

ORIGINAL

BEFORE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

FEB 1 1989

SECRETARY'S OFFICE
Public Utility Commission

In re: A-00102471, F001, Am-P Application of Express, Inc. Amendment to permit the transportation, by motor vehicle, 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 Route 219, and vice versa; ***. Hearing.

Pittsburgh, Pennsylvania
January 17, 1989

DOCKETED
FEB 08 1989

Pages 1 to 104, inclusive

DOCUMENT
FOLDER

HOLBERT ASSOCIATES
LISA J. BERKEY
Suite 401, Kunkel Building
301 Market Street
Harrisburg, Pennsylvania 17101

CERTIFIED ORIGINAL SW

BEFORE
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - - - -

In re: A-00102471, F001, Am-P Application of Pitt Ohio Express, Inc. Amendment to permit the transportation, by motor vehicle, 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 Route 219, and vice versa; ***. Hearing.

- - - - -

Stenographic report of hearing held at the State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania

Tuesday,
January 17, 1989
10:00 a.m.

BEFORE
JAMES PORTERFIELD, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

WILLIAM J. LAVELLE, ESQUIRE
Vuono, Lavelle & Gray
2310 Grant Building
Pittsburgh, Pennsylvania 15219
Appearing on behalf of the Applicant

1 APPEARANCES CONTINUED:

2 CHRISTIAN V. GRAF, ESQUIRE
3 Graf, Andrews & Radcliff
4 407 North Front Street
5 Harrisburg, Pennsylvania 17101

6 Appearing on behalf of Protestants W.C. McQuaide,
7 Inc., Ward Trucking Corp., Evans Delivery Company,
8 Inc.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO WITNESSES

<u>APPLICANT</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Robert F. Hammel	7	37	66,97	83

INDEX TO EXHIBITS

<u>APPLICANT</u>	<u>IDENTIFIED</u>	<u>ADMITTED</u>
Ex. Nos. 4 - 21	11	102

PROTESTANTS

Ex. No. P-1	48	102
Ex. No. P-2	48	102
Ex. No. P-3	49	102
Ex. No. P-4	50	102
Ex. No. P-5	51	102
Ex. No. P-6	52	102
Ex. No. P-7	53	102
Ex. No. P-8	53	102
Ex. No. P-9	55	102
Ex. No. P-10	56	102
Ex. No. P-11	58	102
Ex. No. P-12	59	102
Ex. No. P-13	60	102
Ex. No. P-14	60	102
Ex. No. P-15	61	102
Ex. No. P-16	62	102
Ex. No. P-17	64	102

1 JUDGE PORTERFIELD: It is January the 17th, 1989, at
2 approximately 10:00 a.m. in the hearing room No. 2 of the 11th
3 floor Pittsburgh State Office Building, 300 Liberty Avenue,
4 Pittsburgh, the time and place set for the initial hearing in
5 the matter captioned application of Pitt Ohio Express, Inc.,
6 amendment to permit the transportation, by motor vehicle, of
7 property, from points in that part of Pennsylvania on and west
8 of U.S. Highway Route 219, to points in that part of
9 Pennsylvania on and east of U.S. Highway Route 219, and vice
10 versa.

11 This matter was originally assigned to former ALJ Nemec,
12 and a prehearing conference was held on September the 22nd,
13 1987. This morning, William J. Lavelle, Esquire, has entered
14 an appearance on behalf of Pitt Ohio Express, Inc., the
15 applicant; and Graf, Andrews and Radcliff, by Christian V.
16 Graf, Esquire, has entered an appearance on behalf of W.C.
17 McQuaide Inc.; Ward Trucking Corp., Evans Delivery Company,
18 Inc.

19 Mr. Lavelle, are those the only remaining protestants in
20 this proceeding?

21 MR. LAVELLE: Yes, sir. We had made some amendments by
22 letter to the Commission between that prehearing conference
23 and today, and it resulted in the withdrawal of protests. I
24 think we had 16 total protests to begin with.

25 JUDGE PORTERFIELD: But to your knowledge, these are the

1 only active ones?

2 MR. LAVELLE: Well, yes. There's -- Mr. Graf, he
3 entered an appearance for three, I believe.

4 JUDGE PORTERFIELD: That's correct.

5 MR. LAVELLE: On the basis of the amendments -- let's
6 see. We had 16. Dwight Koerber represented Butler Trucking
7 Company. We have worked out a further amendment with him.
8 That's why he's not here today, and we'll be putting that
9 amendment into the record here in a moment, and he said that
10 on the basis of that amendment, he would be withdrawing Butler
11 Trucking's protest.

12 In addition, I was advised by John Fullerton yesterday
13 that Halls Motors Transit Company would be withdrawing that
14 protest, either on the basis of the amendments or for other
15 reasons, but that they would no longer be an active
16 participant, and maybe Mr. Graf can confirm that.

17 MR. GRAF: Yes. He told me yesterday that Halls was out
18 of the case on the basis of the amendment previously made.

19 MR. LAVELLE: So that leaves us with the three that Mr.
20 Graf is representing.

21 JUDGE PORTERFIELD: Will the amendment that you propose
22 this morning incorporate the former or prior amendments?

23 MR. LAVELLE: Yes.

24 JUDGE PORTERFIELD: It will be a comprehensive amendment
25 to the original application?

1 MR. LAVELLE: Right.

2 JUDGE PORTERFIELD: Okay. Good. Do you want to go
3 ahead with that, then?

4 MR. LAVELLE: Yes. Perhaps I should begin by indicating
5 how we're going to proceed here from the applicant's
6 standpoint. We have a prepared written testimony from Mr.
7 Hammel, the operating witness, with a number of exhibits to be
8 presented. At the prehearing conference there were three
9 exhibits marked --

10 JUDGE PORTERFIELD: For identification?

11 MR. LAVELLE: Well, for identification, and so as to
12 keep the numbers accurate, what I did is mark all these
13 exhibits in the order in which they would be presented and
14 referred to in the written testimony, and the testimony itself
15 is identified as applicant's Exhibit No. 4. Then every
16 exhibit will run consecutively after that.

17 JUDGE PORTERFIELD: I've come around to believing that
18 written testimony should be identified as an exhibit, rather
19 than statements, because it gets terribly confusing when you
20 have external exhibits to statements. I appreciate that.

21 MR. GRAF: I agree.

22 MR. LAVELLE: What it results in, then, is that Exhibit
23 No. 1 was a map of Pennsylvania, a county map of Pennsylvania.
24 That same map is now incorporated and re-identified as Exhibit
25 No. 6. There's really no difference between them, but I just

1 wanted to keep them in sequence. Exhibit No. 2 was the
2 summary of operating authority that Pitt Ohio Express held
3 from this Commission as of the date of that prehearing
4 conference. That has been updated, and when we get to it, it
5 will be Exhibit No. 7. That's all inclusive of everything
6 that's been granted since that prehearing conference.

7 And Exhibit No. 3 was the statement of the scope of the
8 pending applications that Pitt Ohio had at the time of the
9 prehearing conference. Some of those have since been granted
10 and now appear in the existing authority. That exhibit is
11 really no longer of any consequence either. For the purpose
12 of this proceeding, we should start with Exhibit No. 4 and
13 work with -- through the end of the exhibits that we present
14 today and ignore the first three exhibits, as a way to look at
15 it. Our first witness will be Robert Hammel. I would call
16 him.

17 JUDGE PORTERFIELD: Mr. Hammel, do you want to come up
18 here I guess? Raise your right hand, please.

19 ROBERT F. HAMMEL, having been duly sworn, was examined
20 and testified as follows:

21 JUDGE PORTERFIELD: Thank you.

22 DIRECT EXAMINATION

23 BY MR. LAVELLE:

24 Q Sir, would you give us your name and your business
25 address, please?

1 A Robert F. Hammel, 26th and Railroad Street,
2 Pittsburgh, PA, 15222.

3 Q Mr. Hammel, what position do you hold with Pitt Ohio
4 Express, Inc.?

5 A I'm secretary treasurer.

6 Q Are you familiar with its present operating
7 authority, equipment, its facilities, the nature of its
8 operations?

9 A Yes.

10 Q And I assume you're also familiar with the scope of
11 this application as it has been amended?

12 A Yes.

13 Q And you're authorized to testify on behalf of Pitt
14 Ohio Express?

15 A That's right.

16 Q Mr. Hammel, have you prepared for presentation a
17 written statement containing the bulk of your direct testimony
18 in this case?

19 A Yes.

20 MR. LAVELLE: Your Honor, I have distributed to
21 yourself, to the reporter and Mr. Graf a copy of that
22 statement which is identified as applicant's Exhibit No. 4, as
23 well as a number of other exhibits identified as Exhibits 5
24 through 20, and each of those exhibits are referred to in
25 sequence in the written statement here. I don't know if it's

1 necessary to go through and mark them each one or refer to
2 them, or can we just do it collectively? However you want to
3 do it for identification purposes.

4 JUDGE PORTERFIELD: You have them each titled, don't
5 you?

6 MR. LAVELLE: Each exhibit is marked as applicant's
7 Exhibit No. such and such, right, running 4 through 20.

8 JUDGE PORTERFIELD: Would it be inconvenient to go
9 through them and identify them each time by subject matter,
10 give them sort of subject --

11 MR. LAVELLE: If it's all right, Your Honor, I'll go
12 through and identify them, and I'll identify these and ask you
13 at the end if you agree with my particular characterization of
14 what each exhibit refers to.

15 No. 4 is the 17 page prepared statement. No. 5 is the
16 scope of this application as it has been identified. No. 6 is
17 a Pennsylvania county map on which there have been two
18 highways superimposed which are explained. We'll get into
19 that in a moment. Exhibit No. 7 is a summary of the scope of
20 Pitt Ohio's current intrastate operating authority,
21 Pennsylvania. Exhibit No. 8 is the scope of five other
22 pending applications before the Commission. Exhibit 9 is the
23 Interstate Commerce Commission Certificate of Public
24 Convenience and Necessity at Docket No. MC-30136 Sub 2. No.
25 10 is a copy of the order of the Public Service Commission of

1 West Virginia pertaining to the intrastate West Virginia
2 authority.

3 No. 11 is a listing of the company terminal facilities
4 and locations. No. 12 is a 21 page summary of the equipment
5 owned or leased by Pitt Ohio. No. 13 is a copy of the balance
6 sheet of Pitt Ohio as of December 31, 1987. No. 14 is a copy
7 of the statement of income and retained earnings of Pitt Ohio
8 for the year ended December 31, 1987. No. 15 is another map
9 of Pennsylvania. It's referred to as a three digit zip code
10 map.

11 Nos. 16, 17, 18, 19 and 20 are summaries of shipments
12 transported by Pitt Ohio to and from the central portion of
13 Pennsylvania, which is described in the application -- the
14 amendment which we'll get into, but it shows the number of
15 shipments and weight of the shipments transported to and from
16 certain zip codes that are located or involved in the central
17 part of the State of Pennsylvania, and the only difference is
18 that No. 16 pertains to August of 1988, No. 17 refers to
19 September of 1988, No. 18 is for October of 1988, No. 19 is
20 for November of 1988, and No. 20 is for December of 1988.

21 BY MR. LAVELLE:

22 Q Mr. Hammel, do you agree with my characterization
23 generally of those various exhibits?

24 A Yes.

25 MR. LAVELLE: Your Honor, there is one additional

1 exhibit that I would ask to have marked at this time as
2 applicant's Exhibit No. 21, and that's a pamphlet of Pitt Ohio
3 Express, multi-page, which there are certain portions of it
4 that we'll refer to and have Mr. Hammel explain. That's the
5 only one that's not already identified and marked.

6 JUDGE PORTERFIELD: It's now marked for identification,
7 is that correct?

8 MR. LAVELLE: If we may have it identified as No. 21.

9 JUDGE PORTERFIELD: All of the exhibits are identified
10 as indicated by counsel.

11 (Applicant's Exhibit Nos. 4 through 21 were produced
12 and marked for identification.)

13 BY MR. LAVELLE:

14 Q Mr. Hammel, does the statement, Exhibit No. 14 (sic),
15 as I asked you before, contain the gist of your direct
16 testimony in this case, subject to supplemental questions
17 here?

18 A No. 4?

19 Q No. 4.

20 A Yes.

21 Q All right. If you'll look at page 3 of that exhibit,
22 there's a Section 5 there headed authority requested. Am I
23 correct that that section describes the extent of the
24 operating authority that you are now requesting from this
25 Commission, subject to all of the amendments?

1 A Yes.

2 Q And is the scope of the application, as it's now
3 finally amended, set forth in your No. 5 exhibit?

4 A Yes.

5 Q If you'll take a look at Exhibit No. 5 and No. 6, if
6 you have them both in front of you for purposes of these next
7 few questions, when the application was originally filed back
8 in 1986, did it request authority geographically from points
9 on and west of U.S. Highway 219 to points on and east of U.S.
10 Highway 219, and vice versa?

11 A Yes.

12 Q Have there been any changes in the operating
13 authority that Pitt Ohio now holds from the Commission which
14 make, at least a portion of that territory, non-essential to
15 this application?

16 A Yes.

17 Q Would you explain what that is?

18 A Since the time of the application, we've received
19 authority that grants us service between points on and west of
20 219, to points on and east of Highway 15.

21 MR. GRAF: 50, did you say?

22 THE WITNESS: 15.

23 JUDGE PORTERFIELD: 15.

24 MR. GRAF: 15.

25 JUDGE PORTERFIELD: And vice versa on that?

1 THE WITNESS: And vice versa. So we no longer need the
2 entire application as it was originally applied.

3 BY MR. LAVELLE:

4 Q In Section 5 of your statement, have you explained
5 the specific authority that gives that result by reference to
6 certain, specific grants?

7 A Yes.

8 Q So that for purposes of this application, then, with
9 respect to Allegheny County, is the authority being requested
10 set forth in Paragraph No. 1 of Exhibit 5?

11 A Yes.

12 Q And does that involve all three Central Pennsylvania
13 counties and portions of three additional Central Pennsylvania
14 counties?

15 A Yes.

16 Q Now, in your testimony, both orally and in your
17 statement, can we agree that any reference to Central
18 Pennsylvania refers to points on and east of U.S. Highway 219
19 and points west of U.S. Highway 15?

