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COMMONWEALTH OF PENNSYLVANIA

PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: A-00102471, FOOL, Am-E Pitt-Ohio Express, Inc.
Amendment to permit the transportation of
property between points in the City of Pittsburgh,
Allegheny County.
Initial Hearing.

RECEIVED

Verbatim record of hearing held
in Eleventh Floor Hearing Room, SEP 9 1985
Pittsburgh State Office Building,
300 Liberty Avenue, Pittsburgh, SECRETARY'S OFFICE
Pennsylvania, on Thursday, Public Utility Commission

June 7, 1985
10:00 a.m.

BEFORE: LARRY GESOFF, ESQUIRE, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

JOHN A. VUONO, ESQUIRE and
WILLIAM J. LAVELLE, ESQUIRE
2310 Grant Building
Pittsburgh, Pennsylvania 15219

For - Applicant

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312 Boulevard of the Allies
Pittsburgh, Pennsylvania 15222

For - Protestant

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For - Breman's Express

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SEP 10 1985

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1 ADMINISTRATIVE LAW JUDGE GESOFF: This is the time
2 and place set by the Public Utility Commission to hear the
3 application of Pitt-Ohio Express, Inc. to -- for the
4 transfer of certain rights currently held by Breman's
5 Express, docketed by the Commission at A-00102471, F001,
6 Am-E.

7 My name is Larry Gesoff and I'm the Administrative
8 Law Judge assigned to this proceeding. At this time, I
9 would like counsel present to identify themselves for the
10 benefit of the court reporter.

11 MR. VUONO: John A. Vuono from the firm of Vuono,
12 Lavelle & Gray, 2310 Grant Building, Pittsburgh 15219. I am
13 appearing for Pitt-Ohio Express, Inc. and Breman's Express,
14 Inc.

15 MR. LAVELLE: William J. Lavelle, Vuono, Lavelle &
16 Gray, 2310 Grant Building, Pittsburgh, Pennsylvania 15219.
17 I'm also appearing for Pitt-Ohio Express, Inc.

18 MR. HENNEY: Michael J. Henny, Esquire, 1600 Three
19 Gateway Center, Pittsburgh 15222, representing Breman's
20 Express Company.

21 MR. PILLAR: Your Honor, I am John Pillar. My address
22 312 Boulevard of the Allies, Pittsburgh, 15222 and I appear
23 on behalf of Newcomer Trucking, Inc.

24 JUDGE GESOFF: Very well. Has there been any attempt
25 to settle this matter, gentlemen?

1 MR. VUONO: I have had a number of contacts with Mr.
2 Pillar concerning a possible basis which we could reach an
3 amicable settlement and thus far we have not been successful.

4 MR. PILLAR: That's correct.

5 JUDGE GESOFF: Would further attempts at this time be
6 fruitful?

7 MR. VUONO: We are prepared to discuss it.

8 MR. PILLAR: No, Your Honor.

9 JUDGE GEOFF: You're not prepared to discuss it.
10 All right. Before we begin, gentlemen, I want to hear your
11 thoughts on the burden of proof in transport proceedings such
12 as this. Mr. Vuono?

13 MR. VUONO: If Your Honor please, this proceeding, as
14 you know, involves the transfer of existing operating rights
15 that had been outstanding in part for many years. The
16 transferor, on January 13, '84, filed a voluntary petition
17 of bankruptcy and subsequent to that, the operating rights
18 here involved were sold at public sale and we'll present
19 the details of all of that. A temporary authority was
20 granted by this petition on August 13, 1984 and operations
21 pursuant thereto have been conducted up to the present time.

22 The Commission's law in this area, in my judgement, is
23 well established and well defined. Essentially the burden
24 is a simple one. There must be established that the
25 transferor has not abandoned the operating authority or the

1 operation, not merely a termination of right is involved. 5
2 The termination of operations under the rights is involved.
3 There must be a clear unequivocal intent to abandon witnessed
4 and evidenced by, for example, failure to file tariff,
5 failure to have insurance, failure to file reports as
6 evidence of abandonment. Mere dormancy which, by the way,
7 doesn't exist here anyhow, is not adequate to establish that
8 event.

9 In terms of the transferee, the financial fitness of
10 the transferee in terms of being able to meet the
11 commitments of the contract and to assume operations under
12 the operating authority are relevant and in that connection,
13 Your Honor, in order to place the matter in perspective,
14 I have taken the liberty of preparing a brief memorandum of
15 law setting forth the essential legal issues, and, if you
16 have no objections, I would like to present it to you.

17 JUDGE GESOFF: All right. It would appear by my
18 question that I was assuming that you had this, but, I had
19 no idea that you did. Are you finished?

20 MR. VUONO: With those preliminary remarks, in
21 essence, the Commission has said, as you will note in those
22 cases that I am sure you're familiar with, that the doctrine
23 of continuing necessity applies; once the rights of the
24 transferor has been granted, pursuant to normal proceedings
25 of the Commission where a showing of public convenience and

6
1 necessity has been established, there is a presumption that
2 that necessity continues; that in the absence of active and
3 intentional abandonment, the rights must be transferred by
4 the Commission and with that background, we would intend to
5 proceed as follows. We would present very briefly Mr. Joseph
6 Breman to testify concerning the background of the Breman's
7 Express Company and the immediate antecedents to the
8 bankruptcy proceeding. We would then next present very
9 briefly Mr. Michael Henny, the attorney in the bankruptcy
10 proceeding to bring the Commission up to date on the status
11 of that proceeding. And finally, the witnesses for the
12 transfer and the transferee to set forth the specifics
13 required. If permitted, I'd like to go ahead.

14 JUDGE GESOFF: Let me give Mr. Pillar a chance to
15 respond if he wishes before we do that.

16 MR. PILLAR: I don't have any lengthy response. I
17 would simply point out the applicant does have the burden
18 of proving, number one, that it is a fit carrier to receive
19 this grant of authority. Fitness is an issue in every case
20 as it is in this case.

21 Secondly, I don't have -- haven't had an opportunity
22 to read Mr. Vuono's memo. I would like an opportunity to,
23 of course, argue on brief the question of what the burden of
24 proof is with respect to abandonment or whether the operating
25 rights are transferable in their present form.

1 Of course, the burden of proof on my client, as I
2 understand it, is to show that it has an interest in this
3 application and it will be affected adversely by this
4 transfer and we are prepared to show that.

5 JUDGE GESOFF: Very well.

6 MR. VUONO: Without going into any lengthy rebuttal,
7 I would say, Your Honor, on the issue of fitness, the issue
8 is the financial fitness of the transferee and not a question
9 as to the operating fitness of the transferee in a transfer
10 case. In that connection, the parties obviously have before
11 them the complaint procedures of the Commission in which to
12 air any of those controversies and those matters should not
13 be injected into this kind of a proceeding.

14 As to the burden of proof on the protestant, our
15 position is that it's not relevant at all with respect to the
16 adverse consequences to the transferee. If the applicant
17 meets the burden of proof with establishing no abandonment,
18 then the rights properly should be transferred since the
19 doctrine of continuing necessity presumes that proof was
20 made in the past of a need for the service and that need
21 continues notwithstanding any impact on the protestants.

22 MR. PILLAR: Well, I don't agree with Mr. Vuono with
23 respect to the issue of fitness. The fitness of any
24 applicant is open to question in any proceeding, not just
25 its financial fitness but its fitness to be granted additional

1 authority, whether it's a transfer case or a new service
2 application.

3 JUDGE GESOFF: All right. Proceed. I'm not
4 called upon to rule on anything now unless evidence
5 objectionable to one side is attempted to be put in and I
6 will making rulings at that time. I would like to be
7 assured on the record that the transferee has the capacity
8 of adequately carrying out any additional service as a
9 result of the transfer and I would assume that since you
10 have been operating on temporary authority, you can show
11 that you have been able to do that and we'll just leave that
12 to you when you put on your case.

13 MR. VUONO: We are prepared to submit financial and
14 other evidence to, in my judgment, more than carry that
15 burden.

16 JUDGE GESOFF: Very well. You may proceed.

17 MR. VUONO: I would like to call Mr. Joseph Breman.

18 JOSEPH E. BREMAN, called as a witness, being duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. VUONO:

22 Q Would you state your name and business address
23 please?

24 A Joseph E. Breman, 700 Fifth Avenue Building,
25 Fifth Floor, Pittsburgh 15219.

1 Q Are you a member of the Bar, Mr. Breman?

2 A I am.

3 Q And, are you actively practicing law?

4 A I am.

5 Q What's your relationship with the transferor,
6 Breman's Express, Inc.?

7 A Well, I am a Vice President; in fact, the Vice
8 President and Secretary of the corporation and, of course,
9 as you can tell by the similarity in names, it's a family
10 owned business. So, it has been part of my life for the
11 last 40 years.

12 Q How long has Breman's and its predecessors been
13 involved in providing motor carrier transportation in
14 Pennsylvania?

15 A The corporation was grandfathered, I believe, in
16 '35 and it was actually involved in transportation of
17 various sorts prior to that. So, clearly for a period in
18 excess of 50 years.

19 Q Is now the Breman's Company in the third generation
20 of conducting its business?

21 A That's correct. It's the old story of my grand-
22 father starting with a horse and buggy and then my father
23 and his siblings and then ultimately my brother became the
24 chief operating officer of the corporation.

25 Q And, throughout that period of time, was the

1 company family owned and managed?

2 A Always.

3 Q And, were you generally familiar with the operations
4 of the company certainly in recent years prior to the
5 bankruptcy proceedings?

6 A Yes. I grew up with that company. So, I was very
7 familiar with it.

8 Q Now, you understand that we are going to have a
9 witness to testify with respect to the details concerning
10 Breman's operation, but in terms of general background, can
11 you tell us the kind of service that Breman's was known for
12 in Western Pennsylvania?

13 A Certainly. At least in my lifetime, Breman's was
14 known as a LTL carrier up to, I believe, '79. They are
15 headquartered in Leechburg, a small community in Western
16 Pennsylvania, primarily servicing the Western Pennsylvania
17 area with keypoints in State College, Indiana, and in the
18 '70's, I believe it was, the acquisition of the Lightning
19 territory, the LTL area expanded into the Butler County,
20 Beaver County and some of the Western Pennsylvania counties.
21 In addition, also in the late '70's and early '80's Breman
22 expanded to some degree, its operating authority with some
23 interstate operation. That was basically truck load. That
24 never really became a significant part of the operating,
25 the operation to the corporation. And in addition, Breman's

1 was basically a house carrier for Allegheny Ludlum Steel
2 Corporation between its West Leechburg and Bagdad (phonetic)
3 plants to its Rocking Ridge plant. There are also other
4 various specific authorities, such as Schenley Industries,
5 the distillers, which were headquartered in Schenley which
6 is near Leechburg, and there are specific authorities from
7 that plant to other specific plants and warehouses and
8 various other similar grants of authority.

9 Q What would you say was the high water mark gross
10 revenues earned on an annual basis by Breman's?

11 A I believe it was in '81, about 7.7 million dollars.

12 Q And, of that total, what percentage approximately
13 would involve interstate operations?

14 A Interstate operations, something less than
15 -- I think it was about 10 percent.

16 Q So, that the balance of that revenue, approximately
17 7 million dollars, was derived from Pennsylvania intrastate
18 operations?

19 A That's correct.

20 Q And, Mr. Mastrangelo is going to provide the
21 details of that, is he not?

22 A Yes, sir. Mr. Mastrangelo was the chief
23 operating officer for Breman's for many years and is far
24 more conversant with the specific operations of the company
25 than I am.

1 Q With respect to participation of Breman's in
2 less than truck load traffic, would it be far to characterize
3 that participation as being predominantly less than truck
4 load?

5 A No truck load.

6 Q Did your company maintain facilities in terms of
7 terminals, equipment, to render a full LTL service?

8 A Yes. There is a full, a big terminal in Monroeville,
9 in excess of 80 doors, plus another terminal in the
10 Clearfield area in a little community called Hyde City
11 (phonetic) plus a terminal in the Greensburg area, but
12 clearly in both the Hyde City and Monroeville, previously
13 added with the Leechburg terminal, is a full dock facility
14 with dock crews and complete interchange and exchange of
15 freight from one vehicle to another.

16 Q When did Breman's begin experiencing the problems
17 that ultimately gave rise to bankruptcy proceedings?

18 A I believe around '81.

19 Q Can you tell me briefly some of the reasons in
20 your judgement that Breman began experiencing these problems?

21 A Well, I guess its biggest problem is being
22 headquartered in Western Pennsylvania and suffering from the
23 economic downturn that affected so many businesses.

24 Secondly, we were a carrier that was large enough not
25 to be small but too small to be big and, therefore, we had

1 all of the costs of a large operation but not the economy
2 of the scale to be able to handle them. There was a new
3 labor contract in that area. The cost of fuel, because of
4 the oil embargos, began to rise. All of the economic
5 problems that affected so many businesses really affected
6 Breman's. We all know what happened to the steel industry
7 and related industries in Western Pennsylvania.

8 Q Were your employees members of a bargaining unit
9 under a Teamster's contract?

10 A Yes.

11 Q And, did that have some bearing on your labor costs?

12 A Very much so.

13 Q At what point was the decision reached to proceed
14 in a voluntary Chapter 11 proceeding?

15 A The voluntary Chapter 11 proceedings were filed on
16 a Friday, January 13, 1984. I remember it because, among
17 other things, my oldest son's birthday, but that was
18 preceded by many months of anguish and tears and wringing of
19 hands and all of the other things that go into making this
20 type of a decision.

21 Q Would you characterize that decision as being truly
22 a voluntary one?

23 A It was voluntary in the fact that we made it, but,
24 it was involuntary in terms of the economic conditions having
25 pushed us into it. There were tremendous efforts made for

1 many years to try to salvage the company in many ways,
2 which obviously proved unsuccessful.

3 Q Mr. Mastrangelo will present statistics with respect
4 to the operating losses, but, do you recall what the losses
5 were for the year 1983 just prior to the bankruptcy?

6 A I think it was 700,750,000 dollars. There was a
7 two or three year period where the accumulated losses were
8 about 1.5 million dollars.

9 Q I'd like to have marked for identification a two
10 page document entitled Order of the Bankruptcy Court.

11 JUDGE GESOFF: Yes, it may be identified as Exhibit 1.
12 Off-the-record.

13 (An off-the-record discussion was held.)

14 BY MR. VUONO:

15 Q Mr. Breman, can you identify what we have marked
16 for identification as Exhibit 1; can you identify that
17 document, please?

18 A Yes. It's a copy of the Order issued by the
19 United States Bankruptcy Court for the Western District of
20 Pennsylvania, No. 84-0092 In Re: Breman's Express Company
21 and Breman's Express Company, that is a debtor. And the
22 Order is for meeting of creditors and fixing times for filing
23 complaints to determine the dischargability of certain debts
24 combined with notice thereof and of automatic stay, January
25 13, 1984. It's signed by Judge Gerald K. Gibson. I believe

1 that's what it is.

2 Q This Order in affect initiated the bankruptcy
3 proceeding?

4 A It's under Chapter 11 of the 11 U.S.C.

5 Q And has Breman's continued under the Chapter 11
6 mantle up to the present time?

7 A That's correct, and, Mr. Henny can give you better
8 details on that because he is representing Breman's in the
9 bankruptcy proceedings and has since they were filed in
10 January of 1984.

11 Q In connection with the bankruptcy proceeding, did
12 Breman's reach a decision to attempt to sell its operating
13 rights?

14 A Yes. That was, I believe, in May of, somewhere
15 in that area, of 1984.

16 Q And, as a result of that decision, did the
17 bankruptcy court schedule a public sale, an auction, with
18 respect to the Pennsylvania Intrastate rights?

19 A Yes, they did.

20 Q And, on what date does that --

21 A June of 1984, June 26th.

22 Q And aside from the purchasers of the rights, did
23 any other party appear to bid on the rights at that time?

24 A I think other parties were present but no one
25 else entered a bid.

1 Q May we next have marked for identification, Your
2 Honor, a two sheet Order headed Order Confirming Sale of
3 Operating Rights?

4 JUDGE GESOFF: Yes, as Exhibit 2.

5 BY MR. VUONO:

6 Q Mr. Breman, you have before you what we've marked
7 for identification as Exhibit 2. Will you identify that
8 document?

