. It sells to the Pennsylvania Department of Transportation and to all major construction companies throughout Pennsylvania. Most of the shipments from its Pittsburgh warehouse are less-than-truckload, weighing less than 9,000 pounds. (Tr. 302-307)

In a good season, A.R. Chambers makes 50 to 60 shipments per month into the six county application area. In 1988, it successfully bid on 100 non-highway type jobs to supply materials to contractors located in the six county application area. The Applicant supplied service to A.R. Chambers when same day service was not needed. (Tr. 308-309, 322-323)

Within the application area, A.R. Chambers has freight moving from vendor to job site, and it needs a carrier that provides same day or next day service. (Tr. 309-314, 315-316, 319, 332) The Applicant can provide A.R. Chambers with the type of service it requires. The Applicant's facilities are located nine city blocks from A.R. Chambers' facilities. (Tr. 315-316, 319)

A.R. Chambers uses the Applicant's services both interstate and intrastate, and it will tender to the Applicant,

if the subject application is granted, all of its outbound traffic into the six county application area. (Tr. 318-319)

K. Kenneth Lamison, Okonite Company (Tr. 341-369)

Okonite Company operates a wire and cable warehouse in Leetsdale, Allegheny county, where it cuts cable to customer specification. (Tr. 342-343) Approximately 95% of Okonite's shipments are in the less-than-truckload category; as much as 20% of its shipments go to sites located within the six county application area. (Tr. 344-345)

Customers of Okonite's expect same day or next day service, and the Applicant has provided Okonite with next day service for shipments within Pennsylvania, and elsewhere, along with spotting equipment for Okonite's loading convenience. (Tr. 349, 357-358)

Applicant's services have resulted in an increase in Okonite's business. If the subject application is granted, Okonite's routing problems will be solved, for the most part, and the Applicant will be tendered all of Okonite's traffic into the six county application area. (Tr. 358-359)

L. Richard Spitler, Allegheny Distributing, Inc. (Tr. 370-387)

Allegheny Distribution, Inc., is a wholesale distributor of lawn and garden equipment, and it has a 7,500



square foot warehouse located in Pittsburgh, Allegheny County. Allegheny must turn inventory over quickly because of its limited storage and dock space. (Tr. 370, 372, 374)

Allegheny Distributing, Inc., ships less-than-truckload shipments to customers in Clearfield County, Cambria County, Bedford County, and Blair County. (Tr. 372, 374, 376-377)

Unlike most of its competitors, Allegheny Distributing does not engage in private carriage; it uses the Applicant's services to obtain overnight service, which its competitors are able to provide for themselves. (Tr. 374)

Allegheny Distributing uses the services primarily of the Applicant to ship to points in western Pennsylvania, Ohio, and northern West Virginia. It rates the Applicant's services as "excellent," and it supports the subject application to enhance the available service and to be able to stage and ship intrastate and interstate shipments together. (Tr. 378-380)

M. Daniel Burda, Pitt Penn Oil Company (Tr. 387-400)

Pitt Penn Oil Company, located in Creighton, Allegheny County, is a manufacturer of automobile petroleum products and ships its products both in bulk and package forms. (Tr. 388) Pitt Penn's customers are located in all six central Pennsylvania counties, involved in the subject application. (Tr. 389-390)

Pitt Penn uses its private carriage to transport shipments into the involved six county area; the Applicant's services are used to transport shipments to Philadelphia, Harrisburg, and Maryland. (Tr. 393-397)

Pitt Penn requires the services of carriers which are able to pick up on an hour's notice and able to provide overnight service on both truckload and less-than-truckload shipments. The subject application is supported because the Applicant is able to meet Pitt Penn's motor common carrier service requirements. (Tr. 394-396)

If the subject application is granted, the Applicant will be able to make multiple stop-off shipments to points both in intrastate and interstate service for Pitt Penn. Pitt Penn is also looking to the Applicant as a substitute and backup service for its private carriage operation. (Tr. 396-397)

N. Patrick J. Gallagher, Steel City Products (Tr. 401-414)

Steel City Products, with a warehouse (having an 80,000 square foot area) in Blawnox, Allegheny County, is a national wholesale distributor of automotive accessories. (Tr. 401)

Steel City's customers include discount stores, mass merchandisers, other wholesale distributors, independently owned stores, and jobbers. (Tr. 402)

Steel City has made a substantial number of shipments from its Allegheny County warehouse to the six county application area. (Tr. 403-405) Steel City has customers located throughout Pennsylvania and the eastern United States. (Tr. 402-403, 406)

The Applicant is at Steel City's facility at least once a day, and if the Applicant had authority, as it would have if the subject application is granted, to serve all of Pennsylvania from Steel City's facility, there would be, by using the services of the Applicant, less congestion at Steel City's facility. (Tr. 410-411) Because of the susceptibility of some of Steel City's products to freezing, it requires overnight service for these products; the Applicant is able to provide overnight service. (Tr. 406-407)

If the subject application is granted and if the Applicant maintains its usual service standards, Steel City will tender to the Applicant all of its traffic into the central region of the state. (Tr. 411)

O. Raymond D. Dipasquale, Allegheny Bindery Corporation (Tr. 420-441)

Allegheny Bindery Corporation (whose facility is located in Pittsburgh, Allegheny County, approximately one mile from the terminal facilities of the Applicant) binds books, annual corporate reports, financial reports, and similar

materials for, primarily, printers and then ships its less-than-truckload shipments to either printers or printers' customers. (Tr. 421, 424)

Allegheny Bindery has customers located in such representative areas as Cambria County, Somerset County, Blair County, and Clearfield County. (Tr. 429-430) Allegheny Bindery requires same day service, and it expects carriers to provide service six days a week. (Tr. 433)

The Applicant has provided service to Allegheny Bindery for ten years; Pitt-Ohio handles Allegheny Bindery's interstate traffic, such as inbound shipments from Lorain, Ohio, and return shipments to New Jersey and Cleveland, Ohio; Pitt-Ohio also handles the intrastate traffic for Allegheny Bindery. (Tr. 435-436)

If the subject application is granted, the Applicant will receive 80% to 90% of Allegheny Bindery's traffic moving to and from the involved points in central Pennsylvania. (Tr. 437)

P. Steve R. Stofko, Aristech Chemical Corporation (Tr. 442-461)

Aristech Chemical Corporation manufacturers, supplies, and trades in chemicals. It has two plants on Neville Island, a warehouse in Coraopolis, and a research center in Monroeville, all in Allegheny County. (Tr. 443)

Aristech ships polyester resin and plasticizer in drums and ships anhydrides in bags on pallets or in super sacks; shipments are both truckload and less-than-truckload and are almost always made in vans. (Tr. 444-445)