20 A Yes.

21 Q And that's on Exhibit 5, the map of the central
22 portion of the state?

23 A Yes.

24 Q Western Pennsylvania is everything west of 219 and
25 any references to Eastern Pennsylvania would be east of U.S.

1 15, right?

2 A Yes.

3 Q Okay. Now, exclusive of Allegheny County and
4 concentrating on the other portion of Western Pennsylvania,
5 does the authority --

6 JUDGE PORTERFIELD: I'm sorry to interrupt you, Mr.
7 Lavelle, but I think you may have misspoke yourself. In this
8 application proceeding, when Western Pennsylvania is referred
9 to, you mean points on and west of U.S. 219, and when Eastern
10 Pennsylvania is referred to, you mean on and west of U.S. 15?

11 MR. LAVELLE: No.

12 JUDGE PORTERFIELD: Was the central part of Pennsylvania
13 granted?

14 MR. LAVELLE: No.

15 JUDGE PORTERFIELD: So Eastern Pennsylvania is points on
16 and west of U.S. Highway 15.

17 MR. LAVELLE: East.

18 JUDGE PORTERFIELD: But you already have this authority
19 to the east of Highway 15.

20 MR. LAVELLE: That's right.

21 JUDGE PORTERFIELD: Okay.

22 MR. LAVELLE: Western Pennsylvania is the western third
23 of the state, or points on and west of U.S. Highway 219.

24 JUDGE PORTERFIELD: Okay.

25 MR. LAVELLE: Eastern Pennsylvania is the eastern third

1 of the state, comprising points east -- on and east of U.S.
2 Highway 15, and Central Pennsylvania is the central part lying
3 between those two --

4 JUDGE PORTERFIELD: Okay. Thank you.

5 MR. LAVELLE: -- highways.

6 BY MR. LAVELLE:

7 Q Now, Mr. Hammel, as you explained earlier, your
8 company now holds authority to serve the entire eastern part
9 of the state, the eastern third of the state to and from
10 points in the western third of the state, is that correct?

11 A That's right.

12 Q So that we no longer need concern ourselves with that
13 eastern third of the state?

14 A That's right.

15 Q You've explained western -- you've explained what
16 you're asking for with respect to Allegheny County in this
17 application. Excluding Allegheny County and concentrating on
18 the remainder of the western part of the state, west of U.S.
19 219, does part two of your amendment in Exhibit 5 state what
20 you're asking for?

21 A Yes.

22 Q And does that involve points -- from points on and
23 west of U.S. Highway 219 to points in the defined central part
24 of the state?

25 A Yes.

1 Q And vice versa?

2 A Yes.

3 Q Now, there are a number of restrictions to that
4 authority, some of which were in the original application, the
5 remainder of which were negotiated with various protestants
6 subsequent to the filing of the application, is that correct?

7 A That's right.

8 MR. GRAF: Could he tell us which ones are the new ones,
9 new changes? That would make it simpler.

10 MR. LAVELLE: Your Honor, may I show the witness the
11 Pennsylvania Bulletin notice?

12 JUDGE PORTERFIELD: Sure. Off the record.

13 (A discussion was held off the record.)

14 BY MR. LAVELLE:

15 Q Mr. Hammel, I direct your attention to the
16 Pennsylvania Bulletin notice of August 30, 1986, and in there
17 you'll see that there were certain restrictions. The first --
18 well, would you read what those are?

19 A The original restrictions are not to transport
20 household goods and office furniture in use, property in bulk
21 or property which, because of size or weight, requires use of
22 special equipment.

23 Q Now, is that all set forth in the first restriction
24 to this application on Exhibit 5?

25 A Yes.

1 MR. LAVELLE: Your Honor, then the remainder of the
2 restriction comprises the last phrase in the first
3 restriction. It excludes malt beverages, malt beverage
4 containers and pallets, and then restrictions 2nd through 13.

5 JUDGE PORTERFIELD: Okay.

6 MR. LAVELLE: In that connection, the 13th restriction
7 is the one that has resulted in the withdrawal of the protest
8 of Butler Trucking.

9 BY MR. LAVELLE:

10 Q Mr. Hammel, on Exhibit No. 12, which is your
11 equipment list, on page 16, there is a reference there for
12 five vehicles, and they're identified as dolly trailers.
13 Would you explain what you mean by that term?

14 A The old dolly trailers are not box trailers or vans
15 like other trailers would be. You can't haul freight with
16 them. What they're used for is connecting two smaller
17 trailers, which would be the pup trailers, to be used in the
18 hauling of doubles bottom. So actually, the dolly trailer is
19 an extra axle and a hook, actually, that would hook it to the
20 pup trailers that would enable you to haul double bottom.

21 Q Better define a few terms. What do you mean by pup
22 trailer?

23 A Pup trailer is not a full size trailer. It's not a
24 power unit. It's a box van, 28 feet in length, smaller type
25 trailer. And, of course, it's used for both city pickup and

1 delivery and also highway use for pulling double bottom or
2 double trailers.

3 JUDGE PORTERFIELD: It's set up to accommodate a fifth
4 wheel, is that correct?

5 THE WITNESS: That's correct.

6 JUDGE PORTERFIELD: That's why you need the dolly, to
7 provide the front support of it when you're double?

8 THE WITNESS: That's right.

9 BY MR. LAVELLE:

10 Q Would you look at page 15 of the written statement
11 Exhibit No. 4? Under Section No. 15, the first paragraph, in
12 the second sentence it begins, it can serve. It being Pitt
13 Ohio can serve the entire area. Would you clarify what you
14 mean by the reference entire area?

15 A We're referring to the central part of the state, as
16 we just recently described on the map.

17 Q Okay.

18 JUDGE PORTERFIELD: I'm sorry. Where is that reference
19 on page 15?

20 MR. LAVELLE: On page 15 in the second sentence of the
21 first paragraph under Section 15.

22 JUDGE PORTERFIELD: The entire area --

23 MR. LAVELLE: The entire area.

24 JUDGE PORTERFIELD: -- refers to the central portion of
25 the state?

1 MR. LAVELLE: Right.

2 BY MR. LAVELLE:

3 Q So the rest of the sentence says -- that entire
4 central portion of the state can be served in connection with
5 your interstate rights, is that correct?

6 A That's right.

7 Q With respect to Allegheny County, you can serve the
8 entire central part of the state, with the exception of six
9 counties?

10 A That's right.

11 Q And the third part of that sentence says that you may
12 be able to serve that central part of the state for named
13 shippers, is that correct?

14 A That's right.

15 Q Exhibits 13 and 14 are balance sheet and profit and
16 loss statement related to the year 1987. You've explained in
17 your testimony, written statement, that your 1988 financial
18 statements have not been completed yet. Can you give us an
19 estimate at this point of what the company's gross revenue
20 will be for 1988?

21 A We expect 1988 to be approximately 23 million.

22 Q And do you have an estimate as to what your net
23 profit might be, or what your operating ratio would be for
24 1988?

25 A Before end year adjustments, we're going in around 88

1 or 89 percent operating ratio.

2 Q Okay. When those financial statements are prepared,
3 or the annual report is prepared to the Commission for the
4 year 1988, will you make that financial information available
5 to the Commission?

6 A Yes.

7 MR. LAVELLE: Your Honor, at this point I'd like to
8 reserve the right to submit an updated financial statement of
9 the company later in the proceeding as it becomes available.

10 JUDGE PORTERFIELD: Okay.

11 BY MR. LAVELLE:

12 Q Would you go back to your Exhibit No. 6, which is the
13 map? You have an exhibit that identifies the location of your
14 terminals. With respect to this Western Pennsylvania area,
15 where do you have terminals that would be involved?

16 A Only in Pittsburgh.

17 Q With respect to the central part of the state?

18 A As far as terminals in the State of Pennsylvania?

19 Q Right.

20 A We don't have -- the central part of the state --

21 Q Well, that would serve the central part of the state,
22 let's put it that way.

23 A That would serve the central part of the state. That
24 would be both Pittsburgh and Cumberland, Maryland. And
25 Harrisburg terminal as well. I'm sorry.

1 Q So for purposes of operations at this time, your
2 terminals are located in Pittsburgh and Harrisburg within the
3 State of Pennsylvania, and there's one in Cumberland,
4 Maryland?

5 A That's right.

6 Q What geographical area today is served by the
7 Pittsburgh terminal? Just generally, by reference to the map,
8 can you tell us what it would be?

9 A Pittsburgh would serve all the western part of the
10 state, with the exception of up around Erie and part of
11 Crawford County. That would be served out of Cleveland. And
12 Pittsburgh would also serve part of the central portion of the
13 state up north, Elk, Cameron, McKean, up in the Allegheny
14 Mountains there.

15 Q The Harrisburg terminal would serve what portion of
16 the central section of the state?

17 A It would serve Dauphin County and Perry County,
18 Cumberland County, Adams County, York County, Lancaster
19 County, Lebanon County, Berks, all the way up north to
20 Lycoming County, parts of Centre County and Clinton County. I
21 think that's Marion. My map is blocked out.

22 Q I think it's Mifflin County.

23 A Mifflin County, okay. Parts of Mifflin County.

24 Q How about Union and Snyder County and Juniata?

25 A Right. That is going up, like I said, all the way up

1 to Lycoming on the north. So that would be Montour, Columbia,
2 Northumberland, Union, parts of Schuylkill, Dauphin.

3 Q How about Tioga County, which is the northern corner
4 of this application area?

5 A I'm not sure, to be honest with you, if that's by
6 Harrisburg or Pittsburgh. That's probably Harrisburg.

7 Q Okay.

8 A There might be some of that also that's served out of
9 Allentown. Our Allentown terminal would take part of that as
10 well, I'm sure.

11 Q And then the southern, south central part of the
12 central portion of the state is served, generally speaking,
13 from what terminal?

14 A Southern part of the state would be served by our
15 Oaks terminal, which is outside of Philadelphia.

16 Q No, no. I'm sorry. No. My reference to the states
17 are getting confusing here. Looking at the central part of
18 the state, the application territory I'll call it, the
19 counties in around Bedford, Blair, Huntingdon, Clearfield,
20 Centre, the ones you haven't already mentioned, what terminal
21 generally provides service, if any, today into those counties?

22 A Cumberland, Maryland.

23 Q If this application were to be approved by the
24 Commission, and then with the assumption that you have
25 authority as requested in Exhibit 5, would the general areas

1 served initially by -- in the central part of the state be as
2 you described them?

3 A Yes.

4 Q Pittsburgh would serve the same portion, the upper or
5 northern reaches of the state, Harrisburg would serve those
6 eastern counties, Snyder Juniata, Lycoming that you mentioned,
7 and Cumberland would serve those counties in the Bedford,
8 Blair, Clearfield areas?

9 A That's right, if the authority is granted. Initially
10 nothing would change as far as service from the different
11 terminals that I just mentioned.

12 Q I just want to run through a couple examples so that
13 it's clear. Make the assumption that the application has been
14 granted. All right?

15 A Okay.

16 Q A shipper located in Allegheny County tenders your
17 company a small, less than truckload shipment. Let's say it
18 weighs 800 pounds. Going to a destination in Cumberland or
19 Perry Counties. The shipment's tendered to you at noon on a
20 Monday. Describe for us where the vehicle that would pick up
21 the shipment would originate from, the timing of pickup and
22 your handling of it to destination by reference to times,
23 terminals and so forth.

24 A Well, if it was tendered to us on Monday in Allegheny
25 County, a truck from our Pittsburgh terminal would pick it up.

1 It would go back to the Pittsburgh terminal, would be loaded
2 on a line haul trailer that evening, sent to Harrisburg
3 terminal, at which point it would be broken through the night
4 and put on the street for delivery the following morning.

5 Q Now, that example is one that you can already do
6 because you have the authority out of Allegheny County?

7 A That's right.

8 Q Would the same be true if the shipment originated in,
9 say, Perry County going back into Allegheny County? That's
10 the way it's handled today?

11 A Yes.

12 MR. GRAF: I guess I'm confused. Do you take the
13 position that he already has the authority?

14 MR. LAVELLE: I used a bad example.

15 MR. GRAF: To Perry and Cumberland Counties?

16 MR. LAVELLE: That he can do it today under his
17 Allegheny County authority.

18 MR. GRAF: That's what I'm wondering. Can he?

19 BY MR. LAVELLE:

20 Q Mr. Hammel, look at Exhibit No. 7, which is the
21 present authority, and specifically, Folder 1, Amendment I on
22 page 3. Does that, or does it not, authorize you to provide
23 the service that we were just describing from Allegheny County
24 to Perry or Cumberland Counties?

25 A Yes, it does.

1 Q Or vice versa?

2 A Yes.

3 MR. LAVELLE: Is it okay if we go on, or do you want to
4 continue looking at that?

5 MR. GRAF: No. I can pick up what I had in mind later.
6 Go ahead.

7 BY MR. LAVELLE:

8 Q Let me vary the example, sir, because the one I used
9 there was in the scope of what we consider to be your present
10 authority. Assume the shipment originates or is tendered to
11 your company at noon on Monday from a shipper located in Oil
12 City, which is in Venango County, and it's going to -- let's
13 use Jersey Shore as the destination, which is in Lycoming
14 County, to the southwest of Williamsport, and it's west of
15 U.S. Highway Highway 219, so it's definitely in our
16 application area. Now, explain again the physical movement of
17 that particular shipment, assuming you have this authority
18 that you're requesting.

19 A That, again, would move down into Pittsburgh, since
20 Oil City is served from the Pittsburgh terminal. It would be
21 crossed docked and put on a line haul trailer sent to
22 Harrisburg that evening. Harrisburg would put it on the
23 street for delivery the following day.

24 Q In my example I said you received the call for
25 service on Monday at noon. It reaches Pittsburgh on what day?

1 A Monday evening.

2 Q It reaches Harrisburg when?

3 A Tuesday. Early Tuesday morning.

4 Q And it's ready for delivery when?

5 A Tuesday morning or afternoon.

6 Q Let's pick another example where the origin is
7 Warren, Pennsylvania, which is in Warren County. All right?
8 Tendered to you the same time of day on Monday, noon Monday.
9 This time the destination is St. Mary's, Pennsylvania, which
10 is in Elk County, east of U.S. Highway 219. What terminal
11 serves the origin point?