9 A Yes. It's another Order issued by Judge Gerald K.
10 Gibson, United States Bankruptcy Judge, again at No. 84-92
11 in the United States District Court for the Western District
12 of Pennsylvania and it's an Order confirming the sale of
13 operating rights made and entered on the 26th day of June,
14 1984.

15 Q In the third ordering paragraph, there is a
16 reference to the P.U.C. general assessments.

17 A Yes.

18 Q Can you, in your own words, tell us what that
19 provision means?

20 A Well, as we're all familiar, the general assessment
21 as issued by the, annually, issued against carriers operating
22 within the Commonwealth had not been paid by Breman's
23 Express Company and to my knowledge is in arrears to the
24 extent of \$29,789.00 and change.

25 Q Is that the amount that is due as of the present

1 time?

2 A That is my understanding, that's correct.

3 Q What does this Order provide?

4 A The Order provides that the sale of the operating
5 authority is to be made net of the assessment. That is to
6 say, the gross sales price minus the net operating or minus
7 the assessment is to be tendered to the bankruptcy estate
8 following the conclusion of the sale.

9 Q Are you familiar with what the situation would be
10 with respect to the interest of the P.U.C. in connection
11 with its claim for general assessment if the Order had not
12 provided for the prepayment as it were?

13 A Well, Mr. Vuono, the last time I saw the figures
14 which was sometime ago, but in discussing with Mr. Henny,
15 it's clearly my understanding that the distribution to
16 creditors would be miniscule, 5, 10 percent.

17 Q On a dollar?

18 A On the dollar, that's correct. And, unless the
19 sale is approved in the form in which it has been presented,
20 it's clear that the Commonwealth would be denied the
21 assessment of \$29,789.00 and change. It's my understanding
22 that they will fall into the realm of a general creditor
23 and would receive that amount of money and, of course, the
24 bankrupt estate would be decreased by the balance of the
25 sales price.

1 Q Mr. Breman, what has happened to the assets,
2 the employees and personnel of Breman's since the initiation
3 of the bankruptcy proceeding?

4 A I think it's fair to say that you are probably
5 looking at the only, quote unquote, employee and asset of
6 Breman's Express Company. There are no buildings. There is
7 no equipment. There are no employees. It has all been
8 liquidated. In terms of employees and personnel, terminated.

9 Q If this application were for any reason denied,
10 would Breman's be in a position to reinstitute operations?

11 A Clearly not. Again, the buildings have been
12 liquidated and disposed of. The equipment has been disposed
13 of. Personnel have been terminated and they have dispersed
14 and my brother, Leslie S. Breman, who is president and chief
15 operating officer has, in fact, relocated outside of
16 Pennsylvania.

17 Q In your opinion, what would the affect of denial
18 of the application be on Breman and its creditors?

19 A It would be very harmful to Breman and its
20 creditors. It would be harmful because, number one,
21 Breman's could not go back into business; and number two, the
22 proceeds of the sale would be denied to the bankrupt estate
23 and would further be liquidated -- the general creditors
24 would further have their interests liquidated by interest of
25 the Commonwealth to the tune of \$29,000 plus dollars.

1 Q Based on your knowledge of Breman's operations,
2 did the company maintain continuously tariffs on file with
3 the P.U.C. covering it's operations?

4 A Yes, sir.

5 Q And, did it have insurance coverage in effect
6 covering liability and property damage and cargo as required
7 by the P.U.C.?

8 A It was in effect, often painfully difficult to
9 obtain the funds necessary to maintain the insurance, but, it
10 was clearly in effect.

11 Q And, were the tariffs and insurance in effect up to
12 the date on which Breman's terminated operation?

13 A To the best of my knowledge; yes, sir.

14 Q What was the date on which operations were
15 terminated?

16 A August 3, 1984.

17 Q And you are aware that the Commission granted
18 emergency temporary authority as of August 13, 1984 to Pitt-
19 Ohio?

20 A I am so aware.

21 Q Did Breman's file its annual reports for the P.U.C.
22 when and as required?

23 A To my knowledge; yes, sir.

24 Q Based on your knowledge of the situation, do you
25 believe that Breman's abandoned in any way its operations

1 under this authority?

2 A No, not at all.

3 MR. BUONO: That concludes my examination. You may
4 cross-examine Mr. Breman.

5 CROSS-EXAMINATION

6 BY MR. PILLAR:

7 Q Mr. Breman, at the bankruptcy sale, at the auction
8 sale, you mentioned that there were other parties present.
9 Can you tell us what other parties were present?

10 A I don't know all of them. I believe a
11 representative from Newcomer was there and I believe -- I'm
12 not sure who all was there. There were two or three others
13 that were more curious and interested parties than anything
14 else. It was a public sale.

15 Q Can you identify any of the other carriers that
16 were present?

17 A No, I can't.

18 Q But you were aware of other carriers that were
19 present at the auction?

20 A I, myself, was not there. This was reported to me
21 by Mr. Henny and others that were present when we discussed
22 it at a later time and I candidly asked the question out of
23 curiosity because I did not know what value the rights might
24 have for another interested party.

25 Q And, at the auction sale, were only the operating

1 rights being sold at that time?

2 A Yes, sir. At that particular sale; yes, sir.

3 Q No other assets or equipment or terminals or
4 facilities agreements were sold with operating rights; is
5 that correct?

6 A That's correct. In fact, to set the record clear,
7 Breman's itself had title to no terminals. We rented a
8 terminal in Hyde City and the Monroeville terminal was
9 technically owned by the Industrial Development Authority of
10 Allegheny County.

11 Q But, it did have title to operating equipment?

12 A Yes, sir.

13 Q But, no operating equipment was being sold?

14 A No.

15 Q And, what was the consideration for the operating
16 rights?

17 A I believe \$55,000.00.

18 Q And the \$55,000.00 consideration, that was just for
19 the operating rights being purchased by Pitt-Ohio; is that
20 correct?

21 A I believe Pitt-Ohio and P.J.A., Pittsburgh-
22 Johnstown-Altoona Express. There was a combined total of
23 the authority.

24 Q There were actually two buyers then?

25 A That's correct.

1 Q And, Pittsburgh-Johnstown-Altoona Express
2 purchased a portion of the authority?

3 A That's correct, and Pitt-Ohio purchased the
4 balance. The combined total was \$55,000.00.

5 Q Did they bid as a unit or did they bid in
6 competition with each other?

7 A They didn't bid. There was a contract proposal
8 for sale that was presented to the bankruptcy court and
9 the bankruptcy court, in reviewing of that, then opens it
10 up to public bid to see if anyone wishes to bid -- that's
11 my understanding -- a price that is higher than which was
12 contractually agreed to between the bankrupt estate and
13 the other two parties.

14 Q So, actually, the agreement to sell the operating
15 rights was negotiated in advance of the auction?

16 A I believe as indicated the contract to sell, at
17 least the first portion of the operating authority, was made
18 in as early as May of 1984, prior to the actual termination
19 of Breman's which was August 3, 1984.

20 Q When you say the first contract, you mean the
21 contract with Pitt-Ohio?

22 A That's right.

23 Q And then did Pittsburgh-Johnstown-Altoona come in
24 later?

25 A When Breman's terminated its operation. The

1 balance -- well, the public sale was made in June of 1984
2 which was prior to the termination.

3 MR. LAVELLE: Could I help you, John? It might save
4 some time.

5 MR. PILLAR: I think he's doing all right.

6 BY MR. PILLAR:

7 Q You were involved and participated in negotiations,
8 I take it?

9 A Not really. The bulk of the negotiations was
10 handled by my brother and Mr. Mastrangelo. My role, I met
11 with Mr. Vuono on two or three occasions was really to
12 review the documents, the contract of sale, that was drafted
13 in May of 1984 to which I have some input and subsequent
14 to that, I had -- I did not have that much input in the
15 balance because Mr. Henny, in handling the bankrupt estate,
16 handled the balance.

17 Q Do you know whether or not at the time of
18 negotiations between Pitt-Ohio and Breman's whether Pitt-
19 Ohio was interested in a particular portion of the operating
20 authority?

21 A I believe they were, but, I really don't recall
22 what that portion may have been.

23 Q Was it a portion that they are actually attempting
24 to acquire by this application?

25 A I would assume so; yes, sir.

1 Q So that the initial negotiations then and the
2 ultimate contract that was signed by Pitt-Ohio and Breman's
3 was for the operating right they are seeking to acquire in
4 this application?

5 A I believe.

6 Q They were not interested in the other operating
7 rights that were being sold --

8 MR. VUONO: I don't know that he can answer.

9 MR. BREMAN: I can only tell you that at a certain
10 point in time, that is May of 1964, Breman's was not
11 interested in selling all of its authority because it was
12 just trying to maintain some business operation.

13 BY MR. PILLAR:

14 Q I see. Then, during these negotiations with Pitt-
15 Ohio, it was Breman's intention to remain in business?

16 A Clearly. They were in business until August.

17 Q And it did not have intention at that time, at the
18 time they negotiated with Pitt-Ohio and signed a contract,
19 of going out of business?

20 A No. Breman's was in business. It was hoped that
21 some miracle would occur and the bankrupt estate could, in
22 fact, be turned around.

23 Q Let's see. Then, apparently, sometime between
24 the negotiations and the signing of the contract in May and
25 the sale on June 26th, Breman's had made a decision that they

1 couldn't make it?

2 A No, that's not correct. Breman's pulled down the
3 doors or ceased operation in August.

4 Q Well, weren't all of the operating rights sold on
5 June 26th?

6 A It's my understanding that the Order would confirm
7 the portion that was agreed to in May and subsequently, it
8 was my understanding, that it was amended to the degree it was
9 amended as published in the bulletin, subsequent to the
10 cessation of operations by Breman's in August of '84.

11 Q So, Pittsburgh-Johnstown-Altoona was negotiated
12 later and approved later?

13 A That's my understanding, correct.

14 Q Now, the \$55,000.00 consideration, is that the
15 total consideration for all of the rights or just for the
16 Pitt-Ohio portion?

17 A For all the rights.

18 Q What portion is Pitt-Ohio paying for the rights
19 they are acquiring?

20 A I do not have that figure readily available.
21 Perhaps Mr. Henny did, because I have not looked at that
22 contract for some time.

23 Q Do you know whether it's in excess of \$29,000.00?

24 A I do not.

25 Q Now, in 1981, you indicated that was your peak year

1 for gross receipts?

2 A That's correct. It's approximately 7.7 million
3 dollars.

4 Q I take it your company operated at a loss that year?

5 A I believe that's also correct.

6 Q Do you know what its operating ratio was in 1981?

7 MR. VUONO: Could I interrupt, John? I'm going to
8 put in some financial figures through Mr. Mastrangelo. We
9 could save some time if we would get the actual figures.

10 MR. PILLAR: Fine.

11 BY MR. PILLAR:

12 Q Friday, the 13th, 1984, the day your company went
13 into Chapter 11, you testified that was a very hard decision.
14 Had the company done anything prior to February 13 --
15 January 13, to attempt to avoid Chapter 11?

16 A Mr. Pillar, if I had a dollar for every telephone
17 call, meeting, hour of meeting, attempt, effort, question,
18 inquiry, that was made between 1980-81 and January 13, 1984,
19 I would be a very wealthy man.

20 Q What I really meant was from an operational stand-
21 point, what did Breman's do? Did they do anything differently
22 from 1981 up until January of '84 from an operational stand-
23 point?

24 A Again, Mr. Mastrangelo would be better able to
25 answer that than I, but, to my own knowledge, I am totally

1 aware of an attempt to streamline routes, of trying to
2 combine areas and trying to realign dock crews, means of
3 operation, office operations, streamlining those types of
4 things, more effective mechanical repairs of vehicles; any-
5 thing that any business would ever try to do to improve its
6 operating ratio and make money. Sales effort were doubled
7 and tripled, all of this.

8 Q Do you know what operating equipment Breman's had
9 in January of 1984?

10 A No.

11 MR. VUONO: Numbers or what?

12 BY MR. PILLAR:

13 Q Yes.

14 A I do not. I'm sure Mr. Mastrangelo has that
15 with him and if he doesn't, that could be supplied at a
16 later hearing if necessary. If you're asking whether or not
17 there was a dramatic reduction in ownership of equipment,
18 to my knowledge that was not the case. However, I can
19 tell you in those many years, vehicles were not being
20 replaced as readily because the capital was not there to do
21 that.

22 Q Do you know how many employees Breman's had in
23 1984?

24 A No. But, that was also a substantial reduction
25 from peak years.

Q When you s

1 Q When you say a substantial reduction, what do you 28
2 mean by substantial reduction?

3 A I would say probably more than a 25 percent
4 reduction.

5 Q Between 1981 and 1984?

6 A I would believe that.

7 Q If I understand it from your testimony then, the
8 \$29,000.00 tax assessment will be paid out of the proceeds
9 from this sale?

10 A That has been so Ordered by the Bankruptcy court;
11 that's correct.

12 MR. VUONO: The sales, Mr. Pillar, not this sale
13 necessarily.

14 BY MR. PILLAR:

15 Q Well, in regard -- we're talking about sales of the
16 operating rights to Pitt-Ohio and to Pittsburgh-Johnstown-
17 Altoona?

18 A That's correct, for a total value of \$55,000.00
19 from which the \$29,789.55 will be paid to the Commonwealth.

20 Q So, if this sale is approved first and the money
21 is paid, assuming it is in excess of \$29,000.00, that money
22 will all be used to pay assessments?

23 A That is correct.

24 Q It will not be used for creditors if there is any-
25 thing left over?

1 A The first \$29,000.00 goes to the Commonwealth and
2 whatever is left goes into the general creditor pool.

3 Q Is that in the Order?

4 A I believe in paragraph 3, if I could read it into
5 the record, it says pursuant to the aforesaid agreement,
6 Pittsburgh-Johnstown-Altoona Express, Inc. and Pitt-Ohio
7 Express, Inc. are hereby authorized to deduct from the
8 consideration due to Breman's Express Company the total
9 amount of any general assessments made pursuant to 66 Pa. C.
10 S.A. Paragraph 510 of the Pennsylvania Public Utility Code
11 and any other charges dues the Pennsylvania Public Utility
12 Commission from Breman's Express Company and make payment of
13 any such amounts directly to the Pennsylvania Public Utility
14 Commission.

15 Q Well, Mr. Breman, this Order is dated June 26th,
16 isn't it?

17 A Yes, sir.

18 Q It refers to Pittsburgh-Johnstown-Altoona Express?

19 A And Pitt-Ohio Express.

20 Q There must have been a sale to Pittsburgh-
21 Johnstown-Altoona?

22 A Very well could have been. I really don't recall,
23 Mr. Pillar. I'm not trying to be evasive. It's just that
24 I have not reviewed the contract.

25 Q I know you're not. I'm just pointing out that

1 apparently then between May and June it was decided that
2 all of the operating rights would be sold?

3 A No, that's not true. A portion of the operating
4 rights were to be sold. Whether or not that portion was to
5 be divided between the two carriers, I'm not totally
6 conversant with, but, a portion was to be sold initially
7 because Breman's Express Company had every intention of
8 remaining in business in May of 1984.

9 Q Would you agree with me though from the Order it
10 appears that the sale to Pittsburgh-Johnstown-Altoona was
11 agreed to prior to June 26th?

12 A A sale, but, not the sale of all of the operating
13 authority.

14 Q What operating authority then is not being sold to
15 Pitt-Ohio or Pittsburgh-Johnstown-Altoona Express?

16 A As of today?

17 Q Yes, sir.

18 A None. It's all going to those two carriers.

19 MR. VUONO: All?

20 MR. BREMAN: All of the operating authority of
21 Breman's Express Company is being sold to Pittsburgh-
22 Johnstown-Altoona and Pitt-Ohio by virtue of the amendment
23 to the application made subsequent to August 3rd, 1984,
24 which is the date that Breman's ceased operations.

25 BY MR. PILLAR:

1 Q Very well. Thank you.

2 MR. VUONO: I'd like to offer Exhibits 1 and 2
3 into evidence.

4 JUDGE GESOFF: All right. They are admitted. I
5 have a question, however.

6 BY JUDGE GESOFF:

7 Q You may not be able to answer this because you said
8 you're not conversant or haven't reviewed the contract
9 recently. The only contract that I have in the file provided
10 to me was, I believe, attached to the original application
11 and it's dated May 9, 1984 and lists a consideration of
12 \$50,000.00 on Page 3. You've testified that the consideration
13 is \$55,000.00. Was there an amendment to this agreement
14 subsequent to May 9, 1984?