The destinations to which Aristech ships include Altoona, Blair County, Johnstown, Cambria County, and Clearfield, Clearfield County. Aristech also receives returned materials from points within the involved six county area. (Tr. 445, 451)

Aristech uses the Applicant's services both interstate and intrastate; however, shipments from Allegheny County to Johnstown, Altoona, and Clearfield must go through the Applicant's Cumberland, Maryland, terminal. (Tr. 452-456) If the subject application is granted, Aristech will use the Applicant's proposed service to ship directly into the central Pennsylvania area. Under the foregoing circumstances, the Applicant could be used to make multiple stop-off deliveries to customers throughout the entire state. (Tr. 455-456)

Aristech believes that the safety factor at its plants is improved if the number of carriers with which it must deal is minimized. (Tr. 452, 456-458)

Q. James W. Bell, Henry Miller Spring Company  
(Tr. 461-476)

Henry Miller Spring and Manufacturing Company, which has a one-dock shipment facility in Sharpsburg, Allegheny County,

manufactures steel railroad and industrial coil springs. (Tr. 462) Henry Miller Spring makes both truckload and less-than-truckload shipments, and it ships between one and two million pounds of freight into the involved six county area. Representative destination points for the relevant shipments include Bedford, Bedford County, Juniata and Altoona, Blair County, Johnstown, Cambria County, and Windber, Somerset County. (Tr. 463-468)

Henry Miller Spring requires next day service, and it wants a carrier that can pick up both intrastate and interstate shipments, in order to reduce congestion at its one-dock facility. (Tr. 464-465, 468-470)

Henry Miller Spring has used the Applicant's services both intrastate and interstate for 10 years. If the subject application is granted, Henry Miller Spring will benefit in a number of ways: (a) Applicant will be able to make more multiple pickups, (b) congestion will be reduced at the manufacturing facility, and (c) because of the proximity of Applicant's terminal to Henry Miller Spring's facility, emergency-type shipments can be expedited. (Tr. 469-470)

R. Donald Beckett, Watson-Standard Paint Company (Tr. 477-491)

Watson-Standard Paint Company produces various chemical coatings used by can manufacturers and produces finishes, primers, and enamels used by machinery manufacturers.

Watson-Standard's products are shipped from two facilities in Allegheny County: one on Neville Island and the other in Harwick. (Tr. 478-479)

Watson-Standard's products are shipped in 55 gallon drums or in one-gallon or five-gallon containers. (Tr. 481) Watson-Standard requires late day pickups and often requires same day or early next day deliveries; it expects early next day delivery on shipments to customers located in the involved central part of Pennsylvania. (Tr. 482)

Watson-Standard uses the services of the Applicant, both interstate and intrastate. Watson-Standard wishes to limit the number of carriers with which it is required to deal, and it will benefit from a grant of the subject application by having a familiar carrier that can pickup shipments at both of its plants and break the shipments for multiple destinations. (Tr. 484-489) If the subject application is granted, the Applicant will be able to continue to serve Watson-Standard into the involved six county area, and it will be able to provide same day service into that area. (Tr. 490)

S. Robert MacKay, Weyerhaeuser (Tr. 492-503)

Weyerhaeuser is a wholesale distributor of building products (e.g., lumber, plywood, nails, shingles, etc.), and one of its 58 facilities is located in Murrysville, Westmoreland

County. Its customers include home building centers and lumber yards. (Tr. 492-493, 498)

Weyerhaeuser makes shipments from its Murrysville facility to points in the central third of the state; approximately 30% of the described traffic is handled by private carriage, and motor common carriers are used for the balance of the traffic. (Tr. 494-495)

Although Weyerhaeuser has used the Applicant's services both for interstate shipments and for intrastate shipments in western Pennsylvania, it has not used the Applicant's services into the central part of Pennsylvania. Weyerhaeuser is satisfied with the Applicant's timely pickups and deliveries, and it will use the Applicant's proposed service, if the subject application is granted. (Tr. 499-501)

## II. FOR THE PROTESTANTS

### A. Daniel J. McFarland, Ward Trucking Corp. (Tr. 539-575; Exhs. No. P-18 to P-25)

Ward, a protestant, holds authority, subject to certain exceptions, to transport property between points in Pennsylvania. (Tr. 540; Exh. No. P-18, p. 14) Of Ward's 18 terminals, 8 are relevant to the subject application. There are 345 employees associated with the 8 terminals. (Tr. 543; Exh. No. P-21) Ward's services include same day pickup, some overnight services,



and five day per week service (with service available by special arrangement on weekends and holidays). (Tr. 545-546)

Ward demonstrated that it handled one shipment relevant to the subject application for the period between February 10, 1989, and August 16, 1989. (Tr. 557-560; Exh. No. P-23)

B. William F. McQuaide, W.C. McQuaide, Inc. (Tr. 575-608; Exhs. No. P-26 to P-31)

Subject to certain exceptions, W.C. McQuaide, Inc., a protestant, has statewide authority to transport property. (Protestants' Exh. No. P-26; Tr. 576-577) McQuaide provides same day pickup, overnight services, same day service (if possible), and scheduled pickup and delivery service, etc. (Tr. 582-583)

McQuaide has handled relevant traffic for some of the supporting shippers. (Tr. 595-607) During 1988, McQuaide had gross revenue of approximately \$24 million, derived (nearly equally) from interstate and intrastate traffic. (Tr. 586-587)

Findings of Fact

1. Pitt-Ohio Express, Inc., the Applicant, is a Pennsylvania corporation, with its principal place of business located at 26th and A.V.R.R., Pittsburgh, PA 15222. (Applicant's Exh. No. 4, pp. 1-2)

2. The Applicant is a motor common carrier of property, holding operating authority granted by the Interstate

Commerce Commission [MC-30136 (Sub-2)], the Pennsylvania Public Utility Commission [A-00102471], and the Public Service Commission of West Virginia [F-6388]. (Applicant's Exhs. No. 4, pp. 5-7; No. 8; No. 10; No. 22; No. 24; Tr. 505-508)

3. The Applicant handles general freight shipments of all sizes and specializes in the transportation of less-than-truckload shipments; about 95% of all shipments transported weigh less than 10,000 pounds and 40% less than 1,000 pounds. (Applicant's Exh. No. 4, p. 13)

4. Subject to specific exceptions and conditions, the Applicant seeks authority, by the subject application, as finally amended, to complement its existing operating authority and thereby be authorized to provide service nearly statewide (Applicant's Exh. No. 5):

(1) To transport, as a Class D carrier, property from points in Allegheny County to points in the counties of Blair, Huntingdon and Bedford, and those points in the counties of Clearfield, Cambria and Somerset which are located on and east of U.S. Highway Route 219, and vice versa; with the right to interchange property with Class A, Class B and Class D carriers so authorized.