12 A Pittsburgh.

13 Q What terminal serves, generally speaking, the
14 destination of St. Mary's?

15 A Pittsburgh.

16 Q All right. Go through and explain how that
17 particular area is serviced and how this particular shipment
18 would be handled?

19 A That area up around the Allegheny Forest is serviced
20 by trucks that leave Pittsburgh and spend two days out on the
21 road delivering freight. On a Monday he will leave and won't
22 come back until Tuesday evening. He spends two days up there.
23 On Tuesday a truck follows him up. Another truck would leave
24 Pittsburgh going up into that area delivering on Tuesday and
25 Wednesday. So the second day they're delivering, the fella

1 that left on Monday is coming home, and another truck would
2 leave Wednesday again on a two day delivery route.

3 A shipment that is picked up there, we would try to pick
4 it up on the man who is coming home that night, so as to keep
5 the shipment moving. It's possible that it could be picked up
6 on the guy who is still in his first day of a two day
7 delivery. When that's the case, it won't arrive back to
8 Pittsburgh until the second day. It would be put out, at
9 best, the third day.

10 Q Let's take it in steps, then. The shipment's
11 tendered to your company noon on Monday. There's a truck that
12 has left some time on Monday for that area. That driver is
13 not due to come back to the Pittsburgh terminal until Tuesday
14 evening. Afternoon or evening, is that right?

15 A That's right.

16 Q Now, do you have contact with those drivers while
17 they're out for these two day runs?

18 A Yes. They check in several times a day.

19 Q Is it conceivable that the shipment might be picked
20 up by that first truck out on Monday, on Monday afternoon?

21 A It's possible.

22 Q In which case, the shipment is going to come back to
23 the Pittsburgh terminal Tuesday afternoon?

24 A That's possible.

25 Q Well, if he picks it up -- he's not due back until

1 Tuesday night, isn't he?

2 A It all depends on the situation. We can bring him
3 back if the shipment needed service. If he's on two day
4 delivery and he only had a hundred pounds, there wasn't any
5 request for urgent service, it's conceivable he won't come
6 back until the next day. We would make that judgment at the
7 time of the pickup.

8 Q Staying with the normal operations, the truck would
9 come back to Pittsburgh on Tuesday?

10 A Right.

11 Q It's then going to be worked over your truck and put
12 on a truck going into St. Mary's?

13 A Right.

14 Q Out of Pittsburgh?

15 A Right.

16 Q When would that truck for that area be dispatched?

17 A We would set it up for the next morning. Seeing that
18 it was already two days old, we would route the truck so that
19 he would get that off on the first day.

20 Q His first day?

21 A That's right.

22 Q Which would be a Wednesday delivery?

23 A That's right. So we won't have any worse than two
24 day service.

25 Q Do you schedule trucks in and out of this area on

1 these two day runs depending on the nature of the traffic?

2 A Exactly.

3 Q They don't run the same route everyday?

4 A That's right.

5 Q So the sequence of points that they would hit might
6 be different from day-to-day, run-to-run?

7 A That's right. They're running the same area, but it
8 would all depend on the traffic, on how we would route the
9 freight.

10 Q Now, in that example, would it be possible that the
11 shipment might not be picked up by anyone on Monday for some
12 reason and not picked up until Tuesday?

13 A Well, we would try to not let that happen.

14 Q But if it did happen, let's say the man who left
15 Pittsburgh on Monday was in a different area and couldn't make
16 Warren before the shipper closed his dock, would the shipment
17 then be picked up on Tuesday?

18 A If we were not to get it the one day, we would pick
19 it up the following morning.

20 Q And it would come back Tuesday night on that truck?

21 A That's right.

22 Q And be delivered the same way you described?

23 A That's right.

24 Q Is it possible ever that a shipment, LTL shipment
25 might be picked up by a truck out in this area and delivered

1 directly from that truck before it comes back to Pittsburgh?

2 A Assuming that the authority is granted?

3 Q That's the assumption under all these questions.

4 A Sure. If it made sense and he were going enroute, or
5 if the shipment were a significant weight or size, it would
6 make more sense to have them off route than coming back to
7 Pittsburgh. We certainly would do that, in which case we
8 would give them same day or next day.

9 Q In the example here, if the first truck out picked it
10 up on Monday and his routing sequence were such that St.
11 Mary's was on a stop on Tuesday, would it be possible to
12 deliver off that truck without coming back to Pittsburgh?

13 A Certainly.

14 Q And would shipments originating in St. Mary's going
15 to Warren, Pennsylvania for delivery be handled in much the
16 same fashion, only in a reverse?

17 A Yes, they do.

18 Q Pickup and delivery positions are reversed, but
19 otherwise service features would be the same?

20 A Yes, that's right.

21 JUDGE PORTERFIELD: Off the record.

22 (A discussion was held off the record.)

23 JUDGE PORTERFIELD: Back on the record.

24 BY MR. LAVELLE:

25 Q Now, if I were to switch the example to a full

1 truckload type shipment, say 35, 40,000 pounds of freight,
2 going from one origin to one destination, the origin being in
3 the western part of the state or destination being in the
4 central part of the state, how would you physically handle
5 that shipment under the authority if it's granted?

6 A We would pick it up and deliver it direct, provided
7 that the circumstances would allow us such a schedule. If
8 they didn't need an appointment delivery, it won't come back
9 to the Pittsburgh terminal at all. If he picked it up in
10 Warren and it was going to Elk County, he would simply go
11 right down to Elk County, drop it, deliver it the same day or
12 next morning. We would try not to bring it back to the
13 Pittsburgh terminal, as a matter of fact.

14 Q Would that same explanation apply to a shipment
15 originating in any other point in Western Pennsylvania, going
16 to any other point in Central Pennsylvania?

17 A That's right.

18 Q Or vice versa, from central to western points?

19 A That's right.

20 Q Let's move to another example. The origin this time
21 on an 800 pound LTL shipment is Greensburg in Westmoreland
22 County. That's an area you can serve today?

23 A Yes.

24 Q You have authority in Westmoreland County?

25 A Yes, we do.

1 Q Assume this application is granted, giving you the
2 right to deliver that shipment in Altoona, Blair County. You
3 don't have that authority from the Pennsylvania Public Utility
4 Commission today, do you?

5 A That's right.

6 Q Given your terminal locations and operational set up,
7 without any change in that structure, how would that shipment
8 in the future be handled?

9 A It would be picked up in Westmoreland County,
10 Greensburg, from a truck that originates in Pittsburgh, go
11 back to the Pittsburgh terminal at the end of the day, load it
12 onto line haul trailers that evening and sent to Cumberland,
13 Maryland, at which point it would arrive in Cumberland early
14 the following morning, it would be unloaded and put on the
15 street for delivery the next day to Altoona.

16 Q If the origin and destination were reversed, the
17 pickup point is Altoona, the destination is Greensburg, same
18 operational handling, only in the reverse direction?

19 A That's right.

20 Q What affect would that -- excuse me. Strike that.
21 Let me back up. Under what conditions, if any, would that LTL
22 shipment of 800 pounds ever move direct from Westmoreland
23 County to Altoona without going through Cumberland?

24 A Again, assuming that the authority is granted?

25 Q Yes.

1 A Depending on expedited service that a shipper might
2 request, 7:00 o'clock delivery, same day delivery, Saturday
3 delivery, if they were to happen to have a truckload delivery,
4 those would all be situations where the freight would have to,
5 because of allowance for time, would have to go direct.

6 Q By direct, you mean the truck would leave the
7 Pittsburgh terminal and go direct to destination?

8 A Go directly from Greensburg to Altoona.

9 Q And a truckload shipment of 40,000 pounds would then
10 be able to be handled under that authority direct?

11 A That's right.

12 Q You can't do that today?

13 A That's right.

14 Q Would that explanation apply to shipments moving to
15 or from any point in that central part of the State of
16 Pennsylvania which is serviced today by your Cumberland
17 terminal?

18 A Yes, it would.

19 Q If you look at Exhibit 21, that's the large brochure.
20 Would you explain what this pamphlet is, this brochure is?

21 A This is our sales literature that our representatives
22 give to the shippers when they're making a sales call
23 soliciting business for the company. It outlines our entire
24 service area, intrastate, interstate, our terminal locations,
25 our -- the assets. It highlights assets that we feel are

1 important to the shippers, such as stability and insurance
2 requirements, coverage.

3 Q The pages are numbered and you have on page 5, again,
4 your terminal locations are indicated, is that right?

5 A That's right.

6 Q Beginning on page 23, there is a list -- in the upper
7 righthand corner of that page it says Pennsylvania, and then
8 you have columns with the city or town, the county and the zip
9 code area shown, and this runs all the way through page 75.
10 What is the significance of listing all of these points?

11 A What we've done is we've gone to great lengths to
12 explain as simply as possible to the customers and shippers in
13 Pennsylvania exactly what our intrastate operating authority
14 is, so they don't have to be reading pages of our authority
15 and getting interpretations. We've interpreted it for them
16 and we have listed every town in Pennsylvania alphabetically.
17 Alongside of that is the county that that town lies in, and
18 next to that is the zip code, and that enables them to do two
19 things.

20 Just prior to that points list we have a matrix graph
21 that shows every county in Pennsylvania along the top and
22 along the side, and so any shipper in Pennsylvania can look at
23 this graph and determine whether we have -- whether we can
24 serve them or not in the State of Pennsylvania. So they
25 simply find out which county they're in and they go to the

1 shipment. If they have a shipment for us, they can refer to
2 the county by looking it up in the guide and come across and
3 see what kind of service that we can offer them in the State
4 of Pennsylvania. And then, of course, the zip code enables
5 them to price the shipment, as our tariffs are structured in a
6 zip code format, much the same way that this is.

7 Q All right. If you are using this matrix, then, if
8 you used my last example to you of the shipment originating in
9 Greensburg, Westmoreland County, would that shipper, to see if
10 you had present service to Blairs -- I'm sorry -- Altoona in
11 Blair County, would he look at the bottom of page 22?

12 A That's right. He would find his symbol.

13 Q Under the from column, from Pennsylvania County on
14 page 22, you go to Westmoreland County, is that right?

15 A Right.

16 Q And then follow along the line horizontally to Blair
17 County, is that right, in the upper -- Blair County being at
18 the top of the page, is that correct?

19 A I'm looking here on page 21.

20 Q Well, the origin county is Westmoreland.

21 A Right.

22 Q So I don't have to look at from Pennsylvania county
23 on page 22.

24 JUDGE PORTERFIELD: It says you don't have the service?

25 THE WITNESS: Right.

1 BY MR. LAVELLE:

2 Q Follow me through so I interpret right.

3 A Okay. Okay. That's right.

4 Q My destination is Altoona in Blair County, so I look
5 at Blair County across the top of the page and I come down to
6 where those two columns intersect, and there's a zero?

7 A That's correct.

8 Q And your footnote says zero means no service?

9 A That's correct.

10 Q And you're saying that regardless of origin or
11 destination, any shipper can find, as of today, whether or not
12 you offer service to or from given points?

13 A That's right.

14 MR. LAVELLE: Your Honor, I have no further questions of
15 Mr. Hammel at this point.

16 JUDGE PORTERFIELD: Did you just this morning distribute
17 the exhibits, including Exhibit No. 4, the prepared testimony
18 to Mr. Graf?

19 MR. LAVELLE: Yes, I did.

20 JUDGE PORTERFIELD: Mr. Graf, have you had an
21 opportunity to review the testimony, or do you want to take a
22 couple minutes?

23 MR. GRAF: I haven't finished reading this yet.

24 JUDGE PORTERFIELD: Do you want to take 15 or 20
25 minutes, or even half an hour to look at it?

1 MR. GRAF: I'd like to take about five minutes first so
2 I can get organized on this, and I have some questions I could
3 go on with. Perhaps it might be better to take five now, let
4 me read this, and if I need more, I'll --

5 JUDGE PORTERFIELD: Can we take ten now?

6 MR. GRAF: All right. Fine.

7 JUDGE PORTERFIELD: Let's take ten now and we'll see
8 where we are.

9 (A brief recess was taken.)

10 JUDGE PORTERFIELD: Let's go on the record, then. Mr.
11 Graf just confirmed with Mr. Lavelle what Mr. Lavelle I think
12 had stated earlier on the record, and that is what was
13 identified at the prehearing conference as Exhibit Nos. 1, 2
14 and 3 are no longer operative in this proceeding at all and,
15 in fact, could be withdrawn but probably will not, just to
16 keep the sequential order intact. But they're of no
17 evidentiary value in this proceeding, is that correct, Mr.
18 Lavelle?

19 MR. LAVELLE: That's correct.

20 CROSS EXAMINATION

21 BY MR. GRAF:

22 Q Mr. Hammel, I'd like to start with you first on the
23 scope of your current authorized operations, which is Exhibit
24 7. On Amendment I particularly, I'd like to start with that,
25 I think it's on page 3, and if you go over on the conditions,

1 which extend from page 3 over to page 4, if you look at the
2 one that is labeled as 11, do you see that?

3 A Paragraph 11?

4 Q Yes.

5 A Yes.

6 Q In the illustration you initially gave as to
7 Allegheny County and Cumberland or Perry County, if you were
8 tendered any of those commodities, of course, you could not
9 transport them, is that correct, to those counties?

10 A Yes.

11 Q And insofar as your example, where you testified you
12 could provide service in Cumberland County now, in Restriction
13 No. 12, you could not do so now to Dauphin Distribution
14 Services Company in Cumberland County, is that correct?

15 A That's right.

16 Q Now, on Amendment J, you did secure an additional
17 right in the second paragraph which eliminates some of the
18 counties excluded in Amendment I, Restriction No. 7, is that
19 correct?