15 A Your Honor, I can't tell you if there is an
16 amendment to this agreement. I believe there was. Notwith-
17 standing that, it was presented to the bankruptcy court.
18 Mr. Henny can testify to that, I'm sure, that for the
19 additional \$5,000.00, the balance of the operating authority,
20 not included in the May 9th agreement was to be transferred.

21 Q Are you going to straighten this out subsequently,
22 Mr. Vuono?

23 MR. VUONO: Yes, sir. I tried to earlier and I was
24 cut off. The fact of the matter is that all of the rights
25 of Breman's Express Company are being sold to this applicant,

1 Pitt-Ohio and Pittsburgh-Johnstown-Altoona Express for the
2 total consideration of \$55,000.00 and that that is pursuant
3 to the initial agreement and an amendment.

4 JUDGE GESOFF: Okay. The amendment -- actually, the
5 agreement is not in the record even though it's an exhibit
6 attached to your application under the Commission's Rules and
7 the amendment is not in the record. I would like to see
8 that at some point because I want to straighten out in my
9 mind how much of the \$55,000.00 was paid by Pitt-Ohio and
10 how much by Pittsburgh-Johnstown-Altoona.

11 MR. VUONO: Your Honor, that amendment, amended
12 agreement, was filed with the Commission and the breakdown
13 of the consideration is \$30,000.00 paid by Pittsburgh-
14 Johnstown-Altoona and \$25,000.00 by Pitt-Ohio.

15 JUDGE GESOFF: Well, you say it was provided to the
16 Commission. What I have is an agreement between Breman's,
17 Pittsburgh-Johnstown-Altoona, Pitt-Ohio, dated May 9 with
18 the stated consideration of \$50,000.00 which is Exhibit C
19 to the original application and I -- there is no amendment to
20 that in the file that I have been sent by the Commission.

21 MR. VUONO: I assure you that one was filed and that
22 the Commission should have it long ago setting forth what I
23 just told you.

24 JUDGE GESOFF: That very well might be, but, I would
25 like to see it.

1 MR. VUONO: I'll endeavor to get a copy. I assumed 33
2 it was in the Commission's file.

3 JUDGE GESOFF: They usually send me everything that is
4 in the file. It might have been submitted with respect to
5 the temporary authority and not this application.

6 MR. VUONO: It was an amendment to both the
7 permanent and the temporary. We'll try to clarify it before
8 the end of the day.

9 JUDGE GESOFF: Thank you. You're excused.

10 MR. VUONO: Mr. Henny.

11 MICHAEL J. HENNY, called as a witness, being duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. VUONO:

15 Q Will you state your name and address please?

16 A Yes. Michael J. Henny, McCrea, Cramer, Avig
17 (phonetic) & Bonistalli, 1600 Three Gateway Center,
18 Pittsburgh, H-E-N-N-Y.

19 Q And, you're an attorney, Mr. Henny?

20 A Yes, sir, I'm an attorney for McCrea, Cramer, Avig
21 & Bonistalli.

22 Q Do you specailize in any particular phase of the
23 law?

24 A Yes. 90 percent of my practice is in bankruptcy
25 and commercial law field, specializing in business

1 reorganization.

2 Q Can you tell us how you are connected in this
3 case to Breman's Express Company?

4 A Yes. I represent Breman's Express Company in
5 its Chapter 11 proceeding in the United States Bankruptcy
6 Court for the Western District of Pennsylvania at Docket
7 Number 84-92, which the prior witness has testified was filed
8 on January 13, 1984.

9 Q Can you tell us what the current status of that
10 bankruptcy proceeding is, Mr. Henny?

11 A Yes. By Order of Judge Gibson from the Bankruptcy
12 Court, the company, since it ceased operation, I have been
13 in charge of liquidating all of the assets of the estate and
14 I have done so and created a fund for the creditors of the
15 estate. At this time there are two outstanding matters to be
16 resolved. One involves objections to various claims which
17 are scheduled for hearing on Tuesday, June 11. At that time,
18 all of the objections to the claims should be completed and
19 we will be able to make a distribution to the creditors of
20 the estate. In addition, the sale of the P.U.C. operating
21 rights which, of course, is an asset of the estate, which
22 we would like to include for the benefit of the creditors of
23 the state. Other than that, the Chapter 11 is almost
24 completed.

25 Q Does that mean that the assets of the bankrupt

1 with the exception of the operating rights have been
2 liquidated?

3 A That is correct. All assets have been liquidated.

4 Q Can you give us some idea of the assets and
5 liabilities of the bankrupt, and I understand that they would
6 be approximations, but, give us some notion as to the concept
7 of the bankruptcy proceeding.

8 A These are approximations at this time, but,
9 approximately -- I would envision that approximately
10 \$150,000.00 will be available for distribution to the
11 unsecured creditors of the estate. At this point there are
12 approximately one million dollars worth of creditors in the
13 estate. The one exception is a claim for withdrawal liability
14 by the pension fund. That is one of the matters to be
15 determined on Tuesday. If it is completely denied, all
16 creditors will get approximately fifteen cents on the dollar.
17 If it is recognized in full, creditors will get approximately
18 five cents on a dollar.

19 Q Did you hear the testimony of Joseph Breman who
20 proceeded you earlier on the stand?

21 A Yes, I did.

22 Q Do you generally agree with his testimony
23 particularly with respect to the bankruptcy aspects of this
24 proceeding?

25 A Yes, I do.

1 Q In particular, he commented on the matter of the
2 claim by the Pennsylvania Public Utility Commission for its
3 general assessment and perhaps its a consumer claim. As a
4 bankruptcy expert, how would you characterize the nature of
5 the P.U.C.'s claim in this proceeding?

6 A The nature of that claim is to discuss it,
7 secured or unsecured, would be secured in the P.U.C. rights
8 and it would be recognized as all proceeds of the sale of
9 the P.U.C. rights, that its assessments would be paid in
10 full.

11 Q That's because of the Order?

12 A The Order of the bankruptcy court that was entered
13 by the court, that is correct. If the sales does not take
14 place, that assessment would be included in the 1.1 million
15 to 2.1 million of unsecured creditors in the estate.

16 Q With respect to the timing of this matter, assume
17 that the objections that you referred to are satisfied on
18 the 11th, when would you anticipate wrapping up the bankruptcy
19 proceeding?

20 A Once the objections are finalized on Tuesday,
21 approximately 30 to 45 days. The proposed Order of
22 distribution would be submitted immediately or as soon as
23 possible after this hearing and that should be approved by
24 the court within 30 to 45 days.

25 Q And, you're aware, are you not, that the

1 corresponding application by Pittsburgh-Johnstown-Altoona
2 Express, Inc. to purchase the balance of Breman's rights is
3 unopposed both as to the temporary and permanent applications?

4 A Yes, sir.

5 Q Those are the cases the P.U.C. has told us will not
6 go to hearing and will be handled administratively?

7 A Yes, sir.

8 Q Is it important, therefore, that this proceeding
9 be expedited to a final order as soon as possible?

10 A Yes, sir, so that this can be finalized and wound
11 up.

12 Q Did you hear Mr. Breman's testimony concerning the
13 current status of the bankrupt, Breman's Express Company,
14 with respect to assets, employees, management, and other
15 facilities?

16 A Yes, sir.

17 Q Would you care to comment on that?

18 A Yes. All of the assets have been liquidated. All
19 of the employees have been disbanded and are with other
20 entities and there is no way that Breman's Express Company
21 could restart its business operations.

22 Q From the perspective of the bankrupt and its
23 creditors, in your opinion what would the effect of denial
24 by the P.U.C. of this transaction be?

25 A The effect would be that the funds available for the

1 unsecured creditors would be diminished approximately
2 \$25,000.00 and, therefore, the creditors would be hurt by
3 that.

4 Q And, if those transactions for some reason were
5 not approved, that total would be \$55,000.00?

6 A That is correct.

7 Q And, how would that affect the P.U.C.?

8 A The P.U.C. then would have an unsecured obligation
9 for \$30,000.00. It would receive approximately, say 1.2
10 million -- it would be included in the 1.2 million of
11 unsecured creditors in a prorata distribution of
12 approximately \$150,000.00.

13 Q Based on your knowledge of the situation with
14 respect to Breman's Express Company, do you believe that
15 there is any rational basis for concluding that Breman's
16 could reinstitute operations if this application was denied?

17 A There is no way Breman's could restart in my
18 estimation.

19 Q That's all I have. Thank you.

20 CROSS-EXAMINATION

21 BY MR. PILLAR:

22 Q Mr. Henny, if this application is not approved,
23 as the attorney for Breman's, would you not, in effect, then
24 go out an attempt to sell these operating rights either at a
25 public auction or through a private sale approved by the

1 court to some other company?

2 A We've already done that.

3 Q Wouldn't you try to do that again? Isn't that
4 what you would do if this application was denied? You
5 certainly wouldn't simply abandon the operating rights?

6 A No.

7 Q You would attempt to go out and find someone else
8 to buy it?

9 A That's correct.

10 Q When you had your hearing on June 26th, did you
11 solicit the appearance of other carriers to bid on these
12 rights?

13 A Yes, sir, I did.

14 Q How did you do that?

15 A Pursuant to the bankruptcy rules, notice was given
16 to all of the creditors of the estate. In addition, the
17 Public Utility Commission in Harrisburg was notified and
18 given copies of everything. In addition, several carriers,
19 I guess, through the grapevine or whatever would contact me
20 and ask for specifics in regard to the sale.

21 Q What carriers contacted you?

22 A I don't recall specifically, but, I had several
23 calls from people.

24 Q You didn't personally call any carriers or write
25 letters to any carriers or attempt to find a list of all of

1 carriers in Western Pennsylvania or Eastern Ohio or Northern
2 West Virginia who might be interested in purchasing the
3 rights?

4 A No, but to cover that, Mr. Pillar, we put an
5 advertisement in the Sunday Pittsburgh Press and also in
6 the Pittsburgh Legal Journal as is required by the bankruptcy
7 rules. We also went beyond that and put an advertisement in
8 the Pittsburgh Press to see if there were any parties
9 interested.

10 Q When the sale was held on June 26th, do you know
11 what carriers were present besides Pittsburgh-Johnstown-
12 Altoona and Pitt-Ohio?

13 A I do not although there were other parties who
14 when the Judge said are there any parties interested in
15 this, they came forward. I cannot remember anyone being
16 identified as to whether they were other carriers or who
17 they were, but, they were present in the room.

18 Q At the time these carriers came forward, were they
19 advised that a sale had been agreed to between the three
20 carriers for \$50,000.00?

21 A Yes, sir, they were because in the motion to sell
22 the property, of course, the agreement was attached and
23 included and, of course, it was referred to in the notice
24 that was given to all of the creditors.

25 Q Were the carriers present given an opportunity to

41
1 bid on portions of the operating rights or did Judge Gibson
2 indicate to them that they would have to better the \$50,000.00?

3 A I believe it was better than \$50,000.00.

4 Q So that while Pitt-Ohio was paying thirty-five and
5 Pittsburgh-Johnstown-Altoona was paying twenty-five, whatever
6 it comes to --

7 JUDGE GESOFF: See, you're asking questions about
8 fifty thousand and I don't know if the consideration at the
9 time of that bankruptcy proceeding was fifty or whether it
10 was subsequently fifty-five. Can you shed some light on that?

11 MR. HENNY: Yes. It was fifty thousand.

12 BY JUDGE GESOFF:

13 Q And, Pitt-Ohio's portion, what was that?

14 A I'm not aware of the breakdown.

15 BY MR. PILLAR:

16 Q But, in any event, the carriers were there and
17 didn't have an opportunity to bid, that Pitt-Ohio was
18 interested in or that Pittsburgh-Johnstown was interested in.
19 They had to better the entire deal?

20 A That is correct.

21 Q Were you involved, or did you participate in the
22 sale of other assets of Breman's Express, such as the
23 motor vehicle equipment?

24 A Yes, sir, I was.

25 Q How much equipment was sold?

1 A As far as quantity is concerned?

2 Q Yes, sir.

3 A Other than saying everything, I can't discuss a --
4 you mean a specific number of trucks?

5 Q 20 trucks -- Do you have any idea?

6 A Well, I can recall, but, for instance, I personally
7 conducted the sale of sale of say 20 to 30 miscellaneous
8 tractors and trailers, etc. For the large sale, we had a
9 professional auctioneer, Harry Davis & Company, and that's
10 when all the assets were liquidated.

11 Q When did that sale take place?

12 A August 1, 1984.

13 Q That was the big sale when the auctioneer was
14 there?

15 A That's correct.

16 Q Now, the other sale that you are talking about,
17 that you participated in, was that subsequent?

18 A There were a couple before and a couple subsequent,
19 miscellaneous, 5 trailers, something like that.

20 Q I understand that, but, the sale after the auction
21 sale was whatever the auctioneer didn't sell at the auction?
22 You took care of on your own?

23 A That would be correct and then, of course, the
24 real estate was the one item which was not covered by the
25 auctioneer.

1 Q Was there real estate that was owned by the
2 company?

3 A It was not owned by the company. It was owned by
4 the Industrial Development Authority of Allegheny County.
5 There was an interest in the company.

6 Q Did the estate earn any revenues from the sale of
7 the real estate?

8 A Yes, sir.

9 Q The bankrupt estate?

10 A Yes, sir.

11 Q What monies did they earn?

12 A Approximately \$135,000.00.

13 Q Now, when you say there was \$150,000.00 left for
14 unsecured creditors, I take it there was another fund
15 available for secured creditors and for administrative
16 expenses?

17 A That's correct.

18 Q Do you know what the total amount of the estate
19 consisted of?

20 A The total of the estate is \$425,000.00.

21 Q And of that estate, then \$150,000.00 is available
22 for unsecured creditors?

23 A That is my estimation, yes.

24 Q Now, if the P.U.C. assessment is not paid for
25 some reason by the denial of this application, it would be

1 paid then from the funds that Pittsburgh-Johnstown-Altoona
2 Express would pay for the portion of the rights they are
3 purchasing?

4 A I'm not certain of which they attach to.

5 Q Well, looking at the Order which is Exhibit 2,
6 doesn't it attach to all of the rights being acquired by
7 either Pitt-Ohio or Pittsburgh-Johnstown-Altoona, Paragraph
8 3.

9 A Repeat the question.

10 Q Isn't it a fact that if the Pitt-Ohio sale is not
11 approved, that the assessment would be paid from the portion
12 of the proceeds paid by Pittsburgh-Johnstown-Altoona Express
13 for the portion of the rights of Breman's that they are
14 purchasing, Paragraph 3 of Exhibit 2?

15 A If those funds are sufficient to cover the
16 assessment, I would imagine.

17 Q So, the answer is yes, they would be used to pay
18 the assessment?

19 A The proceeds of the sale will be used to pay the
20 assessment, yes.

21 Q Of the \$425,000.00 in the gross estate, do you
22 know what portion of it was derived from the sale of
23 equipment?

24 A Yes, sir. I can answer that by saying \$135,000.00
25 was received from the real estate, interest in the real

1 estate. There is also various receivables.

2 Q Accounts receivable?

3 A Accounts receivable, yes. Let me answer it this
4 way. The estate netted \$79,000.00 from the professional
5 auction.

6 Q Okay. And then you did get other revenues from
7 other sales?

8 A From miscellaneous sales that I had, yes.

9 Q Now, the \$150,000.00 that are left for unsecured
10 creditors, are you including the \$50,000.00 that are
11 involved in the sale of these operating rights in that
12 number?

13 A That is not included.

14 Q So, actually, there is \$200,000.00 available
15 then if this application is granted in the Pittsburgh-
16 Johnstown-Altoona -- there would be another \$50,000.00 from
17 the proceeds if both of these applications are approved or
18 if these sales are eventually approved?

19 A There would be approximately \$25,000 being the
20 difference between the fifty-five and the twenty-nine.

21 Q Thank you, Mr. Henny.

22 REDIRECT EXAMINATION

23 BY MR. VUONO:

24 Q As counsel for the bankrupt, you had an obligation
25 to secure the highest possible return on the operating

1 rights; did you not?