(2) To transport, as a Class D carrier, property, from points in that part of Pennsylvania on and west of U.S. Highway 219 (except points in Allegheny County) to points in that part of Pennsylvania on and east of U.S. Highway Route 219 and west of U.S. Highway Route 15, and vice versa; with the right to interchange property with Class A, Class B and Class D carriers so authorized[.]

5. The Applicant, at the time of hearing, provided service to and from all points in central Pennsylvania, pertinent to the subject application, under its interstate authority and under certain intrastate grants of authority for specific shippers; service was then also being provided to and from the entire central Pennsylvania area with respect to Allegheny County except for points in Blair, Huntingdon, and Bedford Counties and portions of Clearfield, Cambria, and Somerset Counties; service to the central Pennsylvania counties of Somerset, Bedford, Huntingdon, Blair, Cambria, Clearfield, and Centre is provided by way of Applicant's Cumberland, Maryland, terminal under interstate authority. (Applicant's Exhs. No. 4, pp. 15-16; No. 15; No. 16; No. 17; No. 18; No. 19; No. 20; Tr. 18-19, 21-23)

6. If the subject application is granted, the Applicant proposes to handle less-than-truckload shipments directly through the Pittsburgh and/or Harrisburg terminals and to handle truckload shipments directly from origin to destination. (Tr. 25-33)

7. The Applicant has its main administrative office, terminal, central dispatch and maintenance facilities in Pittsburgh, PA; the Pittsburgh terminal is a 34-door, cross-dock general freight terminal and is the hub for pickup and delivery operations in western Pennsylvania, northern West Virginia and eastern Ohio; the Applicant operates seven other terminals

including Pennsylvania terminals in Allentown, Harrisburg and Oaks (Philadelphia), an Ohio terminal in Cleveland, and a Maryland terminal in Cumberland. (Applicant's Exhs. No. 4, p. 8-9; No. 11)

8. The Applicant's Harrisburg, PA, terminal is a 14-door, cross-dock facility assigned eight tractors and eight straight trucks; the Oaks, PA, terminal is a 24-door, cross-dock facility assigned 12 tractors and 13 straight trucks; the Allentown, PA, terminal is a 12-door facility, assigned 8 tractors and 9 straight trucks. (Applicant's Exhs. No. 4, p. 8-9; No. 11)

9. The Applicant employs 264 drivers and dockmen, 24 supervisory personnel, 67 administrative and clerical personnel, 14 sales personnel, and 4 mechanics, for a total work force of 373. (Applicant's Exh. No. 4, p. 10)

10. Toll-free telephone numbers are available to both drivers and shippers, in order to contact the Pittsburgh terminal to obtain service, receive instructions, change itineraries, etc. (Applicant's Exh. No. 4, p. 9)

11. If the authority sought is granted, the Applicant intends to serve the central Pennsylvania area by extending the pickup and delivery runs now operated from the Pittsburgh and Harrisburg terminals, as well as using line-haul units currently transporting interstate and intrastate shipments to and from the

central Pennsylvania area; as business develops, the Applicant proposes to establish and locate another terminal in the central Pennsylvania area, according to operational needs. (Applicant's Exh. No. 4, p. 10)

12. If the authority sought is granted, the Applicant expects to be able to deliver most LTL (less-than-truckload) shipments on an overnight basis and truckload shipments on a same day or overnight basis; upon shipper request, the Applicant proposes to provide a split pickup and multiple stop-off delivery service, and it will spot trailers for the loading or unloading convenience of shippers and receivers. (Applicant's Exh. No. 4, pp. 14-15)

13. The Applicant leases its operating equipment from two affiliated equipment leasing companies; the equipment consists of 9 straight trucks, 207 closed van trailers, 89 tractors, and 5 dollie trailers; the Applicant also leases approximately 6 to 8 tractors and flatbed trailers from independent owner-operators. (Applicant's Exhs. No. 4, pp. 10-11; No. 12; Tr. 17-18)

14. The Applicant has a comprehensive safety and preventative maintenance program intended to fully comply with all federal and state regulations; the Applicant maintains insurance in excess of the Commission's minimum prescribed limits. (Applicant's Exh. No. 4, pp. 11-13)

15. The Applicant, as at December 31, 1987, had shareholder equity in excess of \$1.8 million, net income for the year, after taxes, of \$572,162, on gross revenues of \$16.8 million, and the current asset to current liability ratio exceeded two to one. (Applicant's Exhs. No. 4, p. 12; No. 13; No. 14)

16. Tuscarora Plastics, Inc., fabricates an expandable polystyrene product, has its facility located in New Brighton, Beaver County, uses the Applicant's services, both interstate and intrastate, as much as it can, and supports the subject application; Tuscarora ships about a dozen shipments a year into the central third of Pennsylvania, and it will expand its use of the Applicant's services into the central part of the state, if the subject application is granted. (Tr. 109-115)

17. Highway Equipment Company sells and ships heavy mining and construction equipment and parts, ranging in weight from 100 pounds to 18,000 pounds; it utilizes private carriage and regulated carriage. (Tr. 121-125)

18. Highway Equipment Company has production plants in DuBois, Clearfield County, Somerset, Somerset County, Zelienople, Butler County, and McKean, Erie County; it ships both between plants and from plants to customers within the application area. (Tr. 121-125, 126-129, 131-132, 134-137, 140-143, 149, 153-154)

19. Highway Equipment Company uses the services of the Applicant and supports the application; if the subject application is granted, Highway Equipment will use the Applicant's proposed service and consider reducing private carriage in favor of the Applicant's service. (Tr. 156-157, 160)

20. Pittsburgh Mack Sales sells and services Mack and Nissan trucks and sells parts for the trucks; Pittsburgh Mack supports the application. (Tr. 174)

21. Pittsburgh Mack Sales has a facility in Pittsburgh, Allegheny County, and receives shipments of parts from dealers located in, among other places, Bedford, Bedford County, and Altoona, Blair County. (Tr. 174-177)

22. Pittsburgh Mack Sales uses the Applicant's services both interstate and intrastate, and if the subject application is granted, Pittsburgh Mack will give the Applicant additional shipments to be transported into the application area. (Tr. 179-181)

23. Neville Chemical Company produces synthetic resins and anti-oxidants and distributes various solvents; Neville supports the subject application. (Tr. 187-188)

24. Neville Chemical Company has customers to which it makes a substantial number of shipments in the application territory, including such destination locations as Bedford, Somerset, Ebensburg, and Johnstown. (Tr. 189-190)

