

September 15, 1989

IN REPLY PLEASE
REFER TO OUR FILE

John A. Vuono
Attorney at Law
2310 Grant Building
Pittsburgh, PA 15219

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

Dear Sir:

Acknowledgement is made of an application filed by you on behalf of Pitt-Ohio Express, Inc. for the rights of Tose-Fowler, Inc.

You are further advised that the above application will be published in the Pennsylvania Bulletin of September 16, 1989.

Very truly yours,

David Ehrhart
Supervisor - Application Section
Bureau of Transportation

DE:RP:11

26th & A.V.R.R.
Pittsburgh, PA 15222

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
SEP 18 1989
ENTRY No. *AR*

A-00102471, FOLDER 1, AM-AF PITT-OHIO EXPRESS, INC.

(26th & A.V.R.R., Pittsburgh, Allegheny County, PA 15222), a corporation of the Commonwealth of Pennsylvania. Application has been filed to acquire part of the operating authority held by Tose-Fowler, Inc., a corporation of the Commonwealth of Pennsylvania at A-00068623, Folders 3 and 5. Application has been made to the Interstate Commerce Commission for approval of this combination pursuant to 49 U.S.C. §11343(e). Attorney: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

SERVICE OF NOTICE OF MOTOR CARRIER APPLICATIONS

DATE _____ SERVICE SEP 16 1989

BUREAU OF TRANSPORTATION
COMMON CARRIER
SEPTEMBER 1989

A-00102471
F. 1
Am-AF

Application of Pitt-Ohio Express, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, property, for H.J. Heinz Company, U.S.A. between points in Pennsylvania; subject to the following condition: That no right, power or privilege is granted to transport commodities in bulk: SO AS TO PERMIT the transportation of (1) property, between points in and east of the counties of Adams, Cumberland, Perry, Juniata, Mifflin, Union, Clinton and Tioga; subject to the following conditions: That no right, power or privilege is granted to transport garments, and materials, supplies and trimmings, incidental to the manufacture of said garments, between manufacturers, processors and contractors thereof; That no right, power or privilege is granted to transport commodities in bulk, in dump or tank vehicles; That no right, power or privilege is granted to transport commodities which, because of their size or weight, require the use of special equipment; That no right, power or privilege is granted to transport iron and steel and iron and steel articles on flatbed trailers; That no right, power or privilege is granted to transport household goods and office furnishings, in use, to or from points in the counties of Adams, Berks, Clinton, Cumberland, Dauphin, Juniata, Lancaster, Lebanon, Lycoming, Mifflin, Montour, Northumberland, Perry, Schuylkill, Snyder, Union, York and Lackawanna and between points in the borough of Duryea, Luzerne County and within eight (8) miles by the usually traveled highways of the limits of said borough; That no right, power or privilege is granted to transport, limestone, limestone products and fertilizer from points in York County; 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 the county of York and the township of Conewago, Adams County; That no right, power or privilege is granted to transport property to or from the facilities of Sky Brothers of Lemoyne, Inc. in the city of Harrisburg, Dauphin County, or to and from the facilities of Sky Brothers of Allentown and Allentown Public

NH

Protests due on No Hearings _____
Protests due on Hearings - (5 days prior to date of hearing) _____
Notice of the above application was mailed to all certificate holders and railroad companies in the service area as noted above.

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
SEP 18 1989
ENTRY No. *16*

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

SERVICE OF NOTICE OF MOTOR CARRIER APPLICATIONS

DATE _____ SERVICE _____

- 2 -

Storage in the township of Hanover and the city of Allentown, Lehigh County; 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 thirty-five (35) statute miles of the limits of said city; That no right, power or privilege is granted to transport scrap metal and scrap paper for Hodes Industries, Inc., to or from its facilities in Lock Haven, Clinton County; That no right, power or privilege is granted to transport grain and grain products to or from points in Clinton County; That no right, power or privilege is granted to transport property to or from American Home Foods Division of American Home Products Corp., in the township of Turbot and the borough of Milton, Northumberland County; and That no right, power or privilege is granted to permit service for Philadelphia Electric Company between points within forty (40) miles of the limits of Norristown, Montgomery County; (2) property, between points in the borough of Moosic, Lackawanna County, and within airline distance of fifty (50) statute miles of the limits thereof, and from points in the said area to points within an airline distance of one-hundred twenty-five (125) statute miles of the limits of said borough, and vice versa; subject to the following conditions: That no right, power or privilege is granted to transport iron and steel and iron and steel articles from points in the city of Allentown, Lehigh County, and within an airline distance of thirty (30) statute miles of the limits of the said city, on flatbed trailers; That no right, power or privilege is granted to transport garments and/or wearing apparel and materials, supplies and trimmings incidental to the manufacture of said garments and/or wearing apparel, between manufacturers, processors and contractors thereof; That no right, power or privilege is granted to transport property to points located in the counties of McKean, Cameron, Clearfield, Blair, Bedford and Indiana; That no right, power or privilege is granted to transport property which, by reason of size or weight, requires special equipment, special handling or rigging; That no right, power or privilege is granted to transport commodities in bulk in tank vehicles; and That no right, power or privilege is granted to transport household goods in use; (3) as a Class B carrier, property between points in the city of Scranton, Lackawanna County and within three (3) miles of the limits of said city, limited to the transportation of household goods; and (4) as a Class D carrier, household goods in use, from points in the city of Scranton, Lackawanna County, and within three (3) miles