2 A Yes, sir.

3 Q And, there would be no reason, would there sir,
4 for you to have agreed or permitted the bankrupt to agree
5 to sell the operating rights for \$1.00 less than you thought
6 you could get for them; is that correct?

7 A That's correct.

8 Q Do you feel that you exercised due diligence and
9 adhered to the requirements of the law with respect to
10 notice in publicizing the availability of Breman's rights?

11 A Yes, sir.

12 Q In that connection, Breman's terminated --
13 Breman's declared the Chapter 11 bankruptcy on January 13,
14 1984; public sale was held on June 26, 1984. During that
15 interim, in your opinion, did the interested transportation
16 community in Western Pennsylvania know that the Breman's
17 rights were available for sale?

18 MR. PILLAR: That's objected to. I don't know how the
19 witness has been qualified. He can testify as to what he
20 did. How he would know that the interested motor carrier
21 community would know is --

22 JUDGE GESOFF: Rephrase it.

23 BY MR. VUONO:

24 Q I'll rephrase it. Do you have any information
25 based on your experience as counsel for Breman's during that

1 time frame to know whether or not any carriers were aware
2 that the Breman rights were available for sale?

3 A Yes.

4 Q How do you know that?

5 A Because I had inquiries from several people,
6 several carriers, in writing and in questionnaires, phone
7 questions, as to the availability.

8 Q And, do you feel that you publicized the
9 availability of the rights to an extent beyond that required
10 by the law?

11 A Yes. We took an ad in the Pittsburgh Press, I
12 think, to generate additional interest.

13 Q And, if any party on June 26th or prior to that
14 time had indicated a willingness to pay more than the price
15 being paid here, would you have been happy accept that
16 offer?

17 A Certainly. In fact, there are other people who
18 offered considerably less and we went with the highest bid.

19 Q Wasn't that the main reason why the court required
20 the public sale on June 26th?

21 A Yes, sir.

22 Q Mr. Pillar asked you about the terms of the sale
23 with respect to the so-called upset price. If more than one
24 carrier had submitted a joint offer in the same manner that
25 Pitt-Ohio and P-J-A had done, would you have accepted that

1 offer?

2 A Yes.

3 Q Are you satisfied that the price being paid by the
4 applicant here P-J-A- X is the highest and best price you
5 could get for the operating rights?

6 A Yes, sir, I am.

7 Q That's all I have.

8 JOHN MASTRANGELO, called as a witness, being duly
9 sworn by Judge Gesoff, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. VUONO:

12 Q What is your name and address, please?

13 A John Mastrangelo, 26 AVRR, Pittsburgh 15212.

14 JUDGE GESOFF: Spell your last name please, slowly.

15 MR. MASTRANGELO: M-A-S-T-R-A-N-G-E-L-O.

16 BY MR. VUONO:

17 Q Are you familiar with the company called Breman's
18 Express Company?

19 A Yes.

20 Q What's the basis for your knowledge of that
21 company?

22 A I was employed by Breman's prior to their
23 bankruptcy proceeding for over 33 years.

24 Q Were you in a management position with Breman's?

25 A Yes.

1 Q Can you tell me briefly what those positions were?

2 A I started out -- the last three jobs I had with
3 Breman's Express was traffic manager, general manager and
4 executive vice president.

5 Q And at the time Breman's entered the Chapter 11
6 proceeding, were you the executive vice president of the
7 company?

8 A Yes.

9 Q And, did you work for Breman's continuously for
10 that 33- year period?

11 A Yes.

12 Q What were your duties briefly as executive vice
13 president?

14 A Well, as executive vice president, I oversaw all
15 the operations in various departments, the safety and sales,
16 and I handled personally all of the traffic matters for the
17 company.

18 Q Did you hear Mr. Joseph Breman's testimony
19 regarding the nature of the operations of Breman's?

20 A Yes.

21 Q Is that -- can you affirm that testimony as being
22 accurate?

23 A Yes, I do.

24 Q With respect to the kind of business and
25 transportation service that Breman's conducted in Western

1 Pennsylvania, can you describe the service they provided
2 for the shipping public?

3 A Predominantly we were a LTL carrier. That was the
4 principal part of our business for my period of time with the
5 company and prior to that too. It was throughout the history
6 of Breman's Express that we were primarily a LTL carrier.

7 Q Mr. Breman has indicated that the company's
8 revenues were derived primarily, I think he said about 90
9 percent, from operations on Pennsylvania intrastate traffic
10 as compared to interstate traffic. Is that generally true?

11 A I would say that's basically true, yes.

12 Q Was Breman's known primarily as a less than truck
13 load Western Pennsylvania carrier?

14 A Yes. We were probably -- not probably -- we were
15 the largest local carrier in Western Pennsylvania.

16 Q And, I assume Breman's had all of the terminal
17 facilities type of equipment and personnel necessary to
18 conduct that type of business?

19 A Yes, we did.

20 Q Your Honor, may I have marked for identification
21 a single sheet, summary of Pennsylvania Intrastate Revenue
22 for the years 1981, 1982 and 1983 for Breman's Express
23 Company?

24 JUDGE GESOFF: Yes, as Exhibit 3.

25 BY MR. VUONO:

1 Q Mr. Mastrangelo, you have before you what is
2 marked for identification as Exhibit 3. Would you tell us
3 what that shows?

4 A This is the Pennsylvania Intrastate Revenue for
5 the years 1981, '82 and '83, broken up as to truck load
6 revenue versus the less than truck load revenue.

7 Q I noticed that for 1981, approximately 60 percent
8 of your revenue was derived from LTL service; is that
9 correct?

10 A That's correct.

11 Q By 1983, that had declined to approximately 50 per-
12 cent of the total revenue; had it not?

13 A Yes.

14 Q How do you account for that change?

15 A Well, as Mr. Breman mentioned previously, we were
16 going through a recessionary period and business just
17 declined steadily.

18 Q Well, the total gross revenues certainly declined
19 substantially, did it not, and your participation in LTL
20 declined?

21 A Yes, it did, due to the area we were operating in
22 in Western Pennsylvania and we got caught up in the
23 recessionary trend.

24 Q And, as late as 1983, would you agree that
25 Breman's was a substantial participant in both truck load in

1 LTL business?

2 A Yes. We had ourselves open to any and all. In
3 other words, we did not curtail any operations. The
4 business wasn't there. We couldn't generate the revenues.
5 That was the reason for our problem.

6 Q Did Breman's operate the daily peddle runs; that is,
7 straight runs making pickups and deliveries throughout the
8 Western Pennsylvania area in connection with LTL traffic?

9 A Yes. We blanketed the area at our high point until
10 the recession hit. Back in 1981 we had as high as 35
11 PELE runs a day operating out of our Monroeville terminal
12 and out of the Clearfield terminal, I would say we had 10 to
13 12 runs per day.

14 Q In your opinion, Mr. Mastrangelo, when did the
15 decline of Breman's begin to manifest itself?

16 A It started late in '81 and '82. We began to feel
17 it drastically and '83, of course, was a disaster.

18 Q And Mr. Breman, Joseph Breman, stated the primary
19 basis for that decline. Do you agree with the reasons he
20 gave?

21 A Absolutely.

22 Q What do you consider the primary cost?

23 A The number one cost, I would say, was our labor
24 and fringe costs versus our revenue and also -- well, that's
25 it. In other words, it's over simplified, but, we just

1 weren't generating enough revenues to meet our labor and
2 fringe costs and our overhead.

3 Q Have you caused to have prepared, Mr. Mastrangelo,
4 a summary of the operating results of Breman's for the four-
5 year period, 1980 through 1983?

6 A Yes, sir.

7 MR. VUONO: Your Honor, may we have marked for
8 identification a multipage document headed Summary of
9 Operating Results, Breman's Express Company, 1980-1983?

10 JUDGE. GESOFF: Yes. It may be so marked as Exhibit 4.
11 BY MR. VUONO:

12 Q Am I correct, Mr. Mastrangelo, that Exhibit 4
13 contains, on page 1, a tabular summary of detailed operating
14 statements which are attached showing the operating results
15 for Breman's Express Company for the four-year period ending
16 with 1983?

17 A Yes, sir; it does.

18 Q And, that exhibit confirms Mr. Joseph Breman's
19 testimony that the revenue in 1981 for approximately
20 \$7,800,000.00 was a high water mark in terms of revenue for
21 the company; was it not?

22 A Yes, sir.

23 Q In each of these four years, your company sustained
24 operating losses; is that correct?

25 A Yes, sir.

1 Q And, that was, according to the exhibit, total
2 loses for the four-year period of what amount, sir?

3 A \$1,580,207.00.

4 Q That exhibit also confirms Mr. Breman's testimony
5 that in 1983 on \$5.5 million dollar the company lost
6 approximately \$7 million dollars; is that correct?

7 A That's correct.

8 Q Would you say that the disastrous operating
9 results of 1983 made your reason for the Chapter 11 bankruptcy
10 proceeding the following January 13th?

11 A Yes. That was the immediate cause.

12 Q Can you tell us some of the steps that your
13 management and you took to forstall the bankruptcy?

14 A Well, we revamped our operations and consolidated
15 many of our PELE runs and eliminated the dock crew and had
16 the drivers do the dock crew's work and we did lease a
17 portion of our terminal that we weren't using and we also
18 went into a truck load interstate operation to try to
19 increase our revenues.

20 Q I take it that none of that really worked in terms
21 of solving the problems?

22 A It sure didn't.

23 Q Do you agree with Mr. Breman's testimony that the
24 company only reluctantly filed for Chapter 11?

25 A Yes. The Breman family were the only stockholders

1 of the company and they wanted to continue this operation
2 in the worst kind of way, but, it just wasn't feasible to
3 do so. So, as a last result, they filed bankruptcy in
4 January of '84.

5 Q And, when did the company terminate all operations?

6 A August 3rd, 1984.

7 Q And, when did you terminate your association with
8 the company?

9 A August 3rd, 1984.

10 Q Up until that day, August 3, 1984, did Breman's
11 continue to provide service under its Pennsylvania P.U.C.
12 operating authority?

13 A Yes, we did.

14 Q And, would you characterize that service as
15 substantial?

16 A Well, our revenues were in excess of \$100,000.00
17 a month from January 13 until August 3rd.

18 Q And, did you handle both LTL and truck load
19 traffic to that date?

20 A Mostly truck loads, but, we did handle some LTL.

21 Q Were you familiar with the requirements of the
22 P.U.C. concerning tariffs and charges and annual reports
23 and similar items?

24 A Yes, sir, I was.

25 Q And, in fact, because of your traffic background,

1 were you the person in charge of seeing that tariffs were
2 filed?

3 A Yes, I handled that personally.

4 Q To your knowledge, did Breman's have tariffs on
5 file with the Commission covering all of its operation?
6 When I say the Commission, I mean the P.U.C., covering all of
7 its operations?

8 A Yes, sir, we did.

9 Q And were these tariffs in effect as of August 3,
10 1984?

11 A Yes, sir.

12 Q In fact, are some of them still in effect?

13 A All of them are still in effect. We didn't cancel
14 any tariffs.

15 Q Did you have private tariffs which you filed on
16 your own?

17 A Yes, sir. We did not belong to any bureaus as of
18 August 3rd except the Western Pennsylvania Steel Haulers
19 Conference.

20 Q You did participate in that agency?

21 A That's the only agency tariff that we participated
22 in. Other than that, we filed all of our own individual
23 tariffs.

24 Q Would you also confirm Mr. Joseph Breman's
25 testimony that at all times through August 3, 1984, your

1 company had in effect public liability, property damage
2 and cargo insurance and evidence of that insurance on file
3 with the P.U.C.?

4 A Yes, sir, we did.

5 Q Did your company file annual reports when and as
6 due through 1983?

7 A Yes, sir.

8 Q I assume over the years you've become familiar
9 with the rules and regulations of this Commission. In your
10 opinion, was Breman's generally in compliance with those
11 rules and regulations through August 3 of 1984?

12 A Yes, we were.

13 Q Without being repetitious, you heard the testimony
14 of both Mr. Breman and Mr. Henny concerning the sale of the
15 assets of the company, the lack of management and personnel
16 and so forth. Is that testimony generally accurate?

17 A Yes, sir.

18 Q Do you believe that there is any basis on which
19 Breman's could institute service under these rights if
20 the application were denied?

21 A There is no way that Breman's could reenter the
22 trucking business.

23 Q Could you confirm with the P.U.C. the actually
24 amount of the assessment debts due through the current date
25 from Breman's?

1 A Yes, sir.

2 Q Do you have that amount or is that the amount that
3 Mr. Breman testified to?

4 A The amount that Mr. Breman gave us was accurate.

5 Q Since you terminated your connection with Breman's,
6 have you relocated?

7 A Yes, sir.

8 Q And, who are you employed by, sir?

9 A Pitt-Ohio Express.

10 Q And, when was that employment effective?

11 A I don't have the exact date, but, it was around
12 August 11, the 11th or 12th. It was one week following my
13 departure from Breman's.

14 Q Have you worked continuously for Pitt-Ohio since
15 that time?

16 A Yes, sir.

17 Q And, are you presently with Pitt-Ohio?

18 A Yes.

19 Q And, you had no employment contract with Breman's;
20 did you, sir?

21 A No.

22 Q And, you were not employed by Pitt-Ohio as part of
23 any contractual obligation. You were hired as a new
24 employee; is that correct?

25 A That is correct.

1 Q What are your duties briefly with Pitt-Ohio?

2 A I do some sales work as a sales rep. and also I
3 do some work in the traffic department related to rates and
4 tariffs.

5 Q Based on your knowledge of Pitt-Ohio, have they
6 continued to provide service under the Breman's rates
7 pursuant to the grant of temporary authority?

8 A Yes, sir; they have.

9 Q And, have they provided LTL as well as truck
10 load service?

11 A Yes, sir.

12 Q Do you believe that there has been a continuing
13 need for that service?

14 A Yes, sir.

15 Q Is Pitt-Ohio serving today some of the same
16 shippers that Breman's had served prior to August 3, 1984?

17 A Yes, sir; they are.

18 Q I assume, as you said, there is a continuing need
19 for Breman's service. Do you believe that Pitt-Ohio today
20 is meeting that need?

21 A Yes, sir.

22 Q That's all I have.

23 CROSS-EXAMINATION

24 BY MR. PILLAR:

25 Q John, you testified that in 1981 Breman's had

1 roughly 35 PELE runs; is that correct?

2 A Yes, sir.

3 Q And by August of 1984, you've testified that your
4 company, Breman's, was handling some LTL but primarily truck
5 load, correct?

6 A Yes. We had ourselves open to handle any and all
7 LTL shipments. In other words, we did not curtail the LTL
8 business.

9 Q Well, it was curtailed in terms of dollar revenues?

10 A Yes, sir, it was, because the customers would use
11 us or they couldn't use us because the business wasn't there.

12 Q How many PELE runs did you have in 1983; do you
13 recall that?

14 A I know it generally went downhill because as
15 business got worse, we consolidated runs. But, as to how
16 many we reduced it to, I can't say.

17 Q And, can you tell me how many PELE runs you had
18 in 1984?

19 A The same holds true there.

20 Q In terms of increase in the truck load business,
21 did your company go from a company owned equipment operation
22 more to an operator operation?

23 A As far as our interstate operation is concerned,
24 yes.

25 Q Were you using owner operators exclusively in

1 interstate commerce or were you using them in Pennsylvania 61
2 as well?

3 A No, we were using both inter and intrastate.

4 Q But, in terms of your interstate operations, was
5 that exclusively owner operator?

6 A No. We had some company drivers. We had two or
7 three company drivers operating in that respect.

8 Q Now, in 1984, did your company have a policy of
9 restricting your LTL traffic to a certain weight limitation?

10 MR. VUONO: Excuse me, as of what date, Mr. Pillar?

11 BY MR. PILLAR:

12 Q Well, anytime in 1984. Maybe Mr. Mastrangelo can
13 tell us when that policy was instituted?

14 A Not generally, no. Certain areas, maybe late '84,
15 but, generally there was no restriction.

16 Q And, when you say some areas in late '84, what
17 kind of a weight restriction did you have?

18 A Probably a 5,000 pound restriction, but, that was
19 not for general application. It was just in certain areas
20 of Western Pennsylvania.