25. Neville uses the services of the Applicant, along with other regulated carriers and private carriage, for both interstate and intrastate shipments. (Tr. 190-192)

26. Neville supports the subject application both because the Applicant provides services not provided by other regulated carriers and because it may reduce private carriage in favor of the use of the Applicant's proposed service. (Tr. 194-196)

27. Lincoln Aluminum Distributing Company, whose plant is located in Jeannette, Westmoreland County, distributes and ships aluminum products to glass shops both interstate and intrastate; Lincoln makes a substantial number of shipments within the application area, and it uses the Applicant's services via the Maryland terminal; Lincoln supports the subject application. (Tr. 212-216)

28. Alling & Cory is a wholesale distributor of paper products; its warehouse is located in Pittsburgh, and it supports the subject application. (Tr. 237)

29. Alling & Cory uses both regulated carriage and private carriage to ship to customers both interstate and intrastate (including a significant number of shipments into the application area), using the Applicant's services, and it selects the carrier for shipments from a supplier's facility in Erie, Pennsylvania. (Tr. 239-243; 245-246, 250-255)



30. If the subject application is granted, Alling & Cory will use the Applicant's services from its warehouse into the six county area sought and vice versa; it will also designate the Applicant as the carrier for the Erie traffic that moves into the involved six county area of Pennsylvania. (Tr. 256)

31. J.A. Williams is an exclusive wholesale distributor of consumer goods (including parts therefor), including electronic products, has its sales office and warehouse located in Pittsburgh, Pennsylvania, and supports the subject application. (Tr. 261-262)

32. J.A. Williams has approximately 300 dealer-customers located in virtually every county in Pennsylvania, along with others located in areas of Ohio and West Virginia. (Tr. 262, 264)

33. J.A. Williams makes shipments from Pittsburgh, Allegheny County, weighing from 150 to 5,000 pounds, to central Pennsylvania on a daily basis; under certain circumstances there are return shipments, from dealer-customers to Pittsburgh, and shipments between dealer-customers. (Tr. 263-270, 274)

34. J.A. Williams uses primarily Pitt-Ohio for its interstate and intrastate traffic in the tri-state area; traffic which the Applicant is handling separately under interstate and intrastate authority would be matched up so that additional freight could be put on the same vehicle. (Tr. 273)

35. Cardell Sales is a rapidly growing manufacturer's representative in the electrical industry; it represents and ships (for 18 manufacturers) to electrical distributors in western Pennsylvania and West Virginia and to home centers in the eastern United States. (Tr. 280, 294)

36. Cardell has two warehouses in Pittsburgh from which it ships on a two-week schedule, using private carriage for 60% of the traffic; from one warehouse, the shipments range from 1,000 to 20,000 pounds and from the other warehouse, they range from 5,000 to 15,000 pounds. (Tr. 280-281, 283)

37. Cardell ships to Somerset County, Bedford County, and Clearfield County, and to other points within the application area; if the subject application is granted, Pitt-Ohio's service would replace private carriage in certain areas and for certain types of shipments. (Tr. 284-285, 289, 294)

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40. In a good season, A.R. Chambers makes 50 to 60 shipments per month into the six county application area; in 1988, it successfully bid on 100 non-highway type jobs to supply materials to contractors located in the six county application area; the Applicant supplied service to A.R. Chambers when same day service was not needed. (Tr. 308-309, 322-323)

41. Within the application area, A.R. Chambers has freight moving from vendor to job site; it needs a carrier that provides same day or next day service. (Tr. 309-314, 315-316, 319, 332)

42. The Applicant can provide A.R. Chambers with the type of service it requires; the Applicant's facilities are located nine city blocks from A.R. Chambers' facilities. (Tr. 315-316, 319)

43. A.R. Chambers uses the Applicant's services both interstate and intrastate, supports the subject application, and it will tender to the Applicant, if the subject application is granted, all of its outbound traffic into the six county application area. (Tr. 318-319)

44. Okonite Company, which supports the subject application, operates a wire and cable warehouse in Leetsdale,

Allegheny county, where it cuts cable to customer specification.  
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45. Approximately 95% of Okonite's shipments are in the less-than-truckload category; as much as 20% of its shipments go to sites located within the six county application area. (Tr. 344-345)

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50. Unlike most of its competitors, Allegheny Distributing does not engage in private carriage; it uses the Applicant's services to obtain overnight service, which its competitors are able to provide for themselves. (Tr. 374)

51. Allegheny Distributing uses the services primarily of the Applicant to ship to points in western Pennsylvania, Ohio, and northern West Virginia; it rates the Applicant's services as "excellent," and it supports the subject application to enhance the available service and to be able to stage and ship intrastate and interstate shipments together. (Tr. 378-380)

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61. Because of the susceptibility of some of Steel City's products to freezing, it requires overnight service for these products. (Tr. 406-407)

62. The Applicant is at Steel City's facility at least once a day, and if the Applicant had authority, as it would have if the subject application is granted, to serve all of Pennsylvania from Steel City's facility, there would be, by using the services of the Applicant, less congestion at Steel City's facility. (Tr. 410-411)

63. If the subject application is granted and if the Applicant maintains its usual service standards, Steel City will tender to the Applicant all of its traffic into the central region of the state. (Tr. 411)

64. Allegheny Bindery Corporation binds books, annual corporate reports, financial reports, and similar materials for, primarily, printers and then ships its less-than-truckload shipments to either printers or printers' customers; its facility is located in Pittsburgh, Allegheny County, approximately one mile from the terminal facilities of the Applicant. (Tr. 421, 424)

65. Allegheny Bindery has customers located in such representative areas as Cambria County, Somerset County, Blair County, and Clearfield County. (Tr. 429-430)

66. Allegheny Bindery requires same day service, and it expects carriers to provide service six days a week. (Tr. 433)

67. The Applicant has provided service to Allegheny Bindery for ten years; Pitt-Ohio handles Allegheny Bindery's interstate traffic, such as inbound shipments from Lorain, Ohio, and return shipments to New Jersey and Cleveland, Ohio; Pitt-Ohio also handles the intrastate traffic for Allegheny Bindery. (Tr. 435-436)

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70. Aristech ships polyester resin and plasticizer in drums and ships anhydrides in bags on pallets or in super sacks; shipments are both truckload and less-than-truckload and are almost always made in vans. (Tr. 444-445)

71. The destinations to which Aristech ships include Altoona, Blair County, Johnstown, Cambria County, and Clearfield,



Clearfield County; Aristech receives returned materials from points within the involved six county area. (Tr. 445, 451)

72. Aristech uses the Applicant's services both interstate and intrastate; however, shipments from Allegheny County to Johnstown, Altoona, and Clearfield must go through the Applicant's Cumberland, Maryland, terminal. (Tr. 452-456)