20 A That's right.

21 Q And what you're seeking now would still leave you
22 with Indiana excluded as to Allegheny County?

23 A That's right.

24 Q Are there any other counties that you would not be
25 able to transport to that are listed in Amendment I,

1 Restriction No. 7?

2 A There are three counties that we couldn't partially
3 serve.

4 Q What are they, that are in the area of this
5 application? Is Huntingdon one of them?

6 A Somerset would be one. I'm just going from
7 recollection here. Huntingdon I think would be one.

8 MR. LAVELLE: Look --

9 MR. GRAF: Wait. I think he's wrong on that. You're
10 asking for Somerset and Huntingdon in Part 1 of this
11 application, are you not?

12 JUDGE PORTERFIELD: Are you interested in information,
13 Mr. Graf, or are you attesting the witness' knowledge of his
14 operating authority?

15 MR. GRAF: I'm interested in knowing whether it is
16 correct.

17 JUDGE PORTERFIELD: Maybe Mr. Lavelle could assist the
18 witness, since he appears to be familiar with the authority.

19 MR. GRAF: That's fine with me.

20 MR. LAVELLE: If you look at the exhibit -- I'm sorry --
21 Restriction No. 7 to the Amendment I authority, the Counties
22 of Lebanon, Berks and Lancaster, which are restricted out of
23 that grant, are put back in by Paragraph No. 2 of Folder 1 of
24 Amendment J that you referred to.

25 MR. GRAF: Okay.

1 MR. LAVELLE: The Counties of Clearfield, Cambria and
2 Somerset, by this application the applicant wanted to be able
3 to serve those portions of those counties lying on and east of
4 U.S. Highway 15.

5 MR. GRAF: Right.

6 MR. LAVELLE: As to Blair, Huntingdon and Bedford
7 Counties, he wants to be able to serve all points in those
8 counties because they're totally east of U.S. Highway 15. As
9 to the remainder of the counties, beginning with Beaver
10 through Westmoreland, number one, they're all west of U.S.
11 Highway 219.

12 MR. GRAF: I wasn't worried about those.

13 MR. LAVELLE: But they're also covered by the Amendment
14 I authority which really leaves Indiana County as the only
15 full county west of 219. There may be a slight clarification
16 required here, which I think I know what Mr. Graf is looking
17 at. Well, I'll let him ask the questions, but I think that's
18 the clarification you're looking for.

19 MR. GRAF: Basically that was it. I want to make sure
20 Indiana was the only one that was still open as to Allegheny
21 County, regardless.

22 MR. LAVELLE: Right.

23 MR. GRAF: Okay.

24 BY MR. GRAF:

25 Q Now, I think you mentioned with respect to Exhibit 8

1 that the pending applications that you had were all unmodified
2 except one, which was not assigned any number as yet, is that
3 correct? The last one on the second page of Exhibit 8, that's
4 the one you just filed on December the 1st?

5 A That's right.

6 Q All the rest are unopposed?

7 A That's right.

8 Q And the first one won't impact on this application,
9 as I understand it, Folder 1, Amendment Z, Berks County being
10 out of the area that you're really seeking, is that correct?

11 A That's right.

12 Q And Folder 1, Amendment AA would not impact on this
13 application, as I see it?

14 A That's right.

15 Q The same would be true of Folder 1, Amendment AB and
16 AD?

17 A That's right.

18 Q And the new application will not impact on this one?

19 A That's right.

20 Q Your interstate authority is non-radial, is that
21 correct, and does include Pennsylvania?

22 A That's right.

23 Q Now, when was the Cleveland, Ohio terminal shown on
24 Exhibit 11 first opened?

25 A Going from memory, I believe it was 1983.

1 Q And Cumberland, Maryland?

2 A I believe that was 1986.

3 Q How about Harrisburg?

4 A '85 or '86. I can't recall.

5 Q I believe in your statement you did explain that the
6 designation under owner FEL was an affiliated equipment
7 company?

8 A That's right.

9 Q And is that owned by the same principals as you
10 mentioned in your Statement 4, Pitt Ohio?

11 A Are you referring to --

12 Q The same stockholders.

13 A Yes.

14 Q How about Martera, is that the same situation?

15 A That's not owned by the owners of Pitt Ohio, no.
16 That's owned by my father, primarily.

17 Q How much of the equipment shown on your Exhibit 12 is
18 actually company-owned?

19 A Pitt Ohio owned?

20 Q Yeah.

21 A Next to nothing.

22 Q Is it less than ten tractors?

23 A I don't think there's that many.

24 Q Well, if we count them, anything that had a blank
25 would be company-owned, is that correct?

1 A Shouldn't be anything with blanks. What page are you
2 looking at? I can help you.

3 Q I was looking at the first one, but I see there's
4 nothing opposite, so that wouldn't be it. It looks to me like
5 they're all owned by the two equipment companies?

6 A That's right.

7 Q All right. Is Exhibit 13 taken from your annual
8 report for 1987?

9 A Yes, it is.

10 Q And the same, too, of 14?

11 A Yes.

12 Q I'd like -- with respect to Exhibit 16, do you have
13 the underlying documents present that I could examine from
14 which this was prepared?

15 A No. This was prepared from a computerized printout
16 which we have in the room, but the individual freight bills
17 or --

18 Q What would the printout show? May I see one of them
19 for Exhibit 16?

20 MR. LAVELLE: Could I ask that these underlying
21 documents be reviewed by counsel, but not by Mr. McQuaide.

22 MR. GRAF: I don't have any objection to that.

23 MR. LAVELLE: Okay. There's a reason for that.

24 (Brief pause.)

25 MR. GRAF: I'd like to approach the witness with the

1 underlying data for Exhibit 16 for a moment, and I'd like to
2 hand him the underlying data.

3 BY MR. GRAF:

4 Q If you look at Exhibit 16, the very first entry,
5 where it shows an origin zip code of 155, which would be in
6 the Johnstown, Pennsylvania area, as I understand it, looking
7 at your zip code map No. 15, is that basically correct?

8 A In other words, what you're asking me is originally
9 -- originating shipment No. 115 --

10 Q No. I'm asking the zip code 155, first of all.

11 A You're asking if that's Johnstown?

12 Q Is that the Johnstown area?

13 A It's the Johnstown area, correct. I think it's more
14 towards Somerset, actually.

15 Q From those documents which I've handed you, there is
16 a zip code 155 shown, right?

17 A That's right.

18 Q Now, from either of the underlying documents, can you
19 tell me whether any of the number of shipments shown there
20 went to an area west of 219?

21 A No. That's not what this report shows.

22 Q And, in fact, can you tell me any destinations served
23 from zip code 155 from your underlying documents?

24 A No. That's not what these -- neither of these
25 reports show. They show the shipments originating from that

1 zip going into our system. Any shipment, ICC, PUC, what have
2 you. The other report shows any shipments going into that zip
3 area.

4 Q But they don't show whether any of it went to an area
5 west of 219 or, in fact, anywhere?

6 A That's right.

7 Q Whether it is interstate, you can't tell how many of
8 the 115 were interstate?

9 A That's right.

10 Q Or intrastate for named shippers?

11 A That's right.

12 Q Would the same be true of all entries on Exhibit 16?

13 A That's right.

14 Q Now, if we use the same underlying documents for
15 Exhibit 17, would your answers be the same as you gave me for
16 16, that is that you can't tell -- tie-in any shipment to any
17 specific origin or destination, except that it may have
18 originated in this zip code or terminated in the named zip
19 code?

20 A That's right.

21 Q And it won't describe the nature of the commodity?

22 A No, it won't.

23 Q And it would not describe whether it was truckload or
24 LTL?

25 A No, it won't.

1 Q And the same would apply to Exhibits 19 and 20 as
2 well?

3 A That's correct.

4 Q Now, you were earlier describing, in relation to your
5 Exhibit 6, how you would handle certain shipments which were
6 theoretical, of course, or hypothetical. Assuming this
7 application were approved, how would you, for example, handle
8 a shipment from the City of Erie, which is west of 219, to a
9 point in Huntingdon County, such as Huntingdon?

10 A That would be picked up on a city unit in Erie being
11 handled by the Cleveland terminal. It would go back to Erie
12 -- or back to Cleveland, rather, at the end of the day, put on
13 a line haul trailer, sent to Cumberland, at which point
14 Cumberland would deliver it the following day. That's
15 provided that we had enough freight moving from Cleveland to
16 that Cumberland region for that day, depending on how much we
17 had in Ohio. If there wasn't enough, normally it would move
18 into Pittsburgh and lay there a day until it filled up and
19 went down.

20 Q What other areas west of 219 does your Cleveland
21 terminal serve, other than Erie County?

22 A Strictly Erie and a little bit of Crawford County.

23 Q And the same handling would pertain to any point in
24 Crawford County as you described for Erie?

25 A That's right.

1 Q And that would be true whether it was going to Blair
2 County, Huntingdon or Bedford? It would be handled the same
3 way?

4 A That's right.

5 Q Now, have you promulgated an additional brochure to
6 shippers other than this one?

7 A Well, that is our main points list. We give
8 brochures out all the time.

9 Q Have you, in fact, sent out a brochure in 1987 in
10 January that differed from that?

11 A Well, it would depend on what you're referring to.
12 Like I say, we're giving out brochures all the time.

13 Q Well, if I show you one and a letter that you sent
14 out to customers, do you think you would recognize them?

15 A I'm sure I would.

16 Q Huh?

17 A I'm sure I would.

18 Q Look at those two documents, the first being a letter
19 dated January 11, 1987, and the second one a brochure. Do you
20 recognize them?

21 A Yes, I do.

22 Q And have they, in fact, been sent out to your
23 customers?

24 A Yes, they were.

25 MR. GRAF: Your Honor, I would request that the letter

1 -- and I do not have enough of the brochures -- but I would
2 like the letter to be identified as protestant Exhibit 1, or
3 P-1.

4 JUDGE PORTERFIELD: So identified, Mr. Graf.

5 (Protestants' Exhibit No. P-1 was produced and
6 marked for identification.)

7 MR. GRAF: I could supply the brochure by photo copying
8 it, but I didn't have enough of them to present, but I would
9 like to have it marked as Exhibit P-2 for identification.

10 JUDGE PORTERFIELD: Okay. We'll mark it as P-2 and
11 you'll submit copies.

12 MR. GRAF: I have to photocopy them and forward them.
13 I'll have to borrow that one back.

14 THE WITNESS: You want that back?

15 MR. GRAF: Yeah. I have to make photocopies and I can't
16 do it if I don't have one.

17 (Protestants' Exhibit No. P-2 was produced and
18 marked for identification.)

19 BY MR. GRAF:

20 Q I'd like to invite your attention to the letter which
21 we've identified as Exhibit P-1 for identification. The
22 second paragraph indicates an expansion of your terminal
23 network. I assume it's referring to your terminal network,
24 going back to Paragraph 1. Aren't the towns named, towns that
25 are excluded to you from points west of 219 from Allegheny

1 County?

2 A Yes, they are.

3 Q Have you, in fact, provided service from points in
4 either Allegheny County or west of 219 to the area between 219
5 and U.S. 15?

6 A Yes, we have.

7 Q And has some of that service been specifically
8 between two Pennsylvania points, and not interline traffic?

9 A Yes, they have.

10 Q I'd like to show you a bill and ask you whether you
11 recognize this particular document. It's a photocopy,
12 obviously, because I don't have the original.

13 A I recognize it.

14 MR. GRAF: All right. I would request that this
15 document be marked as Exhibit P-3 for identification.

16 JUDGE PORTERFIELD: So marked.

17 (Protestants' Exhibit No. P-3 was produced and
18 and marked for identification.)

19 BY MR. GRAF:

20 Q With respect to Exhibit P-3 for identification, sir,
21 is Pittsburgh in Allegheny County?

22 A Yes, it is.

23 Q And is Hollidaysburg in Blair County?

24 A Yes, it is.

25 Q And neither the consignor or consignee are

1 individually named accounts which you are authorized to serve
2 at present, is that correct?

3 A That's right.

4 Q I would like to refer you to another document.
5 Admittedly, it's a pretty poor copy, but I can't do much about
6 that. I ask you whether you recognize that as one of yours?

7 A Yes, it is.

8 MR. GRAF: May I have the document marked for
9 identification as Exhibit P-4?

10 JUDGE PORTERFIELD: So marked.

11 (Protestants' Exhibit No. P-4 was produced and
12 marked for identification.)

13 BY MR. GRAF:

14 Q Sir, we have previously agreed that Pittsburgh is in
15 Allegheny County, and if anymore exhibits refer to Pittsburgh,
16 that same admission would prevail, would it not?

17 A That's right.

18 Q And Duncansville, would you agree, is in Blair
19 County?

20 A Yes, I would.

21 Q And could we agree that neither of those companies
22 are specifically named as companies you are specifically
23 authorized to serve?

24 A That's right.

25 Q I'd like to show you another document and ask you

1 whether you recognize it as a copy of one of your originals?

2 A Yes, it is.

3 MR. GRAF: May I have it marked for identification, sir,
4 as Exhibit P-5?

5 JUDGE PORTERFIELD: So marked.

6 (Protestants' Exhibit No. P-5 was produced and
7 marked for identification.)

8 BY MR. GRAF:

9 Q Can you tell me what county Lawrence is located in?

10 A I believe it's Washington.

11 Q And Altoona is in Blair County, is it not?

12 A I believe so.

13 Q And would it be correct that you're here seeking
14 authority from Washington County to Blair County?

15 A That's correct.

16 Q And neither of those companies are among the
17 designated named accounts you are authorized to serve, is that
18 correct?

19 A That's right.

20 Q I'd like to show you another document and ask you if
21 you can identify it, sir?

22 (Brief pause.)

23 THE WITNESS: Yes, this is mine. I'm sorry.

24 MR. GRAF: I'd like to have it marked for identification
25 as Exhibit P-6.

1 JUDGE PORTERFIELD: So marked.

2 (Protestants' Exhibit No. P-6 was produced and
3 marked for identification.)

4 BY MR. GRAF:

5 Q Sir, is this one of the counties you are seeking to
6 serve here, or do you already have Centre County from
7 Allegheny?