21 Q When you say that occurred in 1984, can you tell
22 us when that policy was put into effect?

23 A Other than it was late in '84 when things started
24 to slide rapidly.

25 Q You indicated that in 1981, late '81 and '82, when

1 business was really getting seriously bad, you did things
2 like reduce the number of PELE runs or consolidate them, you
3 said?

4 A Yes.

5 Q You said you laid off dock employees. How many
6 dock employees did you layoff?

7 A Well, we laid off eventually all of the dock
8 employees. We were as high as 21 dock employees at one time,
9 but, this was not -- in other words, we just didn't cut them
10 all off at one time. This was over a gradual period of time.

11 Q When was the last dock employee finally let go?

12 A I would say late in '84.

13 Q So, there was still dock employees to handle
14 freight through 1982 and '83 and into '84?

15 A At Clearfield only. At Monroeville we eliminated
16 the dock in, I would say early '84.

17 Q Early '84?

18 A Early '84.

19 Q So, you had no dock employees at all?

20 A No. The drivers did the dock work.

21 Q Did your company in 1981 participate in interline
22 traffic, handle interline traffic?

23 A Yes, we did.

24 Q Intrastate as well as interstate?

25 A Yes, sir.

1 Q Was there a period of time or date when you cut
2 off all of your line connections?

3 A There was, but, I can't give you the date. It
4 was sometime in '82. I can't give you the date, sometime in
5 '82.

6 Q Now, for the record, interline would be the
7 handling of less than truck load shipments generally in
8 conjunction with another carrier to and from another area.
9 Is that a fair description of it?

10 A Yes, sir.

11 Q Over the years I take it you've become familiar
12 with the Breman's authority?

13 A More or less.

14 Q Do you have a copy of the authority here?

15 A No, I don't.

16 Q You've become familiar, I would assume, with the
17 Pitt-Ohio authorities as you've been working for them for
18 the last year?

19 A Yes, sir; I would say so.

20 Q Would you say that the Pitt-Ohio authority that
21 they presently have encompasses to a great extent the
22 authority that they are acquiring for Breman's in this
23 application?

24 A To some extent, yes, sir.

25 Q To what extent aren't they -- to what extent are

1 they acquiring any authority that they don't have now?

2 A Well, I haven't sat down and analyzed that.

3 Q Think about it for a minute.

4 MR. VUONO: Your Honor, I propose to present a
5 witness for Pitt-Ohio who will discuss in detail that issue
6 and I've not gone into that on direct. I think this is well
7 beyond the direct and we'll have a witness that I think is
8 better qualified to answer that question.

9 MR. PILLAR: I'm not as confident as Mr. Vuono that
10 the witness from Pitt-Ohio will know as much about the
11 operations of the two companies as Mr. Mastrangelo who's
12 had many, many more years of experience, and I think it's
13 highly qualified to discuss this question and I don't intend
14 to go into it in great detail, but I would like to ask Mr.
15 Mastrangelo the line of questions that I'm asking.

16 JUDGE GESOFF: I'll let you continue and see where
17 we get.

18 MR. PILLAR: Thank you.

19 BY MR. PILLAR:

20 Q Certainly, with respect to Western Pennsylvania,
21 are there any counties in Western Pennsylvania that Pitt-
22 Ohio cannot service?

23 MR. VUONO: Meaning entire counties?

24 BY MR. PILLAR:

25 Q Let me finish. Are there any counties in Western

1 Pennsylvania that Pitt-Ohio cannot service now that they
2 are going to acquire Breman's authority?

3 MR. VUONO: I'm going to ask, are you talking about
4 entire counties?

5 MR. PILLAR: I'm talking about any territories.

6 MR. VUONO: You asked the counties. Are you asking
7 about entire counties?

8 MR. PILLAR: No.

9 MR. VUONO: Then, I'm afraid he can't answer the
10 question.

11 MR. PILLAR: I'll try to rephrase it.

12 MR. VUONO: All right.

13 BY MR. PILLAR:

14 Q Is there any territory in Western Pennsylvania,
15 to your knowledge, that Pitt-Ohio cannot service now that
16 they are going to acquire by virtue of this application?

17 A Yes.

18 Q What area will they acquire?

19 A In certain accounts, they will acquire the entire
20 State of Pennsylvania.

21 Q What accounts would those be?

22 A I can't enumerate all of them. I can enumerate
23 some of them. They have the refractory accounts, North
24 American Refractories, Harbison-Walker Refractories.

25 Q Allegheny Ludlum?

1 A Allegheny Ludlum, U. S. Steel, A. P. Green,
2 General Steel, National Roll it's now. Universal
3 Refractories. That's the specific shippers that I can think
4 of. General Refractories.

5 Q Excuse me. Let me ask you --

6 A There are numerous others, but, I can't recall
7 them.

8 Q Let me ask you with respect to those companies
9 that you're talking about, would that traffic be primarily
10 traffic that was truck load in nature that Breman's
11 participated in?

12 A I would say primarily, not totally.

13 Q Now, with respect to less than truck loads,
14 service areas, what additional service areas would Pitt-Ohio
15 acquire that they don't have now in terms of less than
16 truck load shipments?

17 A Butler County for one. The entire State of
18 Pennsylvania out of Butler County.

19 Q Is that involved, to your knowledge, in this
20 application?

21 A That was in the first grant of authority. I
22 don't know what's involved -- that's in the second portion.
23 It was handled through the amendment.

24 Q In the publication in the Pennsylvania Bulletin,
25 there is no reference to any authority from Butler County to

1 points in Pennsylvania.

2 A All right. Then, we do have some class A routes
3 in Butler County. By we, I mean Breman's Express Company.

4 Q And, would you be able to describe those routes
5 for me? Do you know them well enough?

6 A No, I don't know them specifically.

7 Q If I showed you a map of Butler County, could
8 you describe some of them?

9 A Yes, sir; I could see.

10 Q For the record, Your Honor, I just have a map of
11 Butler County that I found that had some routes on it. Can
12 you tell us where those routes go, John? If you're guessing,
13 John, don't guess, but, if you know specifically, I'd like
14 to know.

15 A I tell you, other than Route 8, 422, Route 68,
16 Route 19, that's it generally. I'm sure there are others.

17 Q Those routes emanate then from Allegheny County to
18 Butler via those routes?

19 A Some of them go through other points like Beaver
20 Falls. I think 668 comes out of the Beaver County area, but,
21 it's a class A route nonetheless.

22 Q I see. And, those class A routes, were they the
23 only routes that you are aware of that authorized service
24 between Allegheny and Butler Counties?

25 A I think in the authority there was some specific

1 shipper authority in Butler County and the entire State of
2 Pennsylvania as a matter of fact.

3 Q But, you aren't able then to sort of graph those
4 routes for us? You don't know the authority that well?

5 A Not really. I know it generally but not
6 specifically.

7 MR. VUONO: Mr. Pillar, you made a statement that
8 the Pennsylvania Bulletin did not contain in its notice
9 of this case the reference to the Butler County authority
10 and it most certainly is in there. I have a copy of it if
11 you want to see it.

12 MR. PILLAR: Yes. If you could tell me where that
13 is?

14 MR. VUONO: I don't know. It's Route number 110
15 between points in the County of Butler and some points in
16 said county to points in Pennsylvania.

17 JUDGE GESOFF: What page?

18 MR. VUONO: Subject to the following conditions.

19 JUDGE GESOFF: What page at the top? Do you have
20 the Bulletin?

21 MR. VUONO: What do you have, sir?

22 JUDGE GESOFF: I've just what the Commission publishes.

23 MR. PILLAR: May I have a short recess, five minutes?

24 JUDGE GESOFF: Yes, sir.

25 MR. PILLAR: Thank you.

1 (The hearing recessed at 12:01 P.M. and reconvened
2 at 12:12 P.M.)

3 BY MR. PILLAR:

4 Q During the off-the-record discussion, John, we
5 were discussing -- before we went on the discussion, I
6 should say, we were discussing the authority for Butler
7 County to points in Pennsylvania which I understand, I
8 stand corrected, is published in the Pennsylvania Bulletin.
9 That authority is a one way authority. That means, if it's
10 from Butler County outbound to points in Pennsylvania;
11 isn't that correct?

12 A Yes.

13 Q And, to the best of your knowledge, based on our
14 discussion off-the-record, is it true that Pitt-Ohio does
15 not hold temporary authority to operate that particular
16 authority?

17 A It appears that way even though we do have
18 rights on file from Butler County to points in Pennsylvania.

19 Q Pitt-Ohio has published a tariff that names rates
20 from Butler County to points in Pennsylvania?

21 A Yes.

22 MR. VUONO: Wait, wait, wait. Did you hear the
23 question?

24 MR. MASTRANGELO: We published a tariff from
25 Butler County to points in Pennsylvania. Actually, the

1 tariff names rates between points throughout Pennsylvania.

2 BY MR. PILLAR:

3 Q And, Pitt-Ohio does hold permanent authority
4 now to provide service from Butler County to numerous
5 counties and vice versa, excluding Allegheny County?

6 A Basically, I think that's correct although Mr.
7 Hammel (phonetic) will be in a better position than I since
8 I'm basically new with the company.

9 Q Do you have any traffic exhibits here in the
10 hearing room to show what operations were conducted by
11 Breman's Express in any period at any time?

12 A No.

13 Q Those are all of the questions that I have.

14 MR. VUONO: Just a couple.

15 REDIRECT EXAMINATION

16 BY MR. VUONO:

17 Q Mr. Mastrangelo, you were asked about some
18 reductions in PELE runs and you indicated that in some
19 limited areas Breman's had proposed a 5,000 pound weight
20 restriction on certain LTL traffic. Were those essentially
21 cost cutting measures?

22 A Entirely cost cutting measures.

23 Q Would you have done that -- had you ever
24 done anything like that in the Breman's Company prior to
25 the financial problems that you were experiencing?

1 A No. That was the first time in my 33-year tenure
2 with the company.

3 Q With respect to your termination of the handling
4 of interline freight, was that primarily interstate
5 interline traffic that you terminated?

6 A I would say predominately interstate. I would say
7 95 percent.

8 Q That action did not affect your volume or flow of
9 Pennsylvania intrastate business?

10 A Not at all.

11 Q With respect to Mr. Pillar's question concerning
12 publication of a tariff, as he said, reciting rates from
13 Butler County, the tariff he referred to does not specifically
14 refer to rates on movements from Butler County, does it?

15 A No.

16 Q What did you mean when you said yes, we have rates
17 in our tariff?

18 A That was included. In other words, the tariff
19 that we published encompasses the entire State of
20 Pennsylvania restricted to the area we were certificated to
21 serve.

22 Q And, the operating scope in that tariff sets forth
23 the area that you're holding yourself out to serve, does it
24 not?

25 A Yes, it does.

1 Q And, does, to your knowledge, Pitt-Ohio have
2 pending before the Commission an amendment to its
3 emergency temporary authority application, including the
4 Butler County rates?

5 A Yes.

6 Q That's all I have. Thank you.

7 MR. PILLAR: Nothing further.

8 JUDGE GESOFF: You're excused.

9 MR. VUONO: I offer Exhibits 3 and 4.

10 JUDGE GESOFF: They may be admitted.

11 (The hearing recessed at 12:35 P.M. and reconvened
12 at 1:40 P.M.)

13 ROBERT F. HAMMEL, called as a witness, being duly
14 sworn by Judge Gesoff, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. LAVELLE

17 Q Would you give the reporter your name and
18 business address?

19 A Robert F. Hammel, H-A-M-M-E-L, 26 AVRR, Pittsburgh,
20 Pa. 15222.

21 Q Mr. Hammel, what company are you representing?

22 A Pitt-Ohio Express, Inc.

23 Q What's your position with the company?

24 A I am secretary.

25 Q Can you give us a brief description of what your

1 duties with the company are?

2 A My duties with the company, I'm involved in the
3 day to day operations, hiring and training of personnel,
4 dispatch, purchasing of equipment, managing our different
5 terminals.

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

9 A Yes, I am.

10 Q Are you familiar with the application we are
11 involved with today and the authority that is being
12 purchased from Breman's Express?

13 A Yes, I am.

14 Q Is Pitt-Ohio Express a corporation of
15 Pennsylvania?

16 A Yes, it is.

17 Q How long has it been in existence, sir?

18 A It has been in existence since 1978.

19 Q Have you been connected with the company since
20 that time?

21 A Yes, I have.

22 Q In addition to yourself, you said you are the
23 secretary, are you also a director of the company?

24 A Yes, I am.

25 Q Who else serves as officers of the company?

1 A Two brothers of mine, Charles L. Hammel, who is
2 President, and Kenneth W. Hammel, Vice President.

3 Q Are they also directors?

4 A Yes, they are.

5 Q Who are the shareholders of the company?

6 A The shareholders are the three of us.

7 Q In equal proportions?

8 A Equal proportions, 33 1/3.

9 Q And am I correct that the three of you are the
10 sole officers, directors and shareholders of this company?

11 A Yes, we are.

12 Q Do any of the three of you have any financial
13 interests in any other authorized motor carrier?

14 A We have minor stock in my father's company, which
15 is also a local trucking company, Hammel's Express,
16 Incorporated. We each own approximately 12 percent.

17 Q Does your father have the controlling interest in
18 that company?

19 A My father has 54 percent controlling interest in
20 that company.

21 Q Would you give a brief description of the nature
22 of the business conducted by Pitt-Ohio Express?

23 A We are a general commodities, mostly LTL carrier.
24 We hold a I.C.C. certificate and P.U.C. authority. We
25 operate five terminals in Cleveland, Pittsburgh, Charleston,

1 West Virginia, Norristown, Pennsylvania, Baltimore,
2 Maryland. We also have a small one in Paulsboro, New
3 Jersey.

4 We are active in day to day commerce within the
5 Commission and also interstate. For the most part we are
6 LTL, providing service to and from points in six states
7 within the Commonwealth.

8 Q On an interstate basis then you are actively
9 engaged in service within a six-state area?

10 A That's right.

11 Q Does your interstate authority encompass a wider
12 territory than those six states?

13 A Our interstate authority is 18. We have 18 inter-
14 state authorities. We are only utilizing six states at
15 this time.

16 Q Would those be the states surrounding Pennsylvania
17 basically?

18 A That's correct.

19 Q You said you concentrate on LTL traffic. Can you
20 give us an idea of how your freight breaks down by
21 shipment count and if we use an 10,000 pound break to
22 differentiate LTL traffic from truck load, what part of
23 your shipments on a system wide basis would fall under
24 the 10,000 pound category?

25 A We're about 95, 96 percent under 10,000 pounds.

1 Q Would that apply to your intrastate business?

2 A Yes, I would say it's similar.

3 Q Are a substantial portion of the shipments that
4 you handle intrastate of even a much smaller size than
5 10,000 pounds, say under 1,000 pounds?

6 A Yes, on the LTL, the majority of your freight would
7 be under 1,000 or 2,000. The greatest part of your freight
8 would be shipments of that size.

9 Q Now, you do hold operating authority today from
10 the P.U.C. of Pennsylvania; is that right?

11 A Yes, we do.

12 Q If we may have marked a summary of that authority.

13 JUDGE GESOFF: Yes, it may be marked for identification
14 as Exhibit 5.

15 BY MR. LAVELLE:

16 Q Mr. Hammel, would you look at Exhibit 5 please. Is
17 this a summary of all of the operating authority are a
18 permanent nature that your company holds today from this
19 Commission?

20 A Yes, it is.

21 Q Is there one specific grant here that you might
22 refer us to which is the broadest insofar as the territory
23 is concerned?

24 A That would be Folder 1, Amendment B.

25 Q And that's at the bottom of the first page and the

1 top of the second page?

2 A That's correct.

3 Q Does this authorize service with certain
4 restrictions between points in about 15 Western Pennsylvania
5 counties?

6 A Yes, it is.

7 Q One of the restrictions appears at the bottom of
8 Page 4, I'm sorry, it's number 4 at the bottom of Page 1,
9 restricting service against the transportation of iron and
10 steel articles and refractories where a single shipment
11 weighs more than 24,000 pounds. Would the approval of this
12 application and the purchase of the rights from Breman's
13 have any effect on that particular restriction?

14 A Yes, it would. It would enable us to haul steel
15 shipments of a truck load nature over the authority we're
16 seeking here.