73. If the subject application is granted, Aristech will use the Applicant's proposed service to ship directly into the central Pennsylvania area; under the foregoing circumstances, the Applicant could be used to make multiple stop-off deliveries to customers throughout the entire state. (Tr. 455-456)

74. Aristech believes that the safety factor at its plants is improved if the number of carriers with which it must deal is minimized. (Tr. 452, 456-458)

75. Henry Miller Spring and Manufacturing Company manufactures steel railroad and industrial coil springs, has a one-dock shipment facility in Sharpsburg, Allegheny County, and supports the subject application. (Tr. 462)

76. Henry Miller makes both truckload and less-than-truckload shipments, and it ships between one and two million pounds of freight into the involved six county area; representative destination points for the relevant shipments include Bedford, Bedford County, Juniata and Altoona, Blair

County, Johnstown, Cambria County, and Windber, Somerset County.  
(Tr. 463-468)

77. Henry Miller requires next day service, and it wants a carrier that can pick up both intrastate and interstate shipments, in order to reduce congestion at its one-dock facility. (Tr. 464-465, 468-470)

78. Henry Miller has used the Applicant's services both intrastate and interstate for 10 years; if the subject application is granted, Henry Miller will benefit in a number of ways: (a) Applicant will be able to make more multiple pickups, (b) congestion will be reduced at the manufacturing facility, and (c) because of the proximity of Applicant's terminal to Henry Miller's facility, emergency-type shipments can be expedited. (Tr. 469-470)

79. Watson-Standard Paint Company produces various chemical coatings used by can manufacturers and produces finishes, primers, and enamels used by machinery manufacturers; Watson-Standard's products are shipped from two facilities in Allegheny County, one on Neville Island and the other in Harwick. (Tr. 478-479)

80. Watson-Standard's products are shipped in 55 gallon drums or in one-gallon or five-gallon containers. (Tr. 481)

81. Watson-Standard requires late day pickups and often requires same day or early next day deliveries; it expects early next day delivery on shipments to customers located in the involved central part of Pennsylvania. (Tr. 482)

82. Watson-Standard uses the services of the Applicant, both interstate and intrastate; Watson-Standard wishes to limit the number of carriers with which it is required to deal, and it will benefit from a grant of the subject application by having a familiar carrier that can pickup shipments at both of its plants and break the shipments for multiple destinations. (Tr. 484-489)

83. If the subject application is granted, the Applicant will be able to continue to serve Watson-Standard into the involved six county area, and it will be able to provide same day service into that area. (Tr. 490)

84. Weyerhaeuser is a wholesale distributor of building products (e.g., lumber, plywood, nails, shingles, etc.), has one of its 58 facilities located in Murrysville, Westmoreland County, and supports the subject application; its customers include home building centers and lumber yards. (Tr. 492-493, 498)

85. Weyerhaeuser makes shipments from its Murrysville facility to points in the central third of the state; approximately 30% of the described traffic is handled by private

carriage and motor common carriers are used for the balance of the traffic. (Tr. 494-495)

86. Although Weyerhaeuser has used the Applicant's services for interstate shipments and for intrastate shipments in western Pennsylvania, it has not used the Applicant's services into the central part of Pennsylvania; Weyerhaeuser is satisfied with the Applicant's timely pickups and deliveries, and it will use the Applicant's proposed service, if the subject application is granted. (Tr. 499-501)

87. Subject to certain exceptions, Ward Trucking Corp., a protestant, has statewide authority to transport property. (Protestants' Exh. No. P-18, pp. 14-15; Tr. 540)

88. A grant of the subject application will not impair or endanger the operations of Ward Trucking Corp. (Protestants' Exhs. No. P-23; No. P-24; Tr. 547, 557-567)

89. Subject to certain exceptions, W.C. McQuaide, Inc., a protestant, has statewide authority to transport property. (Protestants' Exh. No. P-26; Tr. 576-577)

90. A grant of the subject application will not impair or endanger the operations of W.C. McQuaide, Inc. (Tr. 586-587, 595-607)

I.

Legal Issues and Evidentiary Criteria  
For Resolving Motor Common Carrier Applications

A person who or which proposes to provide (for the first time) or proposes to provide additional non-exempt, intrastate transportation services to the public for compensation must obtain from the Pennsylvania Public Utility Commission either a certificate of public convenience or an amendment to a certificate of public convenience, previously granted by the Commission. 66 Pa. C.S. 102, 1101, and 1103. "A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public." 66 Pa. C.S. 1103(a).

The evidentiary criteria by which the decision is made to grant or to deny a certificate of public convenience or an amendment to a certificate of public convenience to an applicant are codified at Section 41.14 to Title 52 of the Pennsylvania Code:

§41.14. Evidentiary criteria used to decide motor common carrier applications.

(a) An applicant seeking motor common carrier authority has the burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need.

(b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service, and, in addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally.

(c) The commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to such an extent that, on balance, the granting of authority would be contrary to the public interest.

A prima facie case, i.e., sufficient evidence to support the grant of an application, is made when an applicant adduces competent and credible evidence (1) that the proposed service will serve a useful public purpose, responsive to a public demand or need and (2) that the applicant possesses the technical and financial ability to provide the proposed service.

In a proceeding where there is no evidence that a grant of the authority sought is likely to impair or endanger the operations of protestants or existing carriers, the applicant's burden of proving a "public demand or need" for the proposed service is easily met. Sufficiently demonstrated convenience to the shipping or traveling public or attestations by members of the public of a desire to deal with an applicant appears to

satisfy the standard of proof.<sup>6</sup> [See, for example, Seaboard Tank Lines, Inc. v. Pennsylvania Public Utility Commission, 93 Pa. Commonwealth Ct. 601, 602; 502 A. 2d 762, 763 (1985)<sup>7</sup> and the underlying Initial Decision (from which appeal was taken in Seaboard, supra), in Application of Machise Interstate Transportation Company, Docket No. A. 102191, F. 1, Am-D, (mimeo) pages 2-3 and 4-5 (adopted as the Commission's action by Order adopted March 16, 1984, and entered April 2, 1984).]

The Commission has not undertaken the task of specifying all categories of evidence by which an applicant may demonstrate that the proposed service will serve a useful public purpose. However, the following categories of evidence have received the Commission's initial expressed approval: (1) different service, (2) efficiency, (3) lower rates, (4) future

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<sup>6</sup> After the Commission's action, at its Public Meeting on March 15, 1990, in Application of Blue Bird Coach Lines, Inc., A-00088807, F. 2, Am-K, it is not clear whether "need" in the context of Subsection 41.14(a), 52 Pa. Code §41.14(a), refers to the public need for the specific proposed service, or whether "need" refers to a shipper's primary need to ship a product (or a traveler's primary need to travel by motor common carriage), or whether "need" comprehends (as to evidence that must be adduced by an applicant to support, legally, the grant of an application) both of the foregoing proposes referents.