Protests due on No Hearings

Protests due on Hearings - (5 days prior to date of hearing)

Notice of the above application was mailed to all certificate holders and railroad companies in the service area as noted above.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

SERVICE OF NOTICE OF MOTOR CARRIER APPLICATIONS

DATE _____ SERVICE _____

- 3 -

of the limits of said city, to other points in Pennsylvania, and vice versa; which is to be a transfer of part of the rights authorized under the certificates issued at A-00068623, Fs. 3, 5 and 15 to Tose-Fowler, Inc., a corporation of the Commonwealth of Pennsylvania, subject to the same limitations and conditions.

DE:kmb
9/15/89

Application received: 8/15/89
Application docketed: 9/5/89

Protests due on No Hearings _____
Protests due on Hearings - (5 days prior to date of hearing)
Notice of the above application was mailed to all certificate
holders and railroad companies in the service area as noted above.

Bruce Biglow

*cc: P. Margolis
L. Keener
J. Farley*

RUBIN QUINN MOSS & HEANEY
ATTORNEYS AT LAW
1800 PENN MUTUAL TOWER

510 WALNUT STREET
PHILADELPHIA, PA 19106-3619

(215) 925-8300

DIRECT DIAL NUMBER

(215) 931-0692

October 24, 1989

ALEXANDER N. RUBIN, JR.	WILLIAM P. QUINN
JERROLD V. MOSS	TERENCE K. HEANEY
JAMES W. PATTERSON	MALCOLM L. LAZIN
DANIEL B. PIERSON, IV	DENIS JAMES LAWLER
ALAN KAHN	ROBERT P. STYLE
WILLIAM D. PARRY	G. BRADLEY RAINER
ROBERT SZWAJKOS	DON P. FOSTER
JOHN R. KENNEL, II	MARY ELLEN O'LAUGHLIN
ERIC M. HOCKY	EDWARD L. CIEMNIECKI
JOSEPH F. MESSINA	MICHAEL D. BUTLER
PETER C. CILIO	CHRISTOPHER C. CARR
RICHARD A. FRANKLIN	ANNA HOM
JOAN F. JAFFE	ELLEN B. JUCKETT
VICKIE E. LEDUC	JOHN A. RODA
CHERYL A. GALLAGHER	HOWARD H. SOFFER
KARIN LEIGH MOSS	JANET I. MOORE

KING OF PRUSSIA OFFICE
216 GODDARD BOULEVARD
GENERAL WASHINGTON BUILDING
KING OF PRUSSIA, PA 19406
TEL: 337-4080

JENKINTOWN OFFICE
SUITE 421
JENKINTOWN FOX PAVILION
JENKINTOWN, PA 19046
TEL: 264-4600

OF COUNSEL
ROBERT S. EINHORN
COKE & RUBIN

RECEIVED
OCT 27 1989
Pa. P.U.C.
Law Bureau

RECEIVED
OCT 30 1989
Pa. P.U.C.
Bureau of Transportation

Debra Paist, Esquire
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120

**Re: Transfer Applications of
Pitt-Ohio Express, Inc. (A-102471, F. 1, Am-AF);
Atlantic Contract Carriers Corp. (A-108568, F. 2);
and Yellow Freight Systems, Inc. (A-108952)**

Dear Ms. Paist:

The above-captioned applications of Pitt-Ohio Express, Inc., Atlantic Contract Carriers Corp. and Yellow Freight Systems, Inc. (jointly referred to herein as "Transferees") were published at pages 4037-4038 of the Pennsylvania Bulletin of September 15, 1989. Each application involves the transfer of a portion of the Pennsylvania Public Utility Commission operating authority held by Tose-Fowler, Inc. ("Tose-Fowler") at A-68623.¹ Also included as part of each of the transactions between Tose-Fowler and Transferees is the transfer of a portion of Tose-Fowler's Interstate Commerce Commission operating authority.