17 Q There is also a restriction, number 2, eliminating
18 the right to transport household goods and office furniture
19 within your 15-county area now. Is there any authority to
20 your knowledge, and we will perhaps discuss this in greater
21 detail later, that gives you the right to transport those
22 types of commodities in any territory that you're purchasing
23 from Breman's?

24 A Not that I know of.

25 Q Well, we'll get to that. If you turn to Page 2,

1 the seventh restriction. Am I correct that this limits
2 service insofar as you cannot operate from Allegheny County
3 to points in five Western Pennsylvania counties. Is that
4 correct?

5 A That's correct.

6 Q Would the purchase and the approval of authority
7 from Breman's have any effect on that particular restriction?

8 A Yes, it would.

9 Q In what way?

10 A Well, it would enable us to serve from Allegheny
11 County to points in Butler County. It would enable us to
12 serve from Butler County the entire State of Pennsylvania
13 and it would also give us some service from Allegheny
14 County into Armstrong County.

15 Q Where does your company have its main office?

16 A Our main office is at 26 AVRR, Pittsburgh, Pa.

17 Q Is that what is known as the Strip District of
18 the city?

19 A That's correct.

20 Q Would you give us a brief description of the
21 facilities you have at that location?

22 A We have a 44-door terminal there that we share
23 with Hammel's Express. We've approximately 30 doors that
24 Pitt-Ohio leases and uses at that terminal. We have
25 dispatch offices, clerical offices, upstairs which we use.

1 We have a shop and yard space for parking trailers and
2 tractors.

3 Q Do you own, by that I mean Pitt-Ohio, do you own
4 the terminal or is it leased?

5 A No, it's leased from my father's company, Hammel
6 Express.

7 Q What type of operation do you have from the
8 standpoint of dock operations at this terminal?

9 A We have a dock crew that works afternoons and
10 evenings, specifically unloading the city trucks that come
11 in with pickups from that day and loading delivery units for
12 the following day and also outbound trailers destined for
13 other terminals.

14 Q How many doors do you say are used by Pitt-Ohio?

15 A Approximately 30 of the 44.

16 Q Am I correct that you would have then a local
17 pickup and delivery operation from this terminal?

18 A Yes. We send our trucks out on PELE routes
19 throughout Western Pennsylvania. They make their deliveries,
20 are in position for pickups and make the pickups as the
21 shipper calls in and they report to a dispatch by phone.
22 The dispatcher dispatches them for the pickups. They then,
23 at the conclusion of the day, return to the dock. The
24 trucks are unloaded, the freight is put on the docks, sorted
25 out and reloaded out again.

1 Q And if we confine ourselves to this Western
2 Pennsylvania area here, roughly the 15 counties, when would
3 the freight be back on the street for delivery?

4 A It would be all out for delivery the following day.

5 Q Do you conduct from that location what we term
6 a line haul service as well?

7 A Yes, we do.

8 Q And, would that involve the more distant movements
9 in interstate commerce?

10 A That is primarily our interstate operation, line
11 haul, shipments going to other terminals. There is a great
12 majority of shipments that stay at the dock that are not
13 transported on a line haul and that's our P.U.C. service.

14 Q What are the hours of operation of this Pittsburgh
15 terminal?

16 A We are open 24 hours, Monday through Friday.
17 We operate Sunday at 11:00 P.M. and close the following
18 Saturday around 6:00 A.M.

19 Q If a shipper were to require service on a Saturday
20 or Sunday while that terminal was normally shutdown, would
21 your company be able to provide service under those
22 circumstances?

23 A Yes. We have tariffs that would govern that type
24 of service and we are available for that type of weekend,
25 evening or holiday work if needed.

1 Q How would the shipper make arrangements for it?

2 A The shipper would normally just phone the
3 dispatch during the regular working hours and request that
4 type of service.

5 Q You mentioned that you have some other terminals
6 and you gave the locations of them. Would they be directly
7 involved in any way in the operations that would be conducted
8 under the authority being purchased here?

9 A No. The authority that is being purchased, every-
10 thing would be handled from the Pittsburgh terminal.

11 Q How many employees does the company have at the
12 present time?

13 A We have roughly 125 employees.

14 Q Can you give us a breakdown of those employees by
15 their job classification?

16 A We have roughly 80 which you would call drivers and
17 dockmen, approximately 8 sales people, 5 mechanics and
18 around 20 or 25 clerical people.

19 Q Are the mechanics located in the Pittsburgh area?

20 A All the mechanics are located at Pittsburgh.

21 Q How about the salesmen, how many of those 8 are
22 working in and around the Pittsburgh area?

23 A Four of them.

24 Q Earlier you described generally the nature of your
25 pickup and delivery operations in this local service area.

1 How many of those do you operate on a daily basis?

2 A Locally, if you count the freight that's put up
3 in the city, around 15 to 20. Some of them now were
4 delivered P.U.C. freight enroute to maybe West Virginia or
5 Ohio, but, the greatest majority of them stay within the
6 State of Pennsylvania.

7 Q How many of those runs would be -- are there any
8 of them that stay within the City of Pittsburgh itself?

9 A Oh, yes. We've about 8 trucks a day that don't
10 leave the county.

11 Q Now, the other 7 to 13, I guess it would be,
12 number of PELE runs, how do they work? Do they serve
13 geographical areas on a daily basis?

14 A Right. We send one up to Erie everyday, one to
15 the Meadville-Oil City area everyday, one to Beaver Valley-
16 New Castle everyday, one to Butler County everyday, one to
17 up around Clarion County everyday. We have a truck that will
18 run Monroeville-Greensburg area of Westmoreland County, maybe
19 one up to Johnstown-Altoona, one down to Fayette County,
20 Uniontown, maybe one into Washington County.

21 Q And those are the general areas served on a daily
22 basis by these runs?

23 A That's right.

24 Q Does the actual movement vary from day to day
25 depending on the nature of the traffic?

1 A: Oh, absolutely. We have trucks in those areas
2 everyday but depending on the day to day freight that we
3 would have, their patterns might differ slightly.

4 Q Do you conduct those operations in those various
5 counties daily under your present interstate and intrastate
6 authority?

7 A Yes, sir.

8 Q Are any of those runs dependent and operated solely
9 because you have emergency temporary authority from this
10 Commission to operate a portion of the Breiman's Express
11 authority?

12 A No.

13 Q Does your company own or lease the equipment that
14 it performs the service with?

15 A We have both owned and leased equipment.

16 Q And, have you prepared an exhibit that will
17 indicate the nature of that equipment?

18 A Yes, we have.

19 Q Your Honor, if we may have this equipment lease,
20 six pages I believe it is, marked as an exhibit?

21 JUDGE GESOFF: Yes, Exhibit 6.

22 BY MR. LAVELLE:

23 Q Mr. Hammel, there was a question off-the-record.
24 Maybe we should explain it in terms that we used before.
25 I referred to, and in your answers I believe you also used

1 the term of line haul service and we also used the term
2 PELE run. How would you differentiate or explain the
3 difference between those two?

4 A Line haul is a truck that is transporting between
5 terminals, a mixed variety of shipments. They are not
6 delivered. They are simply hauled from one facility of the
7 company to another facility of the company. A PELE route
8 is actually a line of deliveries or pickups that a driver
9 is making scheduled by the dispatcher.

10 Q And that PELE or pickup and delivery truck stays
11 within the local area generally of the terminal from which it
12 operates?

13 A Generally speaking, yes.

14 Q You mentioned you have a PELE run that goes to
15 Erie?

16 A That's correct.

17 Q Because of your breakdown of particular shipments,
18 would freight going up to Erie be made up -- the freight load
19 would be made up of a number of LTL shipments?

20 A That's right. It might be primarily 15 stops all
21 in Erie. That's a PELE route in Erie. The time it takes
22 from Pittsburgh to Erie would be the extended time. Once it
23 reaches its point of destination, he then begins his PELE
24 delivery route.

25 Q And, it might be 15 separate stops to get rid of

1 freight?

2 A That's right.

3 Q And, does that truck also, either at the same time
4 it makes the delivery or after it empties, it then reverses
5 and starts to pickupp shipments going in the other direction?

6 A Not necessarily. He can pickup shipments usually
7 in the area that he's pedaling and then when he has concluded
8 his pickups, he would then drive in and that again is his
9 stem.

10 BY JUDGE GESOFF:

11 Q How do you spell ~~PELE~~?

12 A P-E-L-E.

13 Q Does that stand for pickup and delivery? Is that
14 an acronym of sorts?

15 A No.

16 Q Is it just a term of art?

17 A It's a term of art in the industry.

18 Q All right. I just never heard it before today.

19 I appreciate the explanation.

20 BY MR. LAVELLE:

21 Q Now, sir, we've marked for identification Exhibit
22 6, which is your equipment list. Am I correct that the
23 first three pages shows the equipment that is owned by the
24 company?

25 A That's correct.

1 Q And, do you have a count of how many trucks are
2 shown on Page 1?

3 A I think we show 23 straight trucks.

4 Q By straight trucks, do you mean single unit?
5 It's not a tractor-trailer?

6 A No. It's a one piece single unit and has a box
7 type van, usually a five speed truck with a 20 foot box van.

8 Q These are 20 foot for the most part?

9 A 20, 21 foot, that's right.

10 Q Would the straight trucks ordinarily be used in
11 what we have just defined as a PELE operation?

12 A That's correct, for the most part.

13 Q How many tractors do you own which are shown on
14 Page 2?

15 A I believe we show 33.

16 Q And, do you have the number of trailers owned by the
17 company on Page 3?

18 A Correct, 22, I believe.

19 JUDGE GESOFF: Off-the-record.

20 (An off-the-record discussion was held.)

21 BY MR. LAVELLE:

22 Q Of the trailers shown on Page 3, can you give us
23 an idea, first of all, are they all vans or is it a
24 combination of different types of trailers?

25 A Those are all vans varying in different lengths and

1 heights.

2 Q Can you break it down and tell us how many are of
3 each different length?

4 A Well, the trailer units that begin with a 3, there's
5 another term, Pub Trailers, P-U-B, which would be 25 foot
6 trailers. The trailers that begin with 48, they are 48 foot
7 trailers, and there are 6 of those; and the rest of the
8 trailers are 45 foot.

9 Q I noticed on the first three pages and also on the
10 other pages as well that there is a right hand column that
11 shows cost. What does that indicate?

12 A That's what we spent for the equipment at the time
13 of the purchase.

14 Q That's not necessarily the current market or v
15 book value?

16 A No.

17 Q That's the original cost?

18 A That was the original cost.

19 Q Going into the leased equipment which begins on
20 Page 4, can you tell us how many trucks there are on that
21 fourth page?

22 A I believe we're showing 1 tractor and 13 straight
23 trucks.

24 Q What's the length of those straight trucks?

25 A 20 and 21 foot.

1 Q And, are they all what you refer to as box van
2 types?

3 A That's right.

4 Q And, on Page, the last two pages are all trailers
5 leased by the company. Do you know how many there are shown
6 there?

7 A I think we're showing 54.

8 Q Are they all vans generally?

9 A Generally all vans, varying lengths.

10 Q Do you use the owned-leased equipment interchange-
11 ably in your operations?

12 A Yes, we do.

13 Q Do you lease equipment with drivers or without?

14 A Without.

15 Q From whom is this leased equipment obtained?

16 A We lease it from a company called Martera,
17 Incorporated.

18 JUDGE GESOFF: Spell that?

19 MR. HAMMEL: M-A-R-T-E-R-A. It's a family leasing
20 company which my father is the controlling stockholder.

21 BY MR. LAVELLE:

22 Q Do you or your brothers have any financial
23 interest in that company?

24 A No.

25 Q Could you give us a brief description, sir, of the

1 maintenance program conducted by the company?

2 A All our equipment is licensed in the State of
3 Pennsylvania, even the trucks that domiciled out of state
4 which requires inspection by the state twice a year. Aside
5 from that, there is a routine service of each piece of
6 equipment scheduled on miles or hours driven in which the
7 truck is gone over completely, serviced, brakes adjusted,
8 this type of thing. In addition to that, there is a day to
9 day DOT requirment which every driver is required to keep a
10 vehicle inspection report on him and at the conclusion of
11 the day, he's to write up any defects and those are to be
12 taken care of if there are any before the truck leaves for
13 another day.

14 Q Is the equipment shown on Exhibit 6, in your
15 opinion, in good operating condition?

16 A It's in excellent condition.

17 Q Does it meet all of the safety requirements of
18 both the state and federal governments?

19 A Yes, it does.

20 Q Do you have any type of safety program within the
21 company to keep your employees advised of safety rules and
22 regulations?

23 A Yes. I am in charge of that. I work in
24 conjunction with my insurance agent and we have a regular
25 scheduled safety program in which regular meetings, awards,

1 are given for safe drivers, this type of thing.

2 Q Has the program proven successful over the years?

3 A Yes, it has. We're showing improvement. Last
4 year, we had, I believe it was, 20 drivers that had a
5 perfect year safety wise. That would be either injury
6 related or any kind of accidents that they might have been
7 free of any accidents.

8 Q Your Honor, could we have marked next the financial
9 statement of the company?

10 JUDGE GESOFF: Yes, as Exhibit 7.

11 BY MR. LAVELLE:

12 Q Exhibit 7 on the cover page, is this a comparative
13 financial statement for the two years ending December 31, 1984
14 and 1983?

15 A Yes, it is.

16 Q I direct your attention to the third, actually,
17 it's Page Number 2, it's the third physical page, which is
18 the balance sheet, and, what is the shareholders equity in
19 the company as of the end of '84?

20 A Total shareholder equity was \$1,032,986.00.

21 Q That was a considerable improvement over the year
22 of --

23 A 1983, the total shareholders equity was
24 \$603,476.00.

25 Q And, looking at the first entry on the top of that

1 page under the current assets, am I correct that at the end
2 of 1984 the company had in the bank \$572,521.00?

3 A That's correct.

4 Q Is that still a fairly accurate number?

5 A Yes, it is.

6 Q What was the gross revenue of the company for
7 1984?

8 A Our total gross revenue was \$6,852,720.00.

9 Q It would appear that was almost a 100 percent
10 increase over 1983?

11 A 1983, it was \$3,636,231.00.

12 Q And if we look down further on that same page,
13 your net income in 1984 was \$434,860.00; is that correct?

14 A That's correct.

15 Q Has the company been operating in a profit in
16 1985?

17 A Yes, we have.

18 Q Sir, I would like to direct your attention to the
19 period of time and the circumstances surrounding the
20 negotiations of the authority that you're purchasing here
21 from Breman's Express and ask you what is it that you are
22 purchasing from that company; is it operating authority or
23 equipment or a combination?

24 A Strictly operating authority.

25 Q And, is that strictly Pennsylvania intrastate

1 authority?

2 A That's correct.

3 Q There is no equipment involved at all?

4 A None.

5 Q I believe a copy of the agreement of sale was
6 attached to the application at the time it was filed with the
7 Commission; is that correct?

8 A Yes, it was.

9 Q Do you know what the consideration is for the
10 total operating authority that is being purchased from
11 Breman's?

12 A Pitt-Ohio's consideration was \$25,000.00.

13 Q And, how was that amount arrived at?

14 A Well, that was arrived at by negotiations with
15 the people from Breman and legal counsel felt it would be a
16 fair and reasonable amount for what we were purchasing.

17 Q Do you know how that consideration is to be paid?

18 A That is -- there is \$4,000.00 that is held in an
19 escrow account and \$21,000.00 to be paid at the closing once
20 the authority is granted.

21 Q Was that \$4,000.00 put into the escrow account upon
22 the signing of the original sales agreement?

23 A That's right.

24 Q And then the total balance now subsequent to the
25 amendment of that agreement is \$21,000.00?

1 A That's right.

2 Q So that on closing, a total of \$25,000.00 would be
3 released to Breman's; is that right?

4 A That's correct.

5 Q Is Pitt-Ohio, in your opinion, in a position to
6 pay that additional \$21,000.00?

7 A Yes, we are.

8 Q Your income or balance sheet would indicate that
9 you have sufficient cash to do that, I take it?

10 A Yes, sir, we do.

11 Q Do you know whether or not there is another carrier
12 purchasing any portion of Breman's authority?

13 A Yes. The remainder of the Breman authority is
14 being purchased by Pittsburgh-Johnstown-Altoona Express.

15 Q Mr. Hammel, would you explain for us at this
16 point the reason why your company is interested in
17 purchasing this operating authority from Breman's?