8 A I already have it.

9 Q And was this one you got in J, Amendment J?

10 A I believe that's right.

11 Q And was Amendment J granted after this application
12 was filed, do you know?

13 A Yeah, I believe it was granted after.

14 MR. LAVELLE: Just for clarification, I think it's
15 Amendment I you want to refer to, don't you?

16 MR. GRAF: I thought it was J. Maybe it's I.

17 MR. LAVELLE: It's for Centre County. I think it's
18 under Amendment I.

19 MR. GRAF: Is it I?

20 MR. LAVELLE: Yeah.

21 MR. GRAF: Okay. Do you know when that was granted,
22 Bill?

23 MR. LAVELLE: Amendment I?

24 MR. GRAF: Yeah.

25 MR. LAVELLE: The service dates are all on the exhibit.

1 MR. GRAF: Oh, okay.

2 BY MR. GRAF:

3 Q I'd like to show you a copy of a letter, sir, that --
4 see if you can identify it.

5 (Brief pause.)

6 THE WITNESS: Okay.

7 MR. GRAF: May I have it marked as Exhibit P-7 for
8 identification?

9 JUDGE PORTERFIELD: So marked, Mr. Graf.

10 (Protestants' Exhibit No. P-7 was produced and
11 marked for identification.)

12 BY MR. GRAF:

13 Q And I would also like to show you a bill of lading
14 issued by Complete Reading, which seems to indicate you
15 handled some traffic to Indiana, PA. Would you recognize
16 that?

17 A This is their bill of lading, but I recognize the
18 signature as one of our drivers, it looks like.

19 MR. GRAF: May I have this marked for identification as
20 Exhibit P-8, sir?

21 JUDGE PORTERFIELD: So marked.

22 (Protestants' Exhibit No. P-8 was produced and
23 marked for identification.)

24 BY MR. GRAF:

25 Q Am I correct that you did state that even if this

1 application were approved, you would still not be able to
2 provide service from Allegheny County to Indiana County? Is
3 that correct?

4 A That's correct. On a direct basis.

5 Q If you look back to Exhibit P-7, you make reference
6 to a discount tariff which you apparently forwarded with this
7 letter which is an ICC discount tariff, is it not?

8 A That's right.

9 Q Does it indicate at all that this discount would be
10 limited in any way to traffic moving outbound in interstate
11 commerce, or inbound in interstate commerce?

12 A I don't understand your question.

13 Q Does the letter indicate that this discount is
14 limited to interstate traffic?

15 A By the tariff that's filed, certainly.

16 Q Only by the tariff, is that correct?

17 A That's right.

18 Q Now, was there a discount granted on the shipment
19 handled in Exhibit P-8, do you know?

20 A That I can't tell.

21 Q Would you be able, from P-8, to check your records to
22 see whether a discount, in fact, prevailed?

23 A I could, yes.

24 Q Would you do so for the next hearing?

25 A Certainly.

1 Q I'd like to ask you whether you could identify this
2 document as one of yours, sir?

3 A Yes, it is.

4 MR. GRAF: May I have it marked, sir, as Exhibit P-9 for
5 identification?

6 JUDGE PORTERFIELD: So marked.

7 (Protestants' Exhibit No. P-9 was produced and
8 marked for identification.)

9 BY MR. GRAF:

10 Q Looking at this particular Exhibit P-9, could we
11 agree that Carrolltown is in Cambria County?

12 A I'm not absolutely certain where Carrolltown lies. I
13 know 157 is the Indiana area. If you say it is, I'll accept
14 that. I'm not sure.

15 JUDGE PORTERFIELD: Subject to check?

16 THE WITNESS: Yeah, subject to check.

17 BY MR. GRAF:

18 Q Subject to check. And neither the consignor or
19 consignee are those you are specifically authorized to serve
20 on designated shipper authorities?

21 A That's correct.

22 Q I wonder if you could identify that document for me
23 as one of yours, or two of yours, I should say.

24 A Yes, these are mine.

25 MR. GRAF: All right. May I have the document

1 identified as Exhibit P-10?

2 JUDGE PORTERFIELD: So marked. So identified.

3 (Protestants' Exhibit No. P-10 was produced and
4 marked for identification.)

5 BY MR. GRAF:

6 Q Sir, with respect to Exhibit P-10, both of the
7 shipments reflect an origin of Carnegie, which I believe is in
8 Allegheny County?

9 A That's right.

10 Q And both reflect a destination of Altoona in Blair
11 County?

12 A That's right.

13 Q And that's among the areas you're here seeking to
14 serve?

15 A That's right.

16 Q And are either the consignor or consignee, which are
17 identical in these shipments, those authorized to you under
18 individual shipper authorities?

19 A No.

20 Q Now, I note that one of these shipments refers to a
21 discount. Where do you publish your Pennsylvania discount?
22 What tariff do you use?

23 A We publish the discount only in the interstate
24 tariff. The PUC will not permit you to publish a discount.
25 However, they do permit you to show discounts on the bill, as

1 long as the tariff that is published is reflective of that.

2 Q Have you ever checked the Middle Atlantic Tariffs at
3 all as they pertain to Pennsylvania, Middle Atlantic Tariff
4 Conferences? Aren't you aware they publish a discount tariff
5 currently in AC 505E?

6 A We don't belong to the Middle Atlantic Tariff.

7 Q You said the PUC won't allow discounts. I'm asking
8 you whether you're aware that Middle Atlantic publishes them
9 applicable to Pennsylvania in Tariff 505E right now?

10 A I'm telling you what the PUC has instructed us to do
11 in referring to discounts. I can bring that information in if
12 you like.

13 Q It would be helpful if you would, because I know they
14 published them. I can give you some illustrations of carriers
15 who publish them right now.

16 A That would save a lot of work, then, because what
17 we're forced to do is reduce the tariffs filed with the PUC by
18 the discount, which requires filing of a lot of tariffs.

19 Q For example, Nelson's Express has two discount
20 tariffs filed jointly with the ICC and the PUC.

21 A The PUC, over the past few years, has allowed many
22 different types of discounts that have already been approved
23 and now, from what -- they're turning around. They're trying
24 to make people pull them out, and I'm really not certain as to
25 what position they're at there, but they've asked us to

1 restructure some of our discounts that have been approved back
2 in 1982.

3 Q It's interesting. I don't doubt your word. I'm just
4 curious that they would tell you that, when I know there are
5 tariffs on file. Well, whatever. But anything you could
6 supply on that I would like to see. I wonder if you could
7 identify this document for me?

8 A Yes, that's ours.

9 MR. GRAF: May I have it marked as Exhibit P-11, sir?

10 JUDGE PORTERFIELD: It's so marked.

11 (Protestants' Exhibit No. P-11 was produced and
12 marked for identification.)

13 BY MR. GRAF:

14 Q With respect to Exhibit P-11, I think we've already
15 agreed that Pittsburgh is in Allegheny and Altoona is in Blair
16 County. Could we agree that you don't have specific carrier
17 -- specific shipper authority for either the consignor or
18 consignee?

19 A Yes.

20 JUDGE PORTERFIELD: Mr. Graf and Mr. Hammel, on this --
21 what's been identified as Exhibit No. P-11, just so the record
22 is clear, we're talking about Leetsdale PA being in the
23 Pittsburgh area, in Allegheny County, is that --

24 MR. GRAF: Which? P-11?

25 JUDGE PORTERFIELD: Yes.

1 THE WITNESS: You got the wrong one I think.

2 JUDGE PORTERFIELD: I think I have what isn't P-11.

3 MR. GRAF: I'm sorry. I wonder how that happened.

4 JUDGE PORTERFIELD: That's all right. Just save that.

5 We might need it later. Okay. This looks like Pittsburgh and
6 Altoona.

7 MR. GRAF: That's the right one. I don't know where
8 this came from. It was stuck on it.

9 BY MR. GRAF:

10 Q I wonder if you could identify this as one of your
11 bills for me, if you would?

12 A Yes, that's one.

13 MR. GRAF: Now I'll give you Leetsdale back again.

14 JUDGE PORTERFIELD: Okay.

15 MR. GRAF: I found the right stack. I request this be
16 marked for identification as Exhibit P-12.

17 JUDGE PORTERFIELD: So marked Exhibit No. P-12.

18 (Protestants' Exhibit No. P-12 was produced and
19 marked for identification.)

20 BY MR. GRAF:

21 Q With respect to Exhibit No. P-12, Mr. Hammel, is
22 Leetsdale in Allegheny County?

23 A Yes, it is.

24 Q And are the -- are either of the consignor or
25 consignee companies for whom you have specific shipper

1 authorities?

2 A No, they are not.

3 Q Could you identify this particular item for me?

4 A Yes. That's our bill.

5 MR. GRAF: May I have this item identified as Exhibit
6 P-13?

7 JUDGE PORTERFIELD: So marked.

8 (Protestants' Exhibit No. P-13 was produced and
9 marked for identification.)

10 BY MR. GRAF:

11 Q With respect to Exhibit P-13, I think we may have
12 earlier mentioned Carnegie as being in Allegheny County and
13 Altoona in Blair. I think that's correct. Are either of
14 these companies, companies for whom you have specific shipper
15 authority?

16 A No, they are not.

17 Q Would you be able to identify these two items for me?

18 A Yes, they're ours.

19 MR. GRAF: May I have the dual documents marked as
20 Exhibit P-14 for identification?

21 JUDGE PORTERFIELD: So marked.

22 (Protestants' Exhibit No. P-14 was produced and
23 marked for identification.)

24 BY MR. GRAF:

25 Q With respect to the top document on Exhibit P-14,

1 Bridgeville is in what county? Is that Washington County?

2 A It's Allegheny.

3 Q It's Allegheny. And Duncansville we've already
4 agreed is Blair County?

5 A That's right.

6 Q Are either of the consignors or either of the
7 consignees those for whom you have specific shipper authority
8 to serve?

9 A No.

10 Q I wonder if you could identify this document for me,
11 these documents. I'm sorry. There are two on that page.

12 JUDGE PORTERFIELD: We'll identify that as Exhibit No.
13 P-15. Is that correct, Mr. Graf?

14 MR. GRAF: Yes, that would be.

15 (Protestants' Exhibit No. P-15 was produced and
16 marked for identification.)

17 BY MR. GRAF:

18 Q They are yours, are they not, Mr. Hammel?

19 A Yes, they are.

20 Q With respect to the top of the two documents, are
21 either of those, shipper or receiver, among those you're
22 authorized to serve as specific shipper authority?

23 A No, they are not.

24 Q And on the bottom, where is McKees Rocks? Is that
25 Allegheny County?

1 A It's Allegheny County.

2 Q And can you serve either the shipper or consignor --
3 or consignee under your specific shipper authorities?

4 A No.

5 Q I'd like you to tell me whether those also represent
6 your documents?

7 A Yes, they do.

8 MR. GRAF: May I have them marked for identification as
9 Exhibit P-16?

10 JUDGE PORTERFIELD: So marked, Mr. Graf.

11 (Protestants' Exhibit No. P-16 was produced and
12 marked for identification.)

13 BY MR. GRAF:

14 Q Sir, with reference to Exhibit P-16, are the shipper
15 and receiver mentioned in the document those that you can now
16 serve under specific shipper authority?

17 A No. This Lithonia, though, was brought into our
18 terminal by the Lithonia truck from Georgia and distributed.

19 Q Does it show on the bill that this was the case?

20 A It shows Pittsburgh, PA with the bill to Lithonia.

21 Q All right. And on what basis would you have handled
22 that?

23 A Under our ICC, as all of these.

24 Q Interlined with a private carriage?

25 A No, no. We would handle it ourselves, as we have all

1 these under ICC.

2 Q You take the position that the Lithonia Lighting
3 Company bringing in a shipment to you on one of its own
4 vehicles constitutes interstate commerce?

5 A If the truck comes from outside the state, yes.

6 Q That's what your explanation --

7 A It's not warehoused anywhere. It comes directly to
8 our terminal.

9 Q I understand it came to your terminal. And it came
10 in private carriage?

11 A Exactly.

12 Q You contend it's interstate?

13 A Yes, sir.

14 Q All right. Just so we're clear on that. Now, on the
15 bottom one, where is Bethel Park located?

16 A It's Allegheny County.

17 Q And do you have specific authority in those -- for
18 either the shipper or receiver?

19 A No.

20 Q I'd like finally to refer you to two additional bills
21 and see if you can identify them as your company's.

22 A Yes, they're ours.

23 MR. GRAF: Okay. May I have them marked as Exhibit
24 P-17?

25 JUDGE PORTERFIELD: So marked.

1 (Protestants' Exhibit No. P-17 was produced and
2 marked for identification.)

3 BY MR. GRAF:

4 Q With respect to Exhibit P-17, the top document,
5 neither the consignor or consignee are among those that you
6 are specifically authorized to serve, is that correct?

7 A That's right.

8 Q Now, with regard to the bottom document, would the
9 same be true, since they're the same shipper and receiver?

10 A Yes.

11 Q I'm curious about the top document. It contains a
12 comment, discounted to floor, min, flr. What does that mean?

13 A That means that's our minimum charge.

14 Q So regardless of any other discount, that would --

15 A No charges will go below \$32.00.

16 Q I see. Okay. I guess that's pretty standard, isn't
17 it, in the industry?

18 A That's right.

19 MR. GRAF: I'll take just a moment.

20 (Brief pause.)

21 BY MR. GRAF:

22 Q I believe earlier in the course of this proceeding a
23 supporting shipper witness list was sent out, and I presume
24 that that list is still the one that you intend to use?

25 A We're going to have additional people, as well as

1 that.

2 Q I understand that you can go --

3 A Yes, sir.

4 Q -- go forward beyond that.

5 A Yes, sir.

6 Q Are there any that have since advised you that they
7 will not support?

8 A No, sir.

9 MR. GRAF: I believe those are all the questions I have
10 on cross examination.

11 JUDGE PORTERFIELD: Is Mr. Hammel the only witness you
12 intend to present today, Mr. Lavelle?

13 MR. LAVELLE: We had one or two shipper witnesses
14 standing by in the event that we got to the point where we
15 would need them because I thought there would be, perhaps,
16 three counsel cross examining, Mr. Fullerton and Mr. Koerber,
17 until the last minute developments here. Depending on where
18 we are. I can wait and see if we want to proceed with another
19 shipper this afternoon or have them all come in at one session
20 or two sessions, have all the shipper testimony together.