<sup>7</sup> Seaboard is notable, furthermore, for the Court's holding: the Commission properly acted within its discretion when it promulgated the evidentiary criteria used to decide motor common carrier applications [52 Pa. Code §41.14]. See, also, Yellow Cab Co. v. Pennsylvania Public Utility Commission, 105 Pa. Commonwealth Ct. 513; 424 A. 2d 1069 (1987), where the Court reaffirmed the propriety of the Commission's action.

need, (5) backup service, (6) shipper competition, (7) ICC authority, (8) rectification of authority, and (9) benefit to the applicant. The factor that is common to each of these categories, according to the Commission, is the best interests of the prospective users of the proposed service and the public.<sup>8</sup> Presumably, an applicant may also use (the historically valid) proof of the inadequacy of existing services as a category of evidence, in order to demonstrate a useful public purpose for the proposed service. On March 15, 1990, the Commission, at its Public Meeting, on consideration of the matter captioned, Application of Blue Bird Coach Lines, Inc., A-00088807, F.2, Am-K, appears to have adopted the position that demonstrated shipper support satisfies an applicant's burden of proving, under Subsection 41.14(a), 52 Pa. Code §41.14(a), a responsive useful public purpose for the proposed service. Consequently, if an applicant adduces qualitatively sufficient evidence of shipper support of a motor common carrier application, the applicant has met its prima facie burden of proof, as required for approval or

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<sup>8</sup> Re Richard L. Kinard, Inc., 58 Pa. P.U.C. 548, 552 (1984); Opinion and Order, Application of Richard L. Kinard, Docket No. A-95829, F. 1, Am-D, adopted October 19, 1984, and entered October 22, 1984 (mimeo, p. 5).



grant of the application, under Subsection 41.14(a), 52 Pa. Code §41.14(a).<sup>9</sup>

An applicant always has the burden of persuasion, but once an applicant has produced competent and credible evidence (1) that there is a need or public demand for a proposed service to which a useful public purpose is responsive, and (2) that the applicant is technically and financially able to provide the proposed service, the applicant has satisfied its minimum burden of producing evidence sufficient to support approval or a grant of the application.

Finally, the Commission suggests in its Transportation Regulatory Policy<sup>10</sup> that those evidentiary criteria, now codified and found at Section 41.14 (52 Pa. Code §41.14), will be construed and applied with the goal of promoting healthy competition among motor common carriers. Therefore, all evidence in a motor common carrier application proceeding is evaluated or considered in terms of whether a grant of the application will

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<sup>9</sup> The opened-ended Kinard criteria or "alternatives" may yet prove useful when considering the issue of whether adequate shipper support is in evidence, sufficient to support a grant of authority sought under Subsection 1103(a), of the Public Utility Code, 66 Pa. C. S. §1103(a), i.e., the concept of support has not been exhaustively explicated by the Commission or the courts.

<sup>10</sup> The Transportation Regulatory Policy was noticed and proposed in the Pennsylvania Bulletin at 12 Pa. B. 2697 (August 14, 1982), adopted by Order at Docket M-820319, entered November 22, 1982, and promulgated in the Pennsylvania Bulletin at 12 Pa. B. 5282 (December 12, 1982).

likely promote healthy competition between and among motor common carriers.

## II.

### Evidence Adduced and 52 Pa. Code §41.14

#### A.

#### Public Demand or Need and the Responsive Useful Public Purpose

Protestants' counsel argues, essentially, on brief that there is no need for the proposed service, that there is a "significant difference between a desire for a service and the need for service," and that the protestants are ready, willing, and able to serve. (PB, pp. 27-32, p.28)

It is not at all clear, as protestants' counsel concludes (without cited legal authority), that there is a legal distinction, under Subsection 41.14(a), 52 Pa. Code §41.14(a), to be made or found between a desire for a service and the need for a proposed service, at issue. [See, for example, Seaboard Tank Lines, Inc. v. Pennsylvania Public Utility Commission, 93 Pa. Commonwealth Ct. 601, 602; 502 A. 2d 762, 763 (1985) and the underlying Initial Decision (from which appeal was taken in Seaboard, supra), in Application of Machise Interstate Transportation Company, Docket No. A. 102191, F. 1, Am-D, (mimeo) pages 2-3 and 4-5 (adopted as the Commission's action by Order adopted March 16, 1984, and entered April 2, 1984), and more recently the Commission's action in Application of Blue Bird

Coach Lines, Inc., A-00088807, F. 1, Am-K] It appears that the need referenced in Subsection 41.14(a), 52 Pa. Code §41.14(a), is being construed to refer to a supporting shipper's "need" to ship a product, rather than the "need" of the shipper for a particular transportation service. If a proposed transportation service will satisfy a shipper's "need" to ship a product, a responsive useful public purpose for the proposed service is deemed to exist, regardless of whether there are other transportation services available that will satisfy the shipper's need to ship its product.

Inasmuch as there is abundant evidence in the instant proceeding that eighteen shippers have product that need to be shipped, and inasmuch as each shipper expressed a desire to use, and even expressed a rationale for desiring to use, the Applicant's proposed service, it is found that the Applicant has satisfied its prima facie burden of proof, as required under Subsection 41.14(a), 52 Pa. Code §41.14(a), to support approval of the application, as amended.

#### B. Technical and Financial Ability

Subsection 41.14(b), 52 Pa. Code §41.14(b), provides that, among other things, an applicant has the burden of demonstrating, in order for an application to be approved, that it has the requisite technical and financial ability to provide

the proposed service. That the Applicant is technically and financially able to provide the proposed service is amply demonstrated by the findings of fact No. 1 through No. 15, herein.<sup>11</sup> Applicant's counsel provides a one-page summary on this issue that accurately represents the evidence on the issue (AMB, p. 25):

Pitt-Ohio is a financially strong motor carrier with terminal facilities, motor vehicle equipment, experienced personnel and operational plans which will enable it to provide the proposed service without difficulty. Part A of Appendix 1 [see, Appendix A to the subject Initial Decision] summarizes the testimony of the operating witness for the Applicant and it shows that it is in a position to meet all of the transportation requirements of the supporting shippers. Moreover, the shippers that have used Pitt-Ohio's service have nothing but praise for the carrier and its willingness to go the extra mile to accommodate them. This has meant picking up shipments on as little as 30 minutes notice, making pickups late into the evening for early morning delivery, providing same day delivery service in extreme emergency situations and generally providing a very responsive service to the shipping public.