A Petition for Exemption seeking Interstate Commerce Commission approval of these transactions was filed on behalf of Tose-Fowler and each of the Transferees. The Petitions for Exemption each requested that the I.C.C. exercise the plenary jurisdiction granted to it by 49 U.S.C. §11341 and approve or

¹A fourth application involving a partial transfer of Tose-Fowler's Pennsylvania intrastate authority filed by ATSL, Inc. was forwarded to the Commission on September 8, 1989. It is our understanding that notice of the ATSL application is to be published in the October 21, 1989 Pennsylvania Bulletin.

**DOCUMENT
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DOCKETED
APPLICATION DOCKET
NOV 17 1989
ENTRY No. *ms*

Debra Paist, Esquire
October 24, 1989
Page Two

exempt the entire transaction, including the transfers of Tose-Fowler's Pennsylvania intrastate authority.

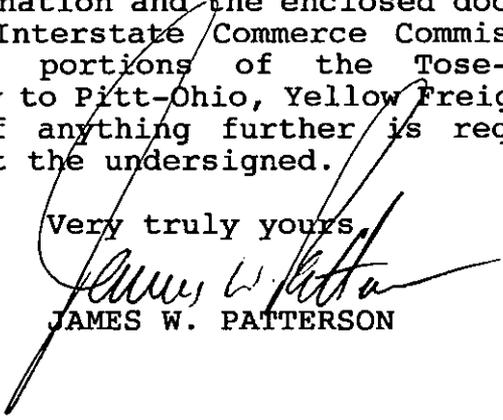
In I.C.C. proceedings involving Petitions for Exemption filed under 49 U.S.C. §11343, it is the practice of the Interstate Commerce Commission to publish notice of exemption of the transaction in the I.C.C. Register. The grant of exemption is conditional, subject to the receipt by the Commission of public comments in opposition to the transaction within thirty (30) days of the publication date. If no comments are received (as in these matters), the I.C.C. Register notice is deemed the final action of the Commission. The exemption becomes effective sixty (60) days after publication in the I.C.C. Register. See, 49 CFR §1186.7.

No Order or Decision approving or exempting the transaction is issued by the I.C.C. Rather, the parties are entitled to consummate the transaction sixty (60) days or more after the date of the I.C.C. Register notice. Please keep in mind that the ICC's exemption is permissive in nature - it does not require the parties to consummate, it only allows them to do so. Upon being advised by the parties that the transaction has been consummated, the I.C.C. will issue new Certificates or Permits to the Transferee.

Enclosed herewith are pages 23, 25-27 of the I.C.C. Register for June 22, 1989 which publish notice of the I.C.C.'s exemption of the purchase of the interstate and Pennsylvania intrastate authority of Tose-Fowler by Pitt-Ohio, Yellow Freight and Atlantic Contract Carriers and which describe the I.C.C. regulations applicable to these transactions. No comments were received in opposition to the transaction. A certification attesting to the absence of public comments is attached hereto.

I trust that the above explanation and the enclosed documents are adequate to establish the Interstate Commerce Commission's exemption of the transfer of portions of the Tose-Fowler Pennsylvania intrastate authority to Pitt-Ohio, Yellow Freight and Atlantic Contract Carriers. If anything further is required, please do not hesitate to contact the undersigned.

Very truly yours,


JAMES W. PATTERSON

JWP/tal
Enclosures

cc: John Vuono, Esquire
Robert Walton, President

CERTIFICATION

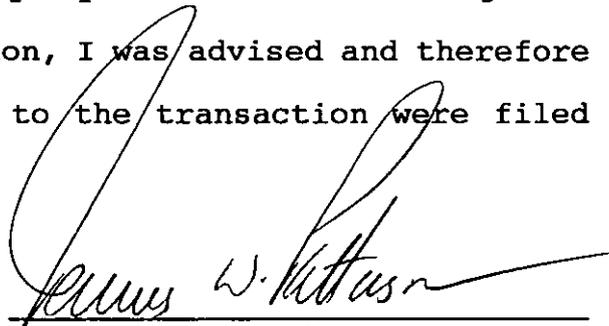
I, James W. Patterson, certify that:

1. I am Counsel of record for Tose-Fowler, Inc. in proceedings before the Interstate Commerce Commission involving the sale of portions of its interstate and Pennsylvania intrastate operating authority to Pitt-Ohio Express, Inc. (MC-F-19416), Yellow Freight, Systems, Inc. (MC-F-19418) and Atlantic Contract Carriers Corp. (MC-F-19419);

2. As Counsel for Tose-Fowler, Inc. in these proceedings I am a party upon whom comments in opposition to the transactions are to be served;

3. No comments in opposition to the transaction were received by me or by Tose-Fowler, Inc.; and

4. Based upon a telephone inquiry to the Case Tracking Unit of the Interstate Commerce Commission, I was advised and therefore believe no comments in opposition to the transaction were filed with said Commission.



JAMES W. PATTERSON

Of Counsel
Rubin, Quinn, Moss & Heaney

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

AGENCY Interstate Commerce Commission.