21 JUDGE PORTERFIELD: The options at this point are lunch
22 or cross examination. If we're going to do -- if we're only
23 going to do Mr. Hammel today, my feeling is to take a short
24 break and complete Mr. Hammel's redirect and any recross. If
25 we're going to have a shipper witness, then I would suggest we

1 take lunch and come back and see where we go.

2 MR. LAVELLE: The last 17 or so exhibits I haven't seen
3 yet.

4 JUDGE PORTERFIELD: Can we take --

5 MR. LAVELLE: I need some time to review them and then
6 go back on redirect with Mr. Hammel to ask him some questions
7 about these, after I find out what they're all about.

8 JUDGE PORTERFIELD: Do you want to take 10 or 15 minutes
9 to see where we are?

10 MR. LAVELLE: I think that would be the best way to do
11 it, and try to finish up Mr. Hammel, redirect with him and
12 call the shippers off, perhaps call them in as a group, rather
13 than this afternoon.

14 MR. GRAF: That would be acceptable. I would like a
15 little more than ten minutes if we could have it. You know
16 how much time you're going to need?

17 JUDGE PORTERFIELD: Do you want to take half an hour?
18 We don't want to go to lunch.

19 MR. LAVELLE: No, we don't want to go to lunch. I think
20 that's agreed. I think I can be prepared in 20 minutes or so.

21 JUDGE PORTERFIELD: Okay. Let's take between 20, 25
22 minutes and get back at it.

23 (A brief recess was taken.)

24 JUDGE PORTERFIELD: On the record.

25 REDIRECT EXAMINATION

1 BY MR. LAVELLE:

2 Q Mr. Hammel, on cross examination you were asked a
3 number of questions in connection with 17 exhibits that Mr.
4 Graf showed you and had identified as Protestants' Exhibits 1
5 through 17. I'd like to ask you some questions about those
6 exhibits at this time. Do you have those in front of you?

7 A I left them right here.

8 (Brief pause.)

9 BY MR. LAVELLE:

10 Q The very first exhibit, P-1, is the letter from your
11 company addressed to dear valued customer. The first question
12 I have for you is the date of the letter is shown as January
13 11, 1987. Three places in the text of the letter there are
14 references to dates or years, using the year 1988. Is the --
15 are the dates in all respects correct, or is there some
16 typographical error that you can explain?

17 A The date that was typed 1987 should be 1988. All the
18 1988 dates in the body of the letter are correct. The girl
19 obviously was still typing 1987 in January.

20 MR. GRAF: Can we change the exhibit accordingly?

21 THE WITNESS: It should be 1988.

22 MR. GRAF: I noticed that earlier and I figured
23 secretarial typo, but I couldn't change it.

24 BY MR. LAVELLE:

25 Q So the letter went out on January 11, 1988?

1 A Right.

2 Q And did protestant's Exhibit 2, which is the
3 brochure, did that go out along with the letter or separately?

4 A That went along with the letter. It was a letter
5 that we sent to our Allegheny County customers.

6 Q Is that -- I wasn't quite sure. Is that the way you
7 testified on cross examination to Mr. Graf? I'm not sure if
8 he asked you that or not.

9 MR. GRAF: That was what I understood.

10 MR. LAVELLE: Okay.

11 BY MR. LAVELLE:

12 Q So that the letter and this brochure went out
13 together?

14 A Exactly.

15 Q Did this letter and brochure go to all of your
16 customers throughout your system, or to certain customers?

17 A They went to all customers that we had on file that
18 were located in Allegheny County.

19 Q It didn't go to anybody -- a customer located outside
20 Allegheny County?

21 A Not to my -- not that I can think of, no.

22 Q Why did you so limit the distribution of this
23 particular --

24 A We keep Allegheny County, and that's what the flyer
25 deals with specifically, is Allegheny County, for the reason

1 that prior to the date of the letter, we served all points
2 from Allegheny County except for a seven county area in the
3 central part of the state. Most of this is what we're asking
4 for today. For seven years we didn't serve that area.

5 We opened a terminal in Cumberland, Maryland late in
6 1987. This letter refers to that, as well as other terminal
7 openings. We opened one up in Allentown in mid 1987, and we
8 opened one in Harrisburg in the beginning part of 1987. So
9 those three terminals were opened in '87. This letter is
10 highlighting a new service area and a quicker response time
11 for deliveries because of those three terminals. So it
12 doesn't deal with solely new points.

13 Q Well, looking at the letter, then, in the first
14 paragraph, the first sentence refers to the placement of new
15 terminals in and around the State of Pennsylvania. Are the
16 three terminals that you just referred to, Allentown,
17 Harrisburg and Cumberland, Maryland, the ones that were
18 indirectly referenced in that sentence? Is that what you're
19 saying?

20 A Right. Exactly. We had one other terminal that we
21 moved to a larger facility in West Virginia and that also was
22 included in that letter, as far as the meaning.

23 Q Which terminal is that?

24 A In Nitro, West Virginia. We moved from a small
25 terminal to a larger terminal, so we were telling our

1 customers that we've upgraded our terminal network to help
2 them in several ways.

3 Q Now, if you have that letter in front of you there,
4 the second sentence of the first paragraph refers to
5 increasing the number of points served in the state, and the
6 last portion of the sentence says, the expansion now places us
7 in a position to provide service to all points in Pennsylvania
8 from Allegheny County, and then the second paragraph of the
9 letter goes on. I believe an explanation of that, to say the
10 expansion will bring additional markets to Pitt Ohio in 1988,
11 and it lists eight specific cities, all of which, with the
12 exception of Indiana, are located -- that's not right either.
13 Johnstown also is out. Six of the eight points are located
14 either on or east of U.S. Highway 219, is that correct?

15 A I think that's right.

16 Q Well, the reason I made an exception, I thought
17 Somerset was located on the highway, but it seems to be west
18 of 219.

19 MR. GRAF: Altoona isn't.

20 MR. LAVELLE: Let me go back and start this over again
21 because I wasn't clear as to that one.

22 BY MR. LAVELLE:

23 Q Of those eight points, would you agree that Bedford,
24 Clearfield, Huntingdon are clearly east of U.S. Highway 219?

25 A That's right.

1 Q And in what we have defined as the central part of
2 the state, that's the subject of this application?

3 A Correct.

4 MR. GRAF: You want to add Altoona to that, too?

5 THE WITNESS: Altoona.

6 MR. LAVELLE: It should be Altoona, Clearfield,
7 Huntingdon and Bedford, four points?

8 THE WITNESS: DuBois and Somerset falls on 219, and
9 Indiana and Johnstown would fall to the west of 219.

10 MR. LAVELLE: The City of DuBois, looking at a highway
11 map of Pennsylvania, appears to be on 219, or 219 -- Route 219
12 goes through the City of DuBois, according to a map I have in
13 front of me, subject to confirmation.

14 MR. GRAF: I think you are correct, that it does.
15 DuBois is on --

16 MR. LAVELLE: On 219.

17 BY MR. LAVELLE:

18 Q The City of Somerset, on the map that I'm looking at,
19 the Pennsylvania Highway Map, shows Somerset to be located
20 west of U.S. Highway 219?

21 A The town of Somerset sits west, but 219 does pick up
22 part of the town of Somerset as well.

23 Q There's really a bypass around there. It's close,
24 but it may or may not be, but it's west. It's on the wrong
25 side of the line, for purposes of this application, is it not?

1 A Right. Okay.

2 Q Indiana and Johnstown, the other two points, lie west
3 of U.S. Highway 219?

4 A Correct.

5 Q So they would be outside the central part of the
6 scope?

7 A Right.

8 Q Okay. Now, when you advise customers that these
9 terminals, the effect of it is to allow you to provide service
10 to all points in Pennsylvania from Allegheny County, would you
11 explain to me what you're talking about? What are you telling
12 the customers?

13 MR. GRAF: I'd object to an interpretation. What he
14 told the customer is right here. That doesn't need any
15 explanation. That is it.

16 MR. LAVELLE: Let me ask the question a different --
17 I'll withdrawal that question and ask it a different way.

18 BY MR. LAVELLE:

19 Q Does your letter specifically state that you are in a
20 position to provide service from Allegheny County to all
21 points in Pennsylvania, with respect to intrastate or
22 interstate shipments, or both?

23 A Both.

24 JUDGE PORTERFIELD: He didn't understand your question,
25 I don't think.

1 THE WITNESS: Well --

2 JUDGE PORTERFIELD: Maybe he did. I don't know.

3 MR. LAVELLE: I think he did.

4 MR. GRAF: I think he did.

5 JUDGE PORTERFIELD: Okay.

6 THE WITNESS: In other words -- if you want me to
7 answer.

8 BY MR. LAVELLE:

9 Q I want you to explain what -- your last answer, then.

10 A Okay.

11 MR. GRAF: I'd have to object to the explanation. I
12 think the question was clear. He's answered it.

13 JUDGE PORTERFIELD: It wasn't clear because I didn't
14 completely understand it.

15 MR. LAVELLE: Let me try again, then.

16 JUDGE PORTERFIELD: I think I understand what the
17 underlying explanation is. I think there's no point in
18 leaving questions on the record if the facts are contrary to
19 what the letter could arguably suggest. What's the story, Mr.
20 Hammel?

21 THE WITNESS: What this letter did, it didn't key on
22 just central parts of Pennsylvania. It keyed on service
23 points to all points in the state. But referring to the
24 question as it relates to the central part of Pennsylvania, we
25 had authority, ICC -- PUC authority to handle any point from

1 Allegheny County to the entire state, with the exception of
2 the seven counties. Those seven counties were never handled,
3 except for interstate traffic, okay, prior to that, for the
4 seven years prior to that.

5 When we opened the terminal in Cumberland, Maryland,
6 which was opened because of the volume of traffic that we had
7 interstate in the central part of Pennsylvania, as well as
8 western Maryland, as well as West Virginia, we decided we
9 needed a terminal in Cumberland. When we did that, we then
10 felt we could handle the central part of the state for
11 customers through Cumberland, Maryland as interstate
12 shipments, so that's what we did.

13 BY MR. LAVELLE:

14 Q Prior to the opening of that Cumberland, Maryland
15 terminal, were you handling shipments from Allegheny County to
16 Altoona, for example?

17 A No. Not from Allegheny County, no.

18 Q Or if we used Washington County as an origin point?

19 A No.

20 Q Would you have handled shipments prior to the opening
21 of the Cumberland terminal from a point west of U.S. Highway
22 219 to any point in those seven counties?

23 A No.

24 Q Does the brochure, to your knowledge, in any way
25 refer specifically to either interstate or intrastate traffic?

1 A I don't think so. I'm not sure.

2 Q Do you want to look at it?

3 A I don't think it does.

4 (Brief pause.)

5 THE WITNESS: No.

6 BY MR. LAVELLE:

7 Q Prior to the opening of the Cumberland terminal, why
8 did you not handle freight from points in Allegheny County to
9 points in those seven counties?

10 A Because the area of Johnstown, Altoona, Indiana was
11 all served from the Pittsburgh terminal, so we were up there
12 delivering freight everyday, but it was all freight that
13 originated out of state. None of it was interstate traffic --
14 intrastate traffic. It was all interstate traffic, so we were
15 up in those towns everyday but --

16 Q I understand what you're saying, but I don't think
17 that's in answer to the question I asked you. Why did you not
18 handle a shipment that originated in Allegheny County destined
19 for a point in one of those seven counties before you opened
20 the Cumberland terminal?

21 A Because we didn't have the Pennsylvania operating
22 authority, and the normal route of movement would have been
23 direct because Johnstown was served from Pittsburgh.

24 Q Now, would you briefly give us an explanation,
25 description of the Cumberland terminal?

1 A The Cumberland terminal is a 24 door terminal. It
2 was built by Hall's Motor Freight about ten years ago. Has 15
3 drivers, services the central part of Pennsylvania, western
4 Maryland as far as Hagerstown, panhandle of West Virginia, all
5 the way down as far as Moorefield, the Blue Ridge Mountains.
6 About one-third of West Virginia it serves, as well as the
7 central part of Pennsylvania.

8 Q Do you handle interstate freight through that
9 terminal going to and from central Pennsylvania? And right
10 now I'm using interstate freight in the sense of a shipment,
11 let's say, beginning or ending at a point outside the State of
12 Pennsylvania.

13 A Yes. Primarily, that's most of the freight. It's
14 gathered in Harrisburg from the eastern terminals, from
15 Baltimore, from Philadelphia and from Allentown, and sent into
16 Cumberland. It's -- West Virginia, Charleston has a direct
17 trailer that runs right to Cumberland and delivers that
18 service area. Pittsburgh has a direct trailer, so does
19 Cleveland.

20 Q In answer to a number of questions on direct
21 examination, the example you used was for Greensburg to
22 Altoona. You described the general route of movement as being
23 from the Pittsburgh terminal to Cumberland and then up to
24 Altoona for destination?

25 A That's right.

1 Q And we went through a series of questions. In answer
2 to Mr. Graf's question concerning the northwestern corner of
3 the state, Erie County and a portion of Crawford County, you
4 said they were handled out of the Cleveland terminal?

5 A That's right.

6 Q How would shipments from that corner of the state,
7 those two counties, destined for, let's say, Altoona, stay
8 with that example, be handled?

9 A I think we described that. It would go back to
10 Cleveland that night, put on a trailer and run direct to
11 Cumberland, provided they had enough to fill that trailer.
12 From there, Cumberland would break it, put it on the street
13 the next day in Altoona.

14 Q And under what operating authority does your company
15 handle that type of a shipment today?

16 A Our interstate operating authority.

17 Q Do you today hold yourself out to provide service
18 between two points in Pennsylvania in the eastern part of the
19 state, for example, from Philadelphia to a point in Berks
20 County?

21 A No.

22 Q Why not?

23 A Because our terminal locations are Philadelphia and
24 Allentown. We don't have any local PUC authority and the
25 route of movement would be direct. We don't have the

1 authority to move it direct.

2 Q Do you handle full truckload traffic from Allegheny
3 County to a point in these seven counties?

4 A No.

5 Q How about vice versa, from one point in the seven
6 counties to Allegheny County?

7 A No.

8 Q Or any other point, any other points between the
9 eastern part -- the western third of the state and the central
10 third of the state, if it's a truckload shipment?