18 A We have 15 county authority, P.U.C. within
19 Western Pennsylvania that we are operating right now with
20 certain restrictions. We're operating those counties in
21 conjunction with our interstate freight. What this
22 authority would give us, would give us points in Butler from
23 Allegheny County which is a large void that we have and also
24 give us service out of Butler County to the State of
25 Pennsylvania, much of it that we could use. Our service

1 would completely round off our service in that we're already
2 in Allegheny County, selling points throughout Western
3 Pennsylvania, and we have to restrict, tell them that there
4 is a restriction to Butler County. We can take this to New
5 Castle but we can't take his Butler freight.

6 We're also in Butler County soliciting points to
7 other counties in Western Pennsylvania as well as interstate
8 and we have to tell them that there is a restriction. We
9 can't take Allegheny County. Many times a shipper becomes
10 confused and can't understand these things. So, it gives us
11 a much rounder service to the shipper. It also gives us --
12 lifts the restrictions that we have with steel shipments over
13 24,000 pounds. We would go into a shipper in Allegheny
14 County and solicit his business and if he was a steel shipper,
15 we could haul it until we got to a certain point and then we
16 would have tell him, look, we can't haul that. That's over
17 24,000. Again, a lot of confusion and misunderstanding with
18 the shippers. So, it gives us a lot of things that we didn't
19 have before.

20 Q There was some testimony earlier by Mr. Mastrangelo
21 and I think you were in the hearing room when he testified,
22 that there were a considerable number of grants of authority
23 that Breman's held through specific shippers. Did you hear
24 that?

25 A Yes.

1 Q Are you familiar with that?

2 A Yes.

3 Q To the extent that those grants of authority are
4 part of this purchase, would they add to your operating
5 authority in the sense of being new authorities that you
6 don't presently hold today?

7 A That's correct. Breman's had numerous state wide
8 authority for these different shippers. Many of the shippers
9 are active shipping today and we're soliciting that type of
10 business from them and that again has broadened our service
11 capabilities.

12 Q You mentioned specifically the situation in Butler
13 County in relationship to Allegheny County as one area where
14 you have a closed door situation, I'll call it. Are your
15 salesmen currently in Butler County soliciting interstate or
16 intrastate freight to the extent that you can serve the
17 county?

18 A Yes, we are.

19 Q Have you had requests from shippers in that area
20 to move shipments to Allegheny County, let's say, from
21 Butler County?

22 A Yes, I have.

23 Q How about in the reverse direction?

24 A Yes. Butler County sits in the middle and really
25 leaves a void in our authority and Allegheny County below it

1 and Lawrence County is to the side of it and just to the
2 north of it is Venango County and it becomes difficult, you
3 know, for shippers to understand these restrictions and it
4 fills in nicely for us because we are in Butler County every-
5 day delivering freight anyway on our interstate authority and
6 on our intrastate P.U.C. authority from all of the other
7 counties that we have, but we remain restricted with the
8 Allegheny County.

9 Q You mentioned some surrounding counties. Can you
10 presently in your authority go on an intrastate basis from
11 Butler to Venango County?

12 A Yes, we can. We can serve all of the counties to
13 and from Butler with restrictions -- to all of the 15, with
14 restrictions to Armstrong, Clarion, Greene and Indiana.
15 Other than that, we can serve Butler County from all other
16 counties of the 15 that we have Folder 1, Amendment B.

17 Q Following the filing of this application back in
18 late July of 1984, was the company granted by this
19 Commission any emergency temporary authority and, if so,
20 when?

21 A Yes. We were granted emergency temporary authority
22 to start hauling these points in Butler on August 13, 1984.

23 Q And has the company actually participated in the
24 transportation of freight within these new territories under
25 that emergency authority?

1 A Yes, we have. We began immediately hauling under
2 that ETA.

3 Q In doing so, is there any county -- you mentioned
4 Butler County specifically -- are there any counties in that
5 same general area or covered by the restriction that would
6 be affected by approval of this in a sense that it would
7 eliminate the restriction in part?

8 A Yes. We also pickup some additional authority
9 under this proposed sale to serve points in Allegheny
10 County to Armstrong County.

11 Q Now, in serving Armstrong and Butler Counties, in
12 connection with Allegheny County under the temporary
13 authority, did you have to make any change in your
14 operations to accomodate that service?

15 A What we did when we received the emergency
16 temporary authority is we simply had a meeting amongst
17 the managers and sales people of our company and told them,
18 look, you're in these companies in Allegheny County everyday
19 and you're in those companies in Butler County everyday and
20 we can now begin soliciting traffic and we outlined the
21 service area under the ETA. Aside from that, as far as our
22 day to day operations of the company, it didn't change at
23 all, except for the fact that this made us more efficient
24 and it made us better able to serve the shippers of Western
25 Pennsylvania. We were in there and we told them, look, we

1 are already taking Erie and your Meadville. We now can
2 take your Butler freight for you without calling another
3 carrier. This becomes attractive to them because it limits
4 the carriers that they had in there, which is a high
5 priority among shippers and, also qualifies them for
6 freight discounts based on revenue and tonage.

7 Q So, it wasn't necessary to add new PELE runs to
8 serve these new areas?

9 A No. It fit right in with our operation as we
10 were handling it except, like I said, it made us more
11 efficient and better able to serve the shippers.

12 Q If the application is approved on a permanent
13 basis here and the authority transferred, will there be, in
14 your opinion, any necessary change in the future to pick up
15 with the Breman's authority and operate it effectively?

16 A No, I don't foresee any.

17 Q Have you reviewed the authority which you're
18 purchasing from Breman's with a view toward keying on those
19 specific grants that would, in fact, add additional
20 authority to Pitt-Ohio?

21 A Yes, we have.

22 Q Before we get into that, is it true that there are
23 certain grants of authority held by Breman's that covered
24 geographical areas that are currently within the scope of
25 Pitt-Ohio's authority?

1 A It overlaps as far as certain points as far as
2 LTL and less than truck load type of shipments. However,
3 it expands that same area to enable us to serve those areas
4 per truck load. So, even though we already had authority to
5 serve say New Castle, Pa. we now have the ability under the
6 Breman's authority to solicit and serve truck loads into
7 New Castle, Pa.

8 Q So, in other words, the fourth restriction we
9 pointed out at the beginning of your testimony covers all
10 15 counties as to the 24,000 pound limit?

11 A That's right. We were restricted under those
12 15 counties not to haul shipments, iron and steel or
13 refractory products in excess of 24,000 pounds. Now, we are
14 picking up all of these areas that we can solicit and haul
15 steel shipments and refractories of a truck load nature.

16 Q So, the example that you used there, presently you
17 cannot haul under that existing authority a 30,000 pound
18 shipment of iron and steel from Allegheny County to New
19 Castle?

20 A Before the emergency temporary authority we could
21 not do that.

22 Q Under the emergency authority --

23 A We have begun serving that, yes, sir.

24 Q And, that would apply not just to that particular
25 traffic county, but throughout the entire 15-county area to

1 the extent you can serve it?

2 A To the extent where the Breman's authority overlaps
3 those 15 counties, correct.

4 Q Then, are there additional grants of authority
5 that you're obtaining from Breman's that actually don't key
6 on the restriction there, the weight restriction, but actually
7 open up new territory?

8 A Yes.

9 Q Your Honor, I would like to have marked at this
10 time the operating authority that is the subject of this
11 application.

12 JUDGE GESOFF: It may be identified as Exhibit 8.

13 BY MR. LAVELLE:

14 Q Mr. Hammel, I'll ask you if -- is this, to your
15 knowledge, the operating authority in total that is the
16 subject of the transfer application?

17 A Yes, it is.

18 Q And, this is what was published in the
19 Pennsylvania Bulletin in January of 1985?

20 A Yes, sir, it is.

21 Q Have you and I, prior to the hearing, long before
22 the hearing, at the time of the application, not the
23 application but when the authority was being considered for
24 purchase, reviewed that authority with a view toward seeing
25 how it fit into the present operations?

1 A Yes, we have.

2 Q And are you now able to go through here and pinpoint
3 for us most all of those routes which would add to your
4 authority geographically aside from that weight restriction
5 that you've already described?

6 A Yes, we can.

7 Q I would like you then to refer to Exhibit 8, if
8 you will, and simply take the routes one by one so it's clear
9 where those new grants of authority exist.

10 A Starting on Page B-2, Route 6. Would you prefer
11 that I just read them down or read each grant?

12 Q If you will pause momentarily between each
13 identification of a route. When you say Route 6, is that
14 what's designated Route 6 at the top of the page?

15 A Correct.

16 Q As opposed to paragraph 6 down near the middle?

17 A It's Route 6 at the top of the page, B-2.

18 Q And geographically, what area is involved here
19 that you cannot now serve? I don't think you should read
20 all of them, but, is it a county, a portion of a county or
21 certain cities or what is it?

22 A It gives me between Pittsburgh of Allegheny
23 County and Butler along Highway 8.

24 Q And, are there certain other points in Butler
25 County that are located on that particular series of routes?

1 A That's right. It enables us to serve any point
2 and route on that highway.

3 Q Okay. Where is the next grant that is involved?

4 A Also, Paragraph 4 on B-2 gives us the right to
5 interchange.

6 Q And, your company at the present time does not
7 have the right to interchange freight at the City of
8 Pittsburgh?

9 A That's correct.

10 Paragraph 5 on the same page.

11 Q That has to do with household goods in use? I
12 think I asked you earlier if there was any such authority
13 being obtained that would at least in part offset the
14 second restriction of your Folder 1 amendment, Amendment B
15 authority? and I think you answered no at that time. Would
16 not that grant give you the right to haul some household
17 goods?

18 A Yes. It gives us household goods on certain
19 routes.

20 Q All right. What is the next route that's involved?

21 A The next route would be on Page 3, Route 11.

22 Q That appears to be certain specific commodities
23 for a particular shipper located in Pittsburgh to all points
24 within a 50 highway mile radius of the city; is that
25 correct?

1 A That's correct.

2 The next would be on Page B-5, Paragraph 16.

3 Q That specific commodities for the Bureau of
4 Public Assistance. That is new authority at least insofar as
5 some counties are concerned; is that correct?

6 A That's correct.

7 Q What counties would they be?

8 A The counties of Allegheny, Armstrong, Beaver,
9 Butler, Fayette, Greene, Lawrence, Mercer, Washington and
10 Westmoreland.

11 Q I think you misunderstood me. Do you not already
12 have authority from the City of Pittsburgh to, for example,
13 Lawrence County?

14 A Yes, we do.

15 Q So, the additional authority would involved,
16 would it not, the counties of Armstrong and Butler and
17 Greene?

18 A That's correct.

19 Q What next route would be involved here?

20 A On the same page, Paragraph 17.

21 Q What's the next?

22 A That gives us bakery products for a certain
23 company, specific company, from Pittsburgh to 75 statute
24 miles.

25 Q What's the next route?

1 A Below that would be Paragraph 22 on the same
2 page.

3 Q Keep going then. What other route?

4 A Giving us again for a specific shipper, Pittsburgh
5 Brewing Company from the City of Jeannette, Westmoreland
6 County, to points within 100 miles.

7 MR. PILLAR: You mean the Fort Pitt Brewing Company?

8 MR. HAMMEL: Fort Pitt Brewing Company.

9 BY MR. LAVELLE:

10 Q What's the next involved route?

11 A On Page B-6, Paragraph 24.

12 Q That appears to be specific commodities on an
13 interchange basis.

14 A Again, an interchange, that's right.

15 On the same page, Paragraph 26.

16 Q That's general property and it appears to include
17 territories involving Pittsburgh and certain points in
18 Butler County; is that correct?

19 A That's correct.

20 Q What's the next route?

21 A On Page B-7, Paragraph 27.

22 Q This is one of those difficult ones to read, but,
23 the commodity is property; is it not?

24 A That's right, Class D carrier property.

25 Q And, the origin territory, to summarize it, is a

10
1 certain area of Allegheny County which is defined by
2 reference to certain rivers and highways in the city; is
3 that correct, or the County?

4 A That's right.

5 Q Now, using that as the base territory, what other
6 geographic area is involved here?

7 A Beaver and Butler Counties.

8 Q So, you pick up the City of Butler; is that correct?

9 A That's correct.

10 Q As well as points on specific routes involved, I
11 think it's referred to above. Are there any more grants of
12 authority on Page B-7 or is that the only one?

13 A That's the only one.

14 The next page, B-7, Paragraph 32, this gives us
15 property as a Class A carrier over Highway 19 via Wexford,
16 Warrendale and Zelienople, which are points in Butler County.

17 Q Is there anything else on that particular page?

18 A The next paragraph, 33.

19 Q Is that, again, one of those description for
20 property located in municipalities by reference to the
21 rivers and involving Allegheny and Butler Counties?

22 A That's right.

23 Q Where is the next involved route?

24 A On Page B-9, Paragraph 37.

25 Q What's the significance of that as far as new

1 authority is concerned?

2 A That again gives us household goods.

3 Q Is there anything else on that page?

4 A Paragraph 38.

5 Q That's to transport property from Allegheny
6 County to what area that you can't presently serve?

7 A That gives us Butler over Route 19, over Highway
8 19, again giving us points in Butler County, Zelienople.

9 Q Where is the next involved grant?

10 A That would be the next page, B-10, Paragraph 41.
11 It gives us the town of Portersville in Butler County as a
12 Class D. carrier.

13 Q That would be in connection with movements to and
14 from Allegheny County?

15 A That's correct.

16 Q As well as points in Butler County?

17 A That's correct.

18 Q And, you can already serve between two points in
19 Butler County, can't you?

20 A Yes, I can.

21 Q Is there anything else on Page B-10?

22 A The next paragraph, 42.

23 Q Does that, again, involve --

24 A That gives us interchange rights again.

25 Q Is there anything on the next page, B-11?

1 A B-11, Paragraph 43, gives us the right to haul
2 for Union Electric Steel Corporation to Butler County.

3 Q Does it also give you the right to operate into
4 the entire state of Pennsylvania and vice versa from the
5 Union Electric facilities?

6 A Yes, it does. It gives us the entire state.

7 Q How about on Page B-12?

8 A Paragraph 3 on B-12.

9 Q That's property for department stores and
10 mercantile houses between Greensburg and South Greensburg
11 and points within a 95 highway mile radius?

12 A That's correct.

13 Q Excluding Pittsburgh, but you cannot apparently
14 operate from Greensburg and South Greensburg to and from
15 the 95 mile radius?

16 A Not to all 95 miles, no.

17 Q Is there any other grant on that particular page,
18 B-12?

19 A Paragraph 9.

20 Q That's service for a specific shipper located in
21 South Greensburg, correct?

22 A That's correct. Also Paragraph 10.

23 Q Geographically, that gives you points within 100
24 miles of Jeannette and Greensburg; is that right?

25 A That's right.

1 Q All right.

2 A On the next page, B-13, Paragraph 1.

3 Q This, again, is for a specific shipper, correct?

4 A That's correct.

5 Q And the 100 mile area exceeds what you can presently
6 serve for that company?

7 A That's right, for the Elliott Company.

8 Q Anything else on that page?

9 A The next paragraph, Paragraph 2.

10 Q That's an interchange authority that you don't
11 currently have, right?

12 A That's right.

13 Q Where is the next grant?

14 A The next grant goes to B-17, Folder 6.

15 Q This seems to change. We're looking at now
16 specific types of commodities under Folder 6, building
17 construction materials in Clearfield County. Is that beyond
18 the scope of your present authority?

19 A Yes, it is.

20 Q The second paragraph then is in the same
21 geographic area and like commodities that you don't now
22 serve?

23 A That's right.

24 Q What next is involved here? Is there anything on
25 B-18 that's new as far as your operations are concerned?

1 A Well, this gives us -- to haul for a specific
2 company, the entire folder that we didn't have in the past.

3 Q Geographically, just look at the geographical area
4 of everything on Page B-18 and, are at least part of those
5 counties or areas outside your present authority, such as
6 Clearfield County?

7 A Yes. Many of these points in Pennsylvania we
8 didn't have previously.

9 Q How about Page B-19?

10 A Again, this is for a single shipper, North American
11 Refractories Company, in the County of Burke. We didn't have
12 that previously.