Applicant has motor vehicles operating throughout the central part of Pennsylvania on a daily basis and is handling thousands of shipments every year to and from that territory. Approval of this application will not strain Pitt-Ohio's ability to serve the area. On the contrary, it will most likely enhance the service already being provided

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<sup>11</sup> That protestants' counsel does not address this issue, on brief, is some further indication of the Applicant's ability to provide the proposed service.

and after the volume of traffic is developed, it may well result in the positioning of a new terminal in central Pennsylvania so that Applicant can provide an even more responsive service.

There is no evidence of record that the Applicant lacks a propensity to operate safely and legally. Therefore, it is found that the Applicant has satisfied its prima facie burden of proof, as required under Subsection 41.14(b), 52 Pa. Code §41.14(b), to support approval of the application, as amended.

C. Residual Issues Under 52 Pa. Code §41.14

Finally, after concluding that the application should be denied in its entirety, protestants' counsel offers the following guidance (PB, p. 30):

[W]e would point out that the Decision of this Commission in Samuel J. Lansberry, Inc., A. 99642, Folder 1, Am-P, entered October 3, 1989, provides a partial remedy as suggested by Mr. McQuaide in his testimony at N.T. 586, wherein he stated that if the application were limited to the supporting witnesses' companies he would have no objection to it and, in fact, would not have continued his protest. This is precisely what the Commission did in the Lansberry case; namely, limited the grant to the supporting witnesses. This is the maximum that should be done in this proceeding.

The essence of common carriage is that the services are available to the public generally. The goal of the Commission's Transportation Regulatory Policy is to promote healthy

competition among motor common carriers.<sup>12</sup> By restrictively considering or weighing shipper support evidence (as to the scope of the application), the public is not served either as to the availability of transportation options or as to the economic and service benefits to be derived from competition among motor common carriers.

Furthermore, Applicant's counsel, anticipating the Lansberry argument, effectively counters the protestants' position (AMB, pp. 18-19):

Applicant submits that the Lansberry case is distinguishable from the instant case and is therefore not a precedent. The most obvious distinguishing factor is that bulk commodities [involved in Lansberry] typically move in truckload quantities from one origin to one destination. It is therefore operationally feasible for a bulk commodity carrier such as Lansberry to effectively utilize such authority even though it is limited to service for named shippers.

Pitt-Ohio, on the other hand, is a general freight carrier which, while transporting both truckload and less-than-truckload traffic, specializes in the handling of LTL shipments. In order to conduct a less-than-truckload motor carrier business, a carrier must be able to pick up and deliver shipments for the entire shipping public in a cohesive geographical area. An LTL service

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<sup>12</sup> The Transportation Regulatory Policy was noticed and proposed in the Pennsylvania Bulletin at 12 Pa. B. 2697 (August 14, 1982), adopted by Order at Docket M-820319, entered November 22, 1982, and promulgated in the Pennsylvania Bulletin at 12 Pa. B. 5282 (December 12, 1982). The evidentiary criteria to implement or give effect to the policy are codified at 52 Pa. Code §41.14.

cannot be efficiently or economically provided if the carrier can only serve a relatively few members of the public which might require it to run 20 miles in order to pick up two 100 pound shipments. It is not necessary to belabor this distinction since Applicant believes that it is obvious to anyone knowledgeable about the trucking industry that a less-than-truckload service simply cannot be conducted only for a limited number of named shippers.

In view of the broad-based support for the instant application both as to the variety of commodities shipped and the geographical scope of the shippers' transportation interests, this is an appropriate proceeding in which to invoke the well established principle that evidence of demand for the proposed service need not be established for every square mile of the operating area sought by the applicant. Zurcher v. Pa. P.U.C., 173 Pa. Super. 343, 98 A.2d 218, 221 (1953); Motor Freight Express v. Pa. P.U.C., 180 Pa. Super. 622, 121 A.2d 617 (1956); Reeder v. Pennsylvania Public Utility Comm., 192 Pa. Super. 298, 162 A.2d 231 (1960); Pa. P.U.C. v. Purolator Corp., 24 Pa. Commonwealth Ct. 301, 355 A.2d 850 (1976); Application of Ward Trucking Corp., 43 Pa. P.U.C. 689, (1968); Re: Ray A. Walker, 50 Pa. P.U.C. 531 (1977); AMB, p. 11.

In addition to the economics of providing less-than-truckload services (and the proposed LTL service seems to be the primary interest of the supporting shippers) and the broad-based support, mentioned above, granting the subject

application will be a significant step toward providing the public with more comprehensive service from an established, competent carrier. Applicant's counsel described the effect of granting the subject application, as follows (AMB, pp. 8-9):

There is one other factor that is implicit by the very nature of this application and it addresses the Kinard criteria pertaining to rectification of current operating authority. Pitt-Ohio presently is authorized to transport property from points in Allegheny County to all points in Pennsylvania, and vice versa, with the exception of seven central Pennsylvania counties. Part (1) of the application is intended to close that gap or round out the Allegheny County authority with respect to all points in Blair, Huntingdon and Bedford Counties, and those portions of Clearfield, Cambria and Somerset Counties which are located on and east of U.S. Highway Route 219.

The same is true on a somewhat broader scale with respect to Part (2) of the application. Pitt-Ohio presently is authorized to transport property from points in Pennsylvania on and west of U.S. Highway 219 to points in the state located on and east of U.S. Highway 15, and vice versa, in short, from the western third of the state to the eastern third of the state, and vice versa. (A-4, p. 4; A-7, p. 5) It also holds authority to operate between all points in 17 western Pennsylvania counties, with certain exceptions. (A-7, p. 1-2) And by virtue of a recent acquisition it can transport property, with few exceptions, between all points in approximately the eastern half of Pennsylvania. (A-24, p. 1)

Clearly, this application will not in any way totally round out Applicant's authority so as to permit it to operate between all points in Pennsylvania. But it will significantly improve its ability to provide



a more comprehensive service to its customers, to better integrate its interstate and intrastate operations with respect to the central portion of Pennsylvania, and ultimately to render a more efficient and economical service.

There can be little doubt, based on the record, that there is a broad-based need or demand for the proposed service by the Applicant. The Applicant has demonstrated that it is technically and financially capable of providing the proposed service. The responsive useful public purpose for the proposed service is, thus, demonstrated. Although the large number of exceptions and conditions attached to the proposed amendment to the subject application is worthy of scrutiny, the exceptions and conditions are straight forward and enforceable, and they do not otherwise impair the Applicant's ability to provide a useful, integrated service to the public.

The authority sought by the Applicant, as reflected in the application, as amended, is commensurate with the demonstrated public need. Therefore, this decision provides for the grant of the application, as amended.