11 A No.

12 Q Well --

13 A The normal route of movement.

14 Q -- with one exception. If a shipment begins or ends
15 in Allegheny County, going to the central part of the state,
16 other than those seven counties?

17 A Then we would.

18 Q You have authority for that?

19 A That's right.

20 Q Barring that exception, what is your answer with
21 respect to truckload shipments going between those two parts
22 of the state?

23 A We don't have the authority to move it.

24 Q Then what traffic is being handled via Cumberland?

25 A LTL traffic. It's mixed with our ICC freight.

1 Q If the Cumberland terminal for some reason were to be
2 closed tomorrow, next week, would your company handle a less
3 than truckload shipment originating at a point in Allegheny
4 County, destined for a point in one of these -- we can refer
5 to it as seven counties, but it's --

6 A No.

7 Q Why not?

8 A Because we would have to move it direct. We don't
9 have the PUC authority. The normal route of movement would be
10 direct.

11 Q So -- strike that. On an LTL shipment, moving
12 between a point in Allegheny County and a point in one of
13 these seven counties, what is its normal route of movement?

14 A From Allegheny County?

15 Q Either from Allegheny to the central counties or vice
16 versa.

17 A If it's handled from the Cumberland terminal, it's
18 loaded on the trailer, sent down to Cumberland.

19 MR. GRAF: He didn't ask you that. He asked you what
20 was normal.

21 BY MR. LAVELLE:

22 Q I didn't ask you that. My question is what is the
23 normal operation, route of movement in your handling of a
24 shipment that begins in Allegheny County and destined for a
25 point in one of those seven counties, an LTL shipment?

1 A My answer is the same. It would move down to our
2 Cumberland, Maryland terminal.

3 Q And if it --

4 A Am I missing something?

5 Q No. If it starts in one of those seven counties and
6 is destined for a point in Allegheny County?

7 A It's picked up by a local man out of Cumberland who
8 handles that area, is taken down there, across the dock on the
9 trailer for Pittsburgh that night, put on the street the
10 following day.

11 Q Okay. In your own Exhibit No. 21, that matrix that
12 we had looked at earlier, in looking at that, if you use
13 Allegheny County as the origin county, do you know whether or
14 not the seven counties that we've been talking about are shown
15 as service counties or non-service counties?

16 A They're shown as non-service counties. That matrix
17 is an explanation of our PUC operating authority that we put
18 together about two years ago. We still use it today.

19 Q And the same exceptions apply? If you take each one
20 of the seven counties and work back, using those as origin
21 counties and Allegheny as the destination, you find the same
22 non-service designation, is that correct?

23 A That's correct. We're telling the shippers what our
24 PUC operating authority is here. If they ask for a shipment
25 for that area, we can tell them yes, we can take it, it will

1 be an ICC shipment. Most of the times it doesn't slow down
2 our delivery. Sometimes it does.

3 Q There was at least one shipment here on Exhibit No.
4 5, protestants Exhibit 5, the origin there was shown as
5 Lawrence, Pennsylvania, which you identified as being
6 Washington County, which your own point list verifies, going
7 to Altoona. Was that shipment handled in the same -- let me
8 ask you, how was that shipment -- how would it have been
9 handled?

10 MR. GRAF: Which? From the bill or what?

11 BY MR. LAVELLE:

12 Q What would be your normal method of handling that
13 shipment?

14 A From Lawrence to Altoona?

15 Q Right.

16 A The truck in Lawrence is from the Pittsburgh
17 terminal. It would return to Pittsburgh that night, put on a
18 trailer, sent to Cumberland. Cumberland would stick a man on
19 it that takes it to Altoona.

20 Q Protestants' Exhibit No. 6 had reference to a
21 shipment that moved from Pittsburgh to State College, and I
22 think you answered this, but what is your position with
23 respect to the handling of that shipment?

24 A That shipment, again, is handled by a Pittsburgh
25 truck. Come back to the terminal, line hauled to Harrisburg.

1 Harrisburg terminal would put it on the street the following
2 day.

3 Q In State College?

4 A In State College.

5 Q Does that shipment move via Cumberland?

6 A No.

7 Q Why not?

8 A Because State College is handled from our Harrisburg
9 terminal. We have operating authority to go from Pittsburgh
10 to State College.

11 Q That's not within one of the seven excluded counties,
12 is that right?

13 A That's right.

14 Q I think every one of the other protestants' exhibits
15 that have reference to -- they're either freight bills or bill
16 of lading, involve shipments that originated at a point in
17 Allegheny County, destined for a point in one of the central
18 Pennsylvania counties to which you do not have -- in which you
19 do not have present PUC authority, is that right?

20 A That's right.

21 Q Would the explanation you've given us before here
22 about the normal routing of such shipments, physical handling
23 of them, apply to each of those situations?

24 A Yes, they would.

25 Q Namely, via Cumberland?

1 A That's right.

2 (Brief pause.)

3 MR. LAVELLE: Your Honor, I have no further questions of
4 Mr. Hammel.

5 JUDGE PORTERFIELD: Any recross, Mr. Graf?

6 MR. GRAF: Oh, yes, there's going to be some.

7 RE CROSS EXAMINATION

8 BY MR. GRAF:

9 Q Did I understand you to say that the matrix in
10 Exhibit 21 was prepared two years ago?

11 A I would say two to three years ago, yes.

12 Q When was this directory published?

13 A This one here?

14 Q The big one.

15 A This one was just published last week.

16 Q All right.

17 A This just came in.

18 Q So as of at least last week, you were relying on the
19 matrix, and I assume shippers could rely on the matrix as of
20 whenever they get it as still being accurate?

21 A They rely on the matrix to spell out exactly what our
22 PUC is. We're up front with them. We tell them.

23 Q I see. Now, let's look at your Exhibit No. 9. I
24 think earlier you indicated to me that this was a non-radial
25 ICC authority. Is that the one you're relying on that this is

1 interstate commerce from Pittsburgh to Altoona, as long as it
2 goes via Cumberland?

3 A When you're saying non-radial, I'm not real familiar
4 -- we're relying on our ICC, MC-30136 Sub 2. That's the one
5 we're relying on.

6 Q That's the one you're relying on. And it mentions
7 Pennsylvania and it mentions some other states?

8 A Correct.

9 Q Until you had the Cumberland terminal open, you did
10 not rely on that authority to provide service from Allegheny
11 County to the seven excluded counties that we're talking
12 about, is that correct?

13 A That's right.

14 Q All right. Now, was the Cumberland County -- or
15 Cumberland, Maryland terminal purchased from Halls or leased
16 by Pitt Ohio Express?

17 A We lease it.

18 Q And you do have a lease?

19 A Yes, sir.

20 Q Would you mind bringing the lease to the hearing the
21 next time?

22 A Absolutely. If I can clarify that. The Halls
23 terminal that we're in now, we only went in last month. There
24 was a previous lease that started from which we leased from
25 Charleton Brothers (phonetically).

1 Q Charleton Brothers?

2 A Charleton Brothers was the tenant.

3 Q The owner. You were the tenant?

4 A I mean the owner, correct.

5 Q You don't know offhand what the date of that lease
6 was, do you?

7 A I think it -- I should know because I just had to buy
8 it out because we moved. I think it's July 1 of '87.

9 Q How do you -- how do you account for that, in view of
10 Exhibit P-1 which says on January 4 you further extended your
11 territorial network, and in addition to that, this expansion
12 now places us in a position to service all points in
13 Pennsylvania? How do you square the difference between
14 January 4 and July 1987?

15 A You're missing some important points. Number one,
16 this is a letter to the customers that's going out, laying out
17 our service. We were set up a good four to five, maybe even
18 six months in Cumberland with the lease and operating before
19 the letter went out. Because we didn't have equipment down
20 there, we had to hire the drivers, et cetera. Okay.

21 Also, this letter is referring to several terminals in
22 our system. It's not referring to one area, and it's
23 referring to new points as well as additional coverage for
24 service area. I mean, as far as service time, so we're
25 telling the customers that with the additional terminals, you

1 now have better service time, you now have some more points,
2 et cetera. But we won't send a piece of literature soliciting
3 until we were ready. Sometimes we open terminals for --

4 Q Is that --

5 A Excuse me. Sometimes we open terminals for a
6 complete year before we start soliciting traffic. We use them
7 as delivering terminals until we have the people hired,
8 trained, qualified.

9 Q All right. Now, when did you actually start
10 soliciting this traffic from the Allegheny County area to the
11 seven county area?

12 A The date of this letter.

13 Q January 11?

14 A Yes, sir. That's when we openly let all our people
15 know with a blanket mailing, et cetera. Some of the salesmen,
16 once we were down there, started saying hey, we're down here,
17 now we can start taking some of your traffic. We hauled very
18 little until January 1, but we did start putting it on the
19 street once we opened up down there. This was the general
20 mailing.

21 Q So January 11 would be a good starting point, is that
22 what you're saying?

23 A January 11 is the day we had our literature done. We
24 flooded the mailing to our customers.

25 Q That's when you really started to operate the seven

1 county area, is that what you're saying?

2 A No. That's when we started telling the people look
3 -- in a blanket mailing -- we can do this. You have to keep
4 in mind -- can I explain? We had freight from Ohio, from all
5 the different states, from Philadelphia, New Jersey, wherever,
6 New Jersey, that we were serving that area from Pittsburgh.
7 We had interstate from Charleston, West Virginia. All we did,
8 when we opened those terminals, we took the people in
9 Pittsburgh and we moved them down and started in Cumberland,
10 started shorter stem roots. Now we're looking local people up
11 trying to get established. Once we started up, there was a
12 little bit of traffic started moving through. After about
13 four months, we said we're ready, let's get a mailing out.

14 Q Let me get back to my original question. When did
15 you really start serving between Pittsburgh or Allegheny
16 County in the seven county area, where you say you're using
17 the Cumberland terminal?

18 A It was shortly -- as soon as the lease started, I
19 would say.

20 Q All right. Now, would you look at your Exhibit 11 a
21 minute?

22 A Okay.

23 JUDGE PORTERFIELD: Your Exhibit 11 or your Exhibit 11?

24 MR. GRAF: His Exhibit 11.

25 JUDGE PORTERFIELD: Okay. Yes, right. I was correct.

1 BY MR. GRAF:

2 Q Opposite Cumberland I see a No. 08. Is that the
3 terminal number?

4 A Right.

5 Q And opposite each terminal there's a terminal number.
6 Like Pittsburgh is 01?

7 A Right.

8 Q Cleveland is 02?

9 A Right.

10 Q And so forth. And Harrisburg is 06, right?

11 A That's right.

12 Q And when was this list prepared, the terminal list?

13 A I think it was -- the address -- I think we prepared
14 it for the hearing.

15 Q Yeah, for the hearing. I mean, the terminal numbers
16 aren't something new. You've had those?

17 A No. We number the terminals as they open. The first
18 one was Pittsburgh. The second one we opened was Cleveland,
19 and we've kept it just like that.

20 Q I see. Okay. Now, would you go to Exhibit P-5 for a
21 moment?

22 A Okay.

23 Q On that bill it shows destination terminal 01, does
24 it not?

25 A That's --

1 Q That's Pittsburgh, isn't it?

2 A That's not what that number means, though.

3 Q Is it what the bill says, destination terminal
4 01-346?

5 A That's what the bill says, but if I can expand, I can
6 tell you what it means.

7 Q That's all I've asked you, sir. And what date is
8 that bill?

9 A 10/5/87.

10 Q Thank you. Now, let's go to Exhibit P-12, if you
11 would. That shows destination terminal CUM, and I presume
12 that's Cumberland, is that right?

13 A That's a computer bill. Computer generated. Prior
14 to computer generated, the destination terminal was used as a
15 bill of lading coding device, okay, for the trailers.
16 Tracking the shipments --

17 Q All I asked you, sir, is that what the bill says,
18 destination terminal CUM? Is that what it says?

19 A That's what it says.

20 Q P-11 says the same thing?

21 JUDGE PORTERFIELD: I thought you were just referring to
22 P-11.

23 THE WITNESS: Computer bills will all show that.

24 MR. GRAF: P-12 first.

25 JUDGE PORTERFIELD: P-12 first, okay.

1 MR. GRAF: And then P-11.

2 BY MR. GRAF:

3 Q Let's go to P-10. The first one -- in fact, both of
4 them show CUMB under destination terminal. Is that a computer
5 bill?

6 A No.

7 Q Now, in view of your territory which the Cumberland
8 terminal now handles, wouldn't it be a fair statement that you
9 can't really close that terminal?

10 A Why is that?

11 Q Because of the traffic you are now handling through
12 it. Do you intend to close it?

13 A No. I mean, we open terminals for a reason.

14 Q All right. Now, you were asked a question about a
15 normal route of movement, and let's make that -- have it
16 specific. Pittsburgh and Altoona. Now, forget everything
17 except the fact that you don't have a Cumberland terminal.
18 How would you, if you were driving that in a car, go from
19 Pittsburgh to Altoona? What route would you take?

20 MR. LAVELLE: Your Honor, I'm going to object.

21 THE WITNESS: I think that's irrelevant.

22 JUDGE PORTERFIELD: Is that an objection, Mr. Hammel?

23 MR. LAVELLE: Wait a minute. I'll make the objection.

24 MR. GRAF: I'll withdraw it and rephrase the question.

25 JUDGE PORTERFIELD: Okay.

1 BY MR. GRAF:

2 Q If you were driving in a car from Pittsburgh to
3 Altoona, what route would you take?

4 A I'm not sure.

5 Q All right. That's your best answer. How about
6 Pittsburgh to Huntingdon, what route would you take?

7 A Again, I'm not sure.

8 Q Now, assume there were no regulations at all by any
9 commission. What route would you direct your trucks to take
10 from Pittsburgh to Altoona?

11 MR. LAVELLE: Your Honor --

12 THE WITNESS: Are you saying we have no terminals?

13 MR. LAVELLE: Wait, wait. Hold on. When I object, you
14 don't say anything, please. Your Honor, I'm going to object
15 to that question because that's a hypothetical type of
16 question that calls for a legal conclusion.

