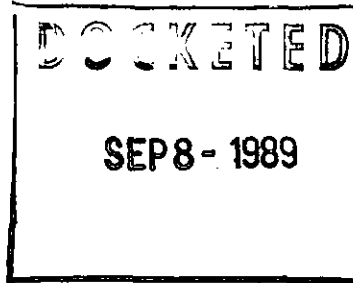




July 7, 1989

A-102471  
F. 1, Am-AB

William J. Lavelle, Esquire  
2310 Grant Building  
Pittsburgh, PA 15219



Pitt-Ohio Express, Inc., Pittsburgh, PA  
Petition to Reopen Record.

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To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in public meeting held June 29, 1989.

An Executed Order has been enclosed for your records.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jerry Rich". The signature is written over the typed name "Jerry Rich" and extends upwards and to the right.

Jerry Rich, Secretary

.lg  
Cert. Mail  
Encls.

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

DOCKET

SEP 8 - 1989

Public Meeting held June 29, 1989

Commissioners Present:

Bill Shane, Chairman  
William H. Smith, Vice Chairman  
Joseph Rhodes, Jr., Commissioner  
Frank Fischl, Commissioner

DOCUMENT  
FOLDER

Pitt-Ohio Express, Inc.  
Pittsburgh, PA;  
Petition to Reopen Record.

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

O R D E R

BY THE COMMISSION:

Now before this Commission for disposition is a petition to reopen the record filed on behalf of Pitt-Ohio Express, Inc. (Pitt-Ohio) on May 12, 1989. On September 6, 1988, Pitt-Ohio filed an application for an amendment to its authority seeking the following right:

To transport, as a Class D carrier, property (except commodities in bulk and household goods and office furniture in use), for Wagner Division, Cooper Industries, Inc., from its facilities located in the township of Upper Macungie, Lehigh County, the Borough of Boyerstown, Berks County, and the Borough of Weatherly, Carbon County, to points in Pennsylvania, and vice versa.

A protest was filed on October 17, 1988 by West Motor Freight, Inc., but was withdrawn on November 18, 1988 as a result of a restrictive amendment filed by Pitt-Ohio on November 16, 1988. However, Pitt-Ohio was unable to obtain the verified statement of the supporting shipper. By letter dated March 16, 1989, Pitt-Ohio advised this Commission that it was withdrawing its application. By Secretarial Letter dated March 24, 1989, the record in the instant case was closed. By a petition to reopen the record filed on May 12, 1989, 66 Pa. C.S. §703(f) and 52 Pa. Code §5.572, Pitt-Ohio seeks an opportunity to introduce a

verified statement of the supporting shipper for the application at A-00102471, F.1, Am-AB. Enclosed with the Petition was the supporting shipper's verified statement and Pitt-Ohio's verified statement. Pitt-Ohio avers that, on April 10, 1989, it was advised that the shipper would again support its application.

The decision whether to permit the reopening of a record is within our discretion. Re The Bell Telephone Co. of Pennsylvania, 54 Pa. P.U.C. 114 (1980). In Duick v. Pennsylvania Gas & Water Co., 56 Pa. P.U.C. 553, 558-59, 51 P.U.R. 4th 284, 288-89 (1982), we outlined the following prerequisites for granting a petition to reopen the record:

A petition . . . under the provisions of 66 Pa. C.S. §703(f), properly must seek the reopening of the record for the introduction of additional evidence of some sort. As grounds therefore [sic] it must allege newly discovered evidence, not discoverable through the exercise of due diligence prior to the close of the record. Pennsylvania Public Utility Commission v. Reading Co., 21 Pa. Commonwealth Ct. 334, 338, 345 A.2d 311 (1975); Mobilfone v. Pennsylvania Public Utility Commission, 24 Pa. Commonwealth Ct. 243, 355 A.2d 611 (1975); Abramson v. Pennsylvania Public Utility Commission, 489 Pa. 267, 414 A.2d 60 (1980).

Pennsylvania Public Utility Commission v. Peoples Natural Gas Co., 59 Pa. P.U.C. 243 (1985); Pennsylvania Public Utility Commission v. Pennsylvania Power and Light Co., 58 Pa. P.U.C. 81 (1983).

Pitt-Ohio has submitted a verified statement of Mr. John Hodges, Fleet Supervisor for Wagner Division, which supports the application at F.1, Am-AB, in addition to a verified statement filed on its own behalf. The facts in the present case warrant consideration of Pitt-Ohio's petition to reopen. We have exercised our discretion to reopen the record of a proceeding exclusively on the ground that the public interest would be best served by further examination of the matter, Pa. P.U.C. v. General Telephone Co. of Pennsylvania, 57 Pa. P.U.C. 765 (1983).

In this case, Pitt-Ohio's amended application is unopposed. The lack of protests to the amended application indicates that a denial of the petition to reopen will detrimentally affect the public interest by prejudicing the shipper. Accordingly, the public interest will be best promoted by exercising our discretion to grant Pitt-Ohio's Petition to Reopen the Record. See General Telephone Co. of Pennsylvania.

THEREFORE, IT IS ORDERED:

1. That Pitt-Ohio Express, Inc.'s Petition to Reopen the Record at A-00102471, F.1, Am-AB filed on May 12, 1989 is hereby granted.

2. That the Pennsylvania Public Utility Commission's Secretarial Letter dated March 24, 1989 at A-00102471, F.1, Am-AB, closing the record is hereby rescinded.

3. That the Bureau of Transportation is hereby directed to review the verified statements filed by Pitt-Ohio in conjunction with the reopening of the record in this matter and is further directed to prepare an appropriate report and order advising the Commission whether Pitt-Ohio's amended application at A-00102471, F.1, Am-AB, should be granted based upon the verified statements filed by Pitt-Ohio.

BY THE COMMISSION,

  
Jerry Rich  
Secretary

(SEAL)

ORDER ADOPTED: June 29, 1989

ORDER ENTERED: JUL 07 1989