ACTION: Notice of Exemption.

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

ADDRESSES: Send comments to:

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

and

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

DATES: Comments are due 30 days after publication.

FOR FURTHER INFORMATION CONTACT:

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

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

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

CORRECTED NOTICE OF EXEMPTION

MC-F-19364

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

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

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

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

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

MC-F-19416

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

Petitioners' representatives:

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

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

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

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

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

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

MC-F-19418

YELLOW FREIGHT SYSTEM, INC. -- PURCHASE EXEMPTION--TOSE-FOWLER, INC.

Petitioners' representatives:

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

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

Comments should refer to No. MC-F-19418.

Under 49 U.S.C. 11343(e), the Commission has exempted, subject to public comment, the purchase by Yellow Freight System, Inc. (Yellow) (MC-112713), of the operating rights of Tose-Fowler, Inc. (Tose) that are contained in: (1) pages 3 through 43 of Tose's Interstate Commerce Commission Certificate No. MC-7698 (Sub-No. 18), which operating rights, essentially, collectively authorize regular-route and Irregular-route motor Common Carrier general freight transportation between points generally in northeastern States; and (2) that portion of Tose's Pennsylvania Public Utility Commission Intrastate motor carrier Certificate in Docket No. A-00068623, Folder 20, AM-F, that authorizes transportation, of property from points in the counties of Philadelphia, Burks, Delaware, Montgomery, Burks and Chester to points in the Counties of Washington, Beaver, Allegheny, Butler, Lawrence, Mercer, Venango, Crawford, Erie, Westmoreland, Greene, Fayette, Indiana, Clarion, and Armstrong, and vice versa, subject to certain conditions.

Yellow basically holds: (1) extensive regular-route authority to operate as a motor Common Carrier of general commodities (with exceptions), between points in the conterminous United States, and (2) Irregular-route motor Contract Carrier authority to conduct operations in the transportation of general commodities (with exceptions), between points in the United States, under continuing contract(s) with commercial shippers or receivers of general conditions. The Commission, previously granted Yellow temporary authority to lease Tose's above-noted operating rights pending disposition of the instant exemption petition.

Volume OP4-MCF-234

Decided: June 15, 1989

MC-F-19419

ATLANTIC CONTRACT CARRIERS CORP.--PURCHASE EXEMPTION--TOSE-FOWLER, INC.

Petitioners' representative:

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

Comments should refer to No. MC-F-19419.

Under 49 U.S.C. 11343(e), the Commission has exempted, subject to public comment, the purchase by Atlantic Contract Carriers Corp. (Atlantic) (MC-177662), of the operating rights of Tose-Fowler, Inc. (Tose) that are contained in: (1) Tose's Interstate Commerce Commission Permit No. MC-7698 (Sub-No. 19), which authorizes the Irregular-route motor Contract Carrier transportation of general commodities (with exceptions), between points in the United States, under continuing contract(s) with the Procter & Gamble Company, of Cincinnati, OH, and its subsidiaries; (2) that portion of Tose's Pennsylvania Public Utility Commission Intrastate motor carrier Certificate in Docket No. A-00068623, Folder 15-AM-C, which authorizes transportation, of property from points in the city of Scranton, Lackawanna County, and within an airline distance of 50 statute miles of the limits thereof, to points in the counties of Washington, Allegheny, Beaver, Butler, Lawrence, Mercer, Venango, Crawford, Erie, and Westmoreland, and vice versa; with exceptions and subject to certain conditions; and (3) that portion of Tose's New York Department of Transportation Intrastate motor carrier authority in Docket No. T-9440, which authorizes transportation between points in a territory comprised of the Counties of Broome, Chemung, Cortland, Onondaga, Schuyler, Seneca, Tioga, and Tompkins.

Atlantic holds (1) Irregular-route motor Common Carrier authority to transport general commodities (with exceptions), between points in the United States (except Alaska and Hawaii), and (2) Irregular-route motor Contract Carrier authority to transport general commodities (with exceptions), between points in the United States, under continuing contract(s) with commercial shippers or receivers of such commodities. The Commission previously granted Atlantic temporary authority to lease Tose's above - noted operating rights pending disposition of the instant exemption petition.

PENNSYLVANIA PUBLIC UTILITY COMMISSION



RECEIPT

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

William J. Lavelle
2310 Grant Bldg.
Pittsburgh, PA 15219

Date October 25, 1989

DOCKETED
OCT 26 1989

CR 133927 A

DOCUMENT FOLDER

In re application of Pitt-Ohio Express, Inc.
A-00102471, P.1, Am-AF.....\$350.00

Revenue account 001780-017601-102 (ck)

ck 8453 Checks \$350.00 Currency _____

Utility account 50:26

C. Joseph Meisigner
For Department of Revenue