17 MR. GRAF: It doesn't call for a legal conclusion.

18 MR. LAVELLE: It does in the sense that there are
19 interpretations of operating authorities by the Interstate
20 Commerce Commission, Public Utility Commission of
21 Pennsylvania, courts, that interpret what is and what is not
22 an interstate shipment in the context of a regulated industry.
23 When you eliminate the regulation aspect of it, then a whole
24 different set of circumstances might apply, but by doing that,
25 in answering this question in that kind of a void situation,

1 creates a totally different answer and puts a whole different
2 light on the answer. I don't think that's proper. It does,
3 in that sense, create a legal answer for what he's asking for
4 here.

5 JUDGE PORTERFIELD: His assumption was -- and I don't
6 know what the relevancy of the question is. That's marginal.
7 His assumption was there was no regulation whatsoever. If you
8 have a truckload, a truckload, a shipment to be hauled from
9 Pittsburgh to Huntingdon, how are you going to haul it, what
10 road are you going to take. That's the only consideration.

11 MR. GRAF: That's not making any question about
12 anything, what route would he take.

13 MR. LAVELLE: All right. Then provided when he answers
14 the question, regardless of what it is, that that answer is
15 not considered as in any way binding on the applicant, insofar
16 as the interpretation or what's permissible under regulations
17 today is concerned. With that understanding.

18 JUDGE PORTERFIELD: We know that you can legally avoid
19 regulation or bring your -- legally bring yourself in
20 regulation.

21 MR. LAVELLE: It's not a question of avoiding or
22 bringing yourself within. It's how the law is interpreted.

23 MR. GRAF: You asked the man three times what was the
24 normal route of movements between Allegheny County and the
25 seven county area and he didn't answer it. He said what they

1 do, and that is not what you asked him and I'm trying to get a
2 blunt answer.

3 MR. LAVELLE: I object to that. I don't think that's
4 right. I asked him in terms of Pitt Ohio on LTL shipments.

5 JUDGE PORTERFIELD: What's the normal method that Pitt
6 Ohio --

7 MR. GRAF: He didn't say that.

8 MR. LAVELLE: In connection with LTL shipments, too.

9 MR. GRAF: He did not. He said what is the normal route
10 of movement.

11 MR. LAVELLE: I thought I said what is your normal
12 Allegheny route of movement.

13 MR. GRAF: No, you didn't.

14 MR. LAVELLE: I'll go back and rephrase every single
15 question if it was misunderstood because that was the premise
16 of my question.

17 MR. GRAF: I have a question for ruling.

18 JUDGE PORTERFIELD: I'm going to overrule the objection,
19 with the clear understanding that this is a hypothetical
20 question where there is no state or Federal regulation with
21 regard to transportation and you're taking a truckload
22 shipment from Pittsburgh to Huntingdon. What route are you
23 going to instruct your driver to take?

24 MR. GRAF: I'll buy that as a question.

25 JUDGE PORTERFIELD: This isn't an independent contractor

1 that can select his own route. He's an employee and you're
2 going to tell him how to do it.

3 THE WITNESS: Assuming it is a truckload shipment, which
4 are handled completely different than LTL, okay, assuming it
5 is a truckload shipment which is handled completely different
6 than LTL, it would move direct, shortest route, Pennsylvania.

7 BY MR. GRAF:

8 Q Totally within Pennsylvania?

9 A Exactly, which is totally different than LTL.

10 Q All I asked you is totally within Pennsylvania.

11 A Exactly.

12 Q And LTL is different?

13 A LTL is completely different.

14 Q All right. That's your answer. Now, do you have
15 manifests in your operation?

16 A Yes, sir.

17 Q Would you supply the manifests for the dates shown on
18 the shipments P-3 through P-17?

19 MR. LAVELLE: Your Honor --

20 THE WITNESS: Gladly.

21 MR. LAVELLE: I again think that's subject to advice of
22 counsel here.

23 THE WITNESS: I'd like to do it.

24 MR. GRAF: Fine.

25 JUDGE PORTERFIELD: It's an on the record data request,

1 and other than omitting some confidential information which
2 may pertain to rates or something like that, I don't know, or
3 the consignee or whatever, I don't think that's your area of
4 interest.

5 MR. GRAF: That's not my intent.

6 JUDGE PORTERFIELD: Do you have an objection to
7 providing that, Mr. Lavelle, notwithstanding your client's
8 desires? Do you want to confer with your client?

9 MR. LAVELLE: Well, requests for production of certain
10 documents by an opposing side is subject to whether or not --
11 I mean, I'd like to think I can present my own case and
12 present what evidence I think is sufficient or not in the case
13 and not be required to have the case tried by opposing
14 counsel. And whether or not I put in certain information or
15 exhibits is our control, not the other side's control.

16 MR. GRAF: That isn't the situation at all.

17 JUDGE PORTERFIELD: The rules provide for on the record
18 data requests during the course of the proceeding, I think.

19 MR. GRAF: That's my understanding.

20 JUDGE PORTERFIELD: That seems to be a legitimate
21 request to me, absent something I don't know about.

22 MR. GRAF: Where are we? Are we going to supply them or
23 not? All I need to know is his answer.

24 JUDGE PORTERFIELD: Are you going to supply them so I
25 don't have to issue an order? Do you have a question about

1 the rules providing for that sort of thing?

2 MR. LAVELLE: I'm not sure what rule you're referring
3 to. On the record requests by a counsel automatically
4 requires that the opposing party that the request is made of
5 produce those records or disclose information. I'm not sure
6 what rule you're referring --

7 JUDGE PORTERFIELD: Discovery continues during the
8 course of the proceeding.

9 MR. GRAF: It does, but all I want him to say is yes or
10 no. I don't care. Just tell me yes or no.

11 JUDGE PORTERFIELD: Let's go off the record.

12 (A discussion was held off the record.)

13 JUDGE PORTERFIELD: Let's go back on the record. Mr.
14 Lavelle has indicated that he'll comply with Mr. Graf's on the
15 record data requests. Would you specify specifically --

16 MR. LAVELLE: Off the record my client makes a
17 condition. Is it okay for him to put that on the record,
18 Judge?

19 MR. GRAF: Let me see what it is.

20 JUDGE PORTERFIELD: Let's go off the record.

21 (A discussion was held off the record.)

22 JUDGE PORTERFIELD: First of all, what the witness said
23 off the record is that they always don't keep manifests for a
24 two year period. He said he can produce anything less than
25 six months, a year, is that right?

1 THE WITNESS: Yes.

2 JUDGE PORTERFIELD: Let's have Mr. Graf specify
3 specifically, if that's not redundant, what he's asking for.

4 MR. GRAF: The manifests covering P-3 through P-17. If
5 he doesn't have them, he can't bring them obviously.

6 JUDGE PORTERFIELD: Within a reasonable amount of time.

7 MR. GRAF: Well, whatever time shown on those bills.

8 JUDGE PORTERFIELD: No, no. Before -- within a couple
9 weeks.

10 MR. GRAF: Whenever. The next hearing or whenever he
11 can bring them.

12 MR. LAVELLE: We agree to produce those documents to the
13 extent they're available.

14 MR. GRAF: Okay. Fine. I have no further questions of
15 this witness.

16 JUDGE PORTERFIELD: Let's go back to surcross or
17 re-redirect. I don't know what you call it at that point.

18 FURTHER REDIRECT EXAMINATION

19 BY MR. LAVELLE:

20 Q Mr. Hammel, let me ask you a general question. On, I
21 guess it was redirect, I asked you a number of questions and I
22 used the term normal route of movement. Specifically
23 referring in almost cases, if not all, to shipments from
24 Pittsburgh or Allegheny County to a point in one of the seven
25 counties or vice versa. I thought I had qualified it to LTL

1 shipments. When you answered those questions, did you do so
2 with reference to your own company's normal route of movement?
3 Is that the way you understood the question?

4 A Yes. Normal route of movement means something
5 different to every company. Obviously, the way you determine
6 your normal route of movement is to do traffic flow patterns
7 like we do here with this one printout. He didn't understand
8 inbound and outbound. That's where you determine where the
9 terminals are. So normal route of movement refers to the
10 terminal locations.

11 Q In answer to my questions, though, were you answering
12 them in terms of Pitt Ohio Express' normal route of movement?

13 A Exactly. Yes.

14 Q And normal method of handling those shipments?

15 A Yes.

16 Q Okay. Now, you were asked a question on protestants'
17 Exhibit P-5. Mr. Graf directed your attention to the notation
18 on that document under destination terminal and there was a
19 five digit number. The first two digits are 01 and you --
20 would you explain what, to your knowledge, that reference
21 means on this particular document?

22 A That is an inhouse number showing the number of
23 shipments that we had in that particular day. What we do is
24 we take the number of shipments, bill of lading, we give them
25 numbers in sequence, and then we're able to track them. As we

1 post, then, those numbers on a shuttle trailer, depending on
2 the outbound trailers, where they're going, then we know what
3 shipments are on what trailer, in what order, and then we type
4 manifests for the line haul trailers based on those numbers.
5 So I don't know whether that makes sense or not, but it's an
6 inhouse control number for our shipments, is what it is.

7 Q Okay. But looking at the P-5 there --

8 A We've since gone from that to a destination terminal
9 number that we put on there.

10 Q But what -- in this particular situation the number
11 is 01-346.

12 A Right.

13 Q Now, does 01 refer to anything particular?

14 A That refers to the Pittsburgh terminal.

15 Q And what does 346 refer to?

16 A That's the 346th bill to come across the girl's desk
17 that day. If you would look at the bill of lading, she would
18 number it. Then she was at that time instructed to type that
19 number on the bill. Now, when we've loaded 15 trailers for
20 outbound destinations, we can look at the manifest number.
21 Our drivers on the dock don't carry bills on the dock. As
22 they move a shipment, they number it on a trailer. It then
23 comes back in, the manifests, with a series of numbers. We
24 type that. In other words, all we have to do is match up.
25 Bill 346 is on this trailer, it's in the nose. We know

1 exactly how to type it. It's an inhouse control that we use.

2 Q Why is that notation, that five digit number entered
3 on this document under a heading, which I assume probably is
4 preprinted, destination terminal?

5 A Correct.

6 Q Why is that code number put in that particular block
7 on you preprinted form?

8 A That was the only block we weren't using and that's
9 where we instructed them to type it, just as where the
10 connecting line -- if you look at connecting line carrier, you
11 see JM. We instruct the person typing the bill to put their
12 initials there. JM is not a connecting line.

13 Q You're looking at the line on the extreme lefthand
14 side?

15 A Exactly.

16 Q That's the secretary's initials?

17 A Exactly. So we know who is typing the bills and we
18 can audit the bills, the rates, what have you. So they're
19 both inhouse controls, is what they are. We got away from
20 that when we went to the computerized bill.

21 Q The Exhibits P-3 and P-4 in that particular block
22 have the same kind of a code number, all beginning with --
23 both of them beginning 01?

24 A Right.

25 Q Is your explanation there the same?

1 A That's right. That one, P-3 -- P-4, rather, 273,
2 that would have been the 273rd bill that she had come across
3 her desk and MAS across there would be the girl who typed it.
4 You'll see the other one has JF on it. That would be the
5 girl, too, that typed it. And again, where the No. 307 is,
6 that would be the 307th shipment.

7 Q Those shipments were moved in the latter part of
8 1987. Mr. Graf then asked you about protestants' Exhibit 10,
9 which is the same type of document but which -- in that block
10 it had destination terminal. There's now a different kind of
11 code, CUMB/08 and those shipments moved in June of 1988.

12 A Right.

13 Q Why is there a different code or symbol put in that
14 block, six or eight months later?

15 A We got away from using the numbered system.

16 Q And now what does that refer to?

17 A We went back to the destination terminals.

18 Q So that's what it now means?

19 A That's right.

20 Q And then there's other documents, Exhibit P-11 which
21 is a little different form, but there's -- right in the middle
22 there's a destination termination block again and CUM appears
23 on that one. Now, again, is that destination terminal?

24 A Right.

25 MR. LAVELLE: Your Honor, I believe that's all I have

1 for the witness.

2 MR. GRAF: I offer Exhibits P-1 through P-17.

3 JUDGE PORTERFIELD: Okay. Any objection, Mr. Lavelle?

4 MR. LAVELLE: I have no objection to those exhibits.

5 And I, in turn, would like to offer exhibits -- applicant's
6 Exhibits 4 through 21.

7 JUDGE PORTERFIELD: Any objection, Mr. Graf?

8 MR. GRAF: The only question I have is on exhibits -- I
9 think it starts with 16 through 20. Subject to the fact that
10 they don't show origins, destinations, et cetera, I would have
11 no objection to them, but just that there is some traffic
12 moving from there to someplace not disclosed.

13 MR. LAVELLE: I'll tell you right now, that is the only
14 purpose of those five exhibits, to show traffic flows.

15 MR. GRAF: And then I have no objections.

16 JUDGE PORTERFIELD: They're admitted. What time frame
17 are we looking at for scheduling additional hearings, and do
18 you want one or more days consecutively? You can't have one
19 day consecutive, but you know what I mean.

20 MR. LAVELLE: Can I confer with Mr. Hammel for just a
21 moment?

22 JUDGE PORTERFIELD: Sure.

23 (Brief pause.)

24 JUDGE PORTERFIELD: On the record. What Mr. Lavelle has
25 requested is that two additional days for hearing be

1 scheduled, consecutive days be scheduled in Pittsburgh, with
2 the possibility of completing the applicant's case in chief,
3 reserving the possibility for possible hearing in Harrisburg
4 for supporting shippers. Is that right, Mr. Lavelle?

5 MR. LAVELLE: Yes, sir.

6 JUDGE PORTERFIELD: Anything else today, Mr. Graf?

7 MR. GRAF: No.

8 JUDGE PORTERFIELD: Thank you, gentlemen.

9

10

11

12

13 (The hearing adjourned at 1:55 o'clock p.m.)

14

15

16

17

18

19

20

21

22


23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing of the within cause, and that this is a true and correct transcript of the same.


LISA J. BERKEY,
Court Reporter

The foregoing certification does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.

HOLBERT ASSOCIATES
LISA J. BERKEY
Suite 401, Kunkel Building
301 Market Street
Harrisburg, Pennsylvania 17101