There is no threshold showing in the instant proceeding that approval of the subject application, as amended, and the consequent operation of the authority by the Applicant will endanger or impair, in any way, the operations of the protestants.

### Conclusions of Law

1. The Commission has jurisdiction over both the Applicant and the subject matter of the application.

2. The application is properly before the Commission for disposition.

3. The Applicant has demonstrated a legally sufficient public demand or need for the proposed service.

4. The Applicant has demonstrated that a useful public purpose will be served by the proposed service, if the application is granted.

5. The Applicant has demonstrated a useful public purpose for the proposed service that is responsive to a public demand or need.

6. The Applicant has demonstrated that it has the necessary equipment and facilities or has the financial capability to secure the necessary equipment and facilities to perform the proposed service.

7. The Applicant has demonstrated that it possesses the technical and financial ability to provide the proposed service.

8. The record does not support a conclusion that the Applicant lacks a propensity to operate safely or legally.

9. There is nothing in the record to support the conclusion that if the subject application is granted, the

Applicant's resulting operations would impermissible endanger or impair the operations of existing common carriers.

10. The evidence of record supports the conclusion that the grant of the subject application for an amendment to the Applicant's certificate of public convenience is necessary or proper for the service, accommodation, convenience, or safety of the public.

11. The proposed service, as defined by the restrictive amendment, as finally offered by the Applicant, is operationally feasible, is consistent with the public interest, and is acceptable to the Commission, as set forth in the accompanying order.

#### ORDER

THEREFORE, IT IS ORDERED, as follows:

1. That the Application of Pitt-Ohio Express, Inc., at Docket No. A-00102471, F. 1, Am-P, be and is hereby approved, as amended, and that the certificate issued to the Applicant at Docket No. A-00102471, as amended, be further amended to include the following rights:

(1) To transport, as a Class D carrier, property from points in Allegheny County to points in the counties of Blair, Huntingdon and Bedford, and those points in the counties of Clearfield, Cambria and Somerset which are located on and east of U.S. Highway Route 219, and vice versa; with the right to

interchange property with Class A, Class B and Class D carriers so authorized.

(2) To transport, as a Class D carrier, property, from points in that part of Pennsylvania on and west of U.S. Highway 219 (except points in Allegheny County) to points in that part of Pennsylvania on and east of U.S. Highway Route 219 and west of U.S. Highway Route 15, and vice versa; with the right to interchange property with Class A, Class B and Class D carriers so authorized;

Subject to the following conditions:

FIRST: That no right, power or privilege is granted to transport household goods and office furniture in use; property in bulk; property which, because of size or weight, requires the use of special equipment; or malt beverages, malt beverage containers and pallets.

SECOND: That no right, power or privilege is granted to transport property to or from the facilities of American Home Foods Division of American Home Products Corporation located in the township of Turbot and the borough of Milton, Northumberland County.

THIRD: That no right, power or privilege is granted to transport such merchandise, as is dealt in by wholesale, retail and chain grocery and food business houses to or from points in York County.

FOURTH: That no right, power or privilege is granted to transport limestone, limestone products or fertilizer from points in York County.

FIFTH: That no right, power or privilege is granted to transport such commodities as are dealt in by wholesale, retail and general grocery business houses for Dauphin Distribution Services Co. from points in the townships of Hampden and Silver Spring, Cumberland County.

SIXTH: That no right, power or privilege is granted to transport finished and unfinished products, materials and supplies, armaments and munitions to or from the Standard Steel Works Division of Baldwin Locomotive Works in the borough of Burnham, Mifflin County.

SEVENTH: That no right, power or privilege is granted to transport property from the facilities of C.H. Masland and Sons in the borough of Carlisle, Cumberland County, and in the township of Granville, Mifflin County, to the facilities of Volkswagen Manufacturing Corp. of America in the township of East Huntingdon, Westmoreland county, or vice versa.

EIGHTH: That no right, power or privilege is granted to transport property to or from the facilities of Carlisle Tire & Rubber Co. and Carlisle Syntec Systems in the county of Cumberland.

NINTH: That no right, power or privilege is granted to transport glass and glass products from the facilities of Chromalloy American Corporation in the township of Granville, Mifflin County, or glass and property used in the manufacture, processing and production of glass and glass products to the facilities of Chromalloy American Corporation in the township of Granville, Mifflin County.

TENTH: That no right, power or privilege is granted to transport property for Owens Corning Fiberglas Co.

ELEVENTH: That no right, power or privilege is granted to transport wood and wood products, to or 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.

TWELFTH: That no right, power or privilege is granted to transport property to or from the

facilities of International Paper Co. in Kelly Township, Union County.

THIRTEENTH: That no right, power or privilege is granted to transport property on flatbed trailers.

2. 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.

3. 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.

4. That in the event the Applicant has not, on or before 60 days from the date of service of this order, complied with the requirements set forth above, the application shall be dismissed without further proceedings.

5. That the protest of Evans Delivery Company, Inc., is dismissed because the protestant failed to appear at hearing.

Date: May 21, 1990



JAMES D. PORTERFIELD  
Administrative Law Judge

ACT 294

Case Identification: A-00102471, F001, Am-P;  
Application of Pitt-Ohio  
Express, Inc. a corporation of  
the Commonwealth of Pennsylvania

Initial Decision By: ALJ James D. Porterfield

Deadline for Return to OSA: July 14, 1990

This decision has not been reviewed by OSA.

\* \* \* \* \*

I want full Commission review of this decision.

W<sup>m</sup> H. Smith  
Commissioner

7-13-90  
Date

I do not want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

ACT 294

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Commissioner

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Date

I do not want full Commission review of this decision.

*Joseph P. ...*  
\_\_\_\_\_  
Commissioner

*7/6/90*  
\_\_\_\_\_  
Date



ACT 294

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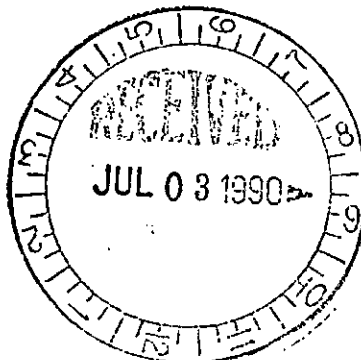
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Commissioner

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Date

I do not want full Commission review of this decision.

*Frank D. Smith*  
\_\_\_\_\_  
Commissioner

*7-11-90*  
\_\_\_\_\_  
Date



ACT 294

Case Identification: A-00102471, F001, Am-P;  
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Express, Inc. a corporation of  
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7-13-90  
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Date

I do not want full Commission review of this decision.

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Commissioner

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Date

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JUL 2 - 1990

COMMISSIONER ROLKA'S OFFICE