13 Q And, you can serve the whole State of Pennsylvania
14 and vice versa for that company?

15 A That's correct.

16 Q On B-20, the Folder 8 authority, is that beyond
17 the scope of your present authority?

18 A Yes. All that is beyond the scope of our authority.

19 Q At the bottom of the page, it begins the Folder 10
20 authority. Is there anything at the bottom of B-20 that is
21 new to your operations?

22 A Folder 10, Paragraph 1, to transport as a Class D
23 carrier between the Borough of Leechburg, Armstrong County
24 within 12 miles of the usually traveled highways. So, that
25 gets us into Armstrong County and also Allegheny County and

1 also Paragraph 3 does much the same, transport as a D
2 carrier from the Boroughs of Leechburg, Armstrong County,
3 West Leechburg and Hyde Park, Westmoreland County, to the
4 City of Pittsburgh. So, that gives me Armstrong County
5 there also.

6 Q Does the restriction in your existing authority
7 prohibit service from Pittsburgh to Armstrong County and
8 vice versa?

9 A Right now I cannot go into Armstrong County.

10 Q So, this opens it up as far as Leechburg is
11 concerned?

12 A Yes, it does.

13 Q And, the second paragraph there is household goods.
14 You don't hold that authority today?

15 A No, we don't.

16 Q Let me quickly try to do this. Turn to B-32.
17 It's the next to the last page in the exhibit. Is this the
18 authority that has been referred to at various times already
19 in the proceeding that authorizes the transportation of
20 property to all points in Butler County and then from all
21 points in that county to points in Pennsylvania?

22 A Yes, it does. It gives us the entire state.

23 Q What's the new authority under there that would
24 be important to your company?

25 A First of all, Allegheny County and that would be

1 the immediate help and it also gives us all the other 111
2 counties that we didn't have in our original 15.

3 Q Under the present authority that you're talking
4 about, you can go from Butler County to points in 13 counties
5 -- excuse me, 15 altogether. There is 15 counties altogether
6 and you're restricted as to operations from Butler to
7 Allegheny, right?

8 A Right.

9 Q So, you can go between points in Butler County and
10 also from there to the other 13?

11 A Right.

12 Q And vice versa?

13 A Right.

14 Q One thing this Folder and Amendment M then does is
15 allows you to go from Butler to Allegheny, partially upsetting
16 that restriction; is that correct?

17 A That's correct.

18 Q And then as to the sum 50 plus additional counties
19 of Pennsylvania, it opens up that territory as well?

20 A That's right.

21 Q Now, let me go back and ask you if, or trying to
22 shortcut this a little bit, from Page B-21 through B-33,
23 we've already covered the one page, does that all -- the
24 authority represented there represent new authority for your
25 company in the sense that it permits the transportation of

1 of either, primarily for shippers or certain commodities
2 in geographical areas that are outside the scope of your
3 present 15-county area?

4 A Yes, it does.

5 Q For example, there is an Allegheny Ludlum
6 authority on Page B-21 that allows you to go out 100 miles
7 from the facilities and I think there are some other grants
8 that are state wide in nature for particular shippers; is
9 that correct?

10 A That's correct.

11 Q And, is that all new authority as far as your
12 company is concerned?

13 A Yes, it is.

14 Q Since the emergency authority was granted, has
15 your company made an effort to go out in these areas and
16 obtain and solicit this traffic under these grants?

17 A Yes, we have, soliciting to haul.

18 Q How would the approval of this application then
19 be beneficial to your company, sir?

20 A Well, it would give us what we feel are needed
21 areas that have been restricted in the past and make us
22 more efficient as a company and also better service
23 shippers of the counties that we're missing at these points.

24 Q Is there any doubt in your mind that you would
25 be able to effectively operate in the Butler County-Armstrong

1 County areas that you referred to?

2 A No, none whatsoever.

3 Q How about with respect to service for those
4 specific shippers that have --

5 A We are calling on them now and we are hauling for
6 many of them right now and are doing so without any trouble.

7 Q In that connection, do you serve a number of
8 the companies that would be involved under the specific
9 grants on an interstate basis today?

10 A Yes, we do.

11 Q Does Pitt-Ohio have on file today with the P.U.C.
12 tariffs covering its existing operating authority?

13 A Yes, sir.

14 Q Do you file your annual reports with the
15 Commission?

16 A Yes, we do.

17 Q Do you have insurance certificates on file with
18 the Commission in the amounts at least required by the
19 P.U.C.?

20 A Yes, we do.

21 Q I have no further questions.

22 (The hearing recessed at 2:25 P.M. and reconvened at
23 2:32 P.M.)

24 CROSS-EXAMINATION

25 BY MR. PILLAR:

1 Q Mr. Hammel, looking at your Exhibit 5, which is
2 your operating authority, when did Pitt-Ohio first file for
3 operating authority with the Commission?

4 A I can't remember the year. I guess it was 1979
5 probably, the first piece.

6 Q That was the Kinney Service Corporation?

7 A Right.

8 Q Is that a piece of authority that they purchased
9 from Hammel's?

10 A Yes, it is.

11 Q And then the next authority was Folder 1,
12 Amendment-A, and I assume that was obtained by an
13 application?

14 A That's right.

15 Q Was that around the same time, 1979, '80?

16 A It was a little later, probably '82.

17 Q '82?

18 A '81.

19 Q So, did Pitt-Ohio have any authority other than
20 this Kinney Service Corporation authority between 1979 and
21 1982?

22 A No.

23 Q It had no authority at all?

24 A I.C.C.

25 Q Oh, they had I.C.C. authority. Did they have

1 I.C.C. authority in Western Pennsylvania and other states?

2 A Correct.

3 Q And, they were operating under that authority?

4 A Correct.

5 Q When did Pitt-Ohio obtain that authority of
6 Folder 1, Amendment B?

7 A It was last year, 1984.

8 Q Do you recall what month you began to operate under
9 that authority?

10 A I can't recall which month.

11 Q Did you have temporary authority under that
12 authority prior to getting permanent?

13 A I believe we did. I can't remember to be honest
14 with you.

15 Q Would the temporary authority have begun sometime
16 in the latter part of 1983?

17 A I really can't remember exactly the dates.

18 Q You don't have the actual certificate here?

19 A No, I don't.

20 MR. LAVELLE: I have those.

21 MR. PILLAR: I just wanted to know when they started
22 operating.

23 MR. PILLAR: We can go off-the-record.

24 JUDGE GESOFF: Off-the-record.

25 (An off-the-record discussion was held.)

1 JUDGE GESOFF: On the record. Do you want me to
2 put that on?

3 MR. PILLAR: I was going to ask him.

4 BY MR. PILLAR:

5 Q During the off-the-record discussion, Mr. Lavelle
6 indicated that permanent authority was granted in March of
7 '84. Is that -- does that sound accurate?

8 A That sounds right.

9 Q Now, prior to that time, do you recall that you
10 had temporary authority that you applied for and obtained
11 that permitted you to operate under this Folder 1,
12 Amendment-B, prior to March of '84?

13 A I believe so.

14 Q Now, prior to that, prior to getting that
15 temporary authority, wasn't your company providing or
16 transporting property between Allegheny and Butler County
17 and Allegheny and Armstrong County under I.C.C. authority
18 that you have?

19 A That's correct.

20 Q And, at the time, as I recall, you had a terminal
21 in East Liverpool, authority and freight was running from
22 Allegheny to the East Liverpool terminal and then be
23 delivered in Butler County?

24 A That's correct.

25 Q For how long a period of time did that go on?

1 A Probably two and a half years, something like
2 that.

3 Q Would it be safe to say that it went on from
4 1979, 1980, up until 1983?

5 MR. LAVELLE: I would object at this point, Your
6 Honor, for this reason. The matter that Mr. Pillar is now
7 inquiring into was the subject of a settlement stipulation
8 entered into between Pitt-Ohio Express, Inc. and the
9 protestant here, Newcomer Trucking, Inc., which was adopted
10 and approved by the Public Utility Commission and part of
11 that stipulation, I have a copy of it here in front of me,
12 states that, first of all, it was a complaint proceeding
13 and there was no admission by Pitt-Ohio Express that there
14 was anything improper about its operations, number one, but
15 it was also agreed by the parties that the complainant is
16 not precluded from raising the issue of lawfulness in the
17 prior transportation complaint of at which respondent has
18 agreed to terminate in any future application proceeding
19 before the Commission that involves this involved
20 territory, in the event that there is any attempt by any
21 participant at such application proceeding to rely on prior
22 transportation as a basis for the application. We're not
23 relying here in this case in any way at all on any past
24 operations to support this application. So, part of that
25 stipulation agreement precluded the protestant here from

1 raising an issue of lawfulness having to do with those 118
2 operations. That was part of our agreement and, it was
3 adopted by the Commission. It was agreed to by the parties
4 and approved by the Commission. So, I object to raising
5 those issues at this point in this context.

6 MR. PILLAR: First of all, I haven't raised anything.
7 I've just asked questions about their prior transportation.
8 I haven't said anything about it being unlawful or lawful.

9 Second of all, Mr. Lavelle is correct. There is a
10 settlement stipulation and I intended to get into it with
11 Mr. Hammel which indicates why there was a restriction as
12 to Butler County. I think that's a perfectly valid point to
13 make on the record, as to why there is a restriction. I
14 haven't said anything about lawfulness or ~~unlawfulness~~ or
15 anything.

16 MR. LAVELLE: As to why there was a restriction to
17 what, restriction where?

18 MR. PILLAR: In the Folder 1, Amendment-B, because
19 that Folder 1, Amendment-B restriction was a direct result
20 of a complaint case and I'm certainly permitted -- there is
21 nothing in this agreement that precludes me raising the fact
22 that there was a complaint case. That's a matter of public
23 record. What the settlement stipulation says is that I'm
24 not allowed to raise the question of the lawfulness of their
25 I.C.C. operations in the case unless they rely on their I.C.C.

1 operations and they haven't said anything about their
2 I.C.C. operations. There is certainly plenty of evidence
3 in the record that they are relying on the fact that they
4 are in Butler County everyday. I am attempting to show
5 that there is a reason why there is a Butler Country
6 restriction. Then, I intend to get into other evidence and
7 I need to lay a foundation for this, to get into other
8 evidence that I intend to offer in this case as to what
9 they have done since the settlement stipulation which we
10 contend they violated. If I don't get the settlement
11 stipulation in the record -- of course, it's already in
12 the record, because Mr. Lavelle put it in there, but, I need
13 to get this foundation laid in order to make my case.

14 JUDGE GESOFF: I'm going to allow the questioning.

15 MR. HAMMEL: I can't remember when we opened up in
16 East Liverpool per se. When we first started Pitt-Ohio
17 Express, we started simply as a piggyback and truck load
18 operation. When we began operations as an interstate
19 carrier, we opened up in East Liverpool, Ohio, which is
20 right near the panhandle of West Virginia and we started
21 with a few trucks serving on an interstate basis that was
22 in our authority to points in Youngstown, Ohio; New Castle,
23 Pa., ; Wheeling, West Virginia; Pittsburgh, Pa.;
24 Steubenville, Ohio; the three adjoining states, and that
25 was, I guess, around 1980. I can't remember exactly when we

1 started, but, we didn't get into LTL freight when Pitt-Ohio
2 was first formed for probably a year.

3 BY MR. PILLAR:

4 Q Then, did you get into LTL freight sometime in
5 1981?

6 A I think that's accurate.

7 Q How much equipment did Pitt-Ohio have at the time?

8 A We started out with, I think --

9 Q I mean in 1981 when you got into LTL?

10 A Six trucks.

11 Q Six straight trucks?

12 A We had two tractor-trailers and four straight
13 trucks.

14 Q From 1980 to 1981, were you primarily transporting
15 truck loads?

16 A Truck load, piggyback, that type of thing.

17 Q Then, it was in 1981 sometime that you began to
18 provide service within Pennsylvania via your East Liverpool
19 terminal?

20 A Right, within our I.C.C. authority.

21 Q Then, subsequently at some time, as Mr. Lavelle
22 indicated, there was a settlement stipulation entered
23 into which arose out of a complaint by Newcomer Trucking
24 against Pitt-Ohio Express. Do you recall that?

25 A Yes, I do.

1 Q And, was the settlement stipulation entered
2 into November 7, 1983?

3 A That sounds about right.

4 Q And, as a part of that settlement stipulation,
5 did Pitt-Ohio Express agree to discontinue transporting
6 property between Allegheny County and Beaver County under
7 its I.C.C. authority?

8 MR. LAVELLE: No, that's not right.

9 MR. PILLAR: Well, you can make an objection.

10 MR. LAVELLE: I object to what you said because it
11 was inaccurate.

12 JUDGE GESOFF: Well, he asked the question.

13 MR. LAVELLE: I object to the question because it's
14 factually inaccurate.

15 MR. PILLAR: I think the witness has to answer that
16 one, Your Honor.

17 MR. LAVELLE: It's a factually inaccurate question.
18 I can object to that.

19 JUDGE GESOFF: Why is it factually incorrect?
20 He said that the settlement -- under the terms of the
21 settlement, Pitt-Ohio agreed to discontinue going from
22 Allegheny to Butler under its I.C.C. authority. That's what
23 he said.

24 MR. HAMMEL: That is incorrect.

25 BY MR. PILLAR:

1 Q That is incorrect?

2 A Sure. Are you telling me I can't haul piggyback
3 from Pittsburgh to Butler?

4 MR. LAVELLE: I don't think he said Butler. I
5 thought he said Beaver County.

6 MR. PILLAR: I said Butler County. If I said Beaver,
7 that should be Butler County.

8 JUDGE GESOFF: He hasn't answered that yet. Allegheny
9 to Butler; are you saying that's wrong?

10 MR. HAMMEL: We can haul I.C.C. from Allegheny to
11 Butler.

12 MR. PILLAR: Let me rephrase it, Your Honor.

13 BY MR. PILLAR:

14 Q Is it not a fact that in the settlement
15 stipulation, Pitt-Ohio agreed to terminate or cease and
16 desist transporting intrastate shipments that originated in
17 Allegheny County and went to Butler County or from Allegheny
18 County to Armstrong, Clarion, Greene and Indiana and vice
19 versa under its I.C.C.?

20 A I don't think that's correct.

21 Q You don't think that's correct either?

22 A No.

23 Q Your Honor, can I have this marked for
24 identification. I didn't think I would have to do this.
25 Let me have this marked for identification first as

1 Exhibit A. I show you what has been marked for identification¹²³
2 as Exhibit A. Is that the settlement stipulation that we
3 have discussed?

4 A Yes, this is it.

5 Q And, is that the settlement stipulation signed by
6 you?

7 A Yes, it is.

8 Q And, how did you sign it?

9 A No, it's not.

10 Q Who signed it?

11 A It was signed by my brother.

12 Q Which brother?

13 A Charles.

14 Q In what capacity did he sign it?

15 A As President.

16 Q And, was it witnessed by anyone?

17 A Yes, it was.

18 Q By whom?

19 A By yourself, by Mr. Lavelle.

20 Q Who witnessed your brother's signature, Mr. Lavelle?

21 A Mr. Lavelle. Is this my copy?

22 Q No. Now, this settlement stipulation was entered
23 into after extensive hearings were held in which you
24 testified; isn't that true?

25 A That's correct.

1 Q And you were aware of the settlement stipulation?

2 A Yes, I was.

3 Q After the settlement stipulation was signed by
4 your brother, did Pitt-Ohio advise its managers and salesmen
5 that they were not allowed to solicit or were no longer to
6 solicit freight between Allegheny and Butler Counties in
7 the manner that they had been doing so?

8 A That's correct.

9 Q And between Allegheny and Armstrong Counties?

10 A That's right.

11 Q Clarion?

12 A Right.

13 Q Greene?

14 A Right.

15 Q And, Indiana?

16 A Right.

17 Q I don't have sufficient copies of these because
18 I didn't think I needed it, but, I will have copies made.

19 JUDGE GESOFF: We can make them.

20 BY MR. PILLAR:

21 Q Subsequent to the signing of that stipulation
22 which, I think, was November of 1983, did your company
23 then at that point discontinue transporting property
24 between Allegheny and Butler Counties, intrastate shipments,
25 under your I.C.C. authority?

1 MR. LAVELLE: Your Honor, I'm going to object at
2 this point because I know where it's going and I think it's
3 clear at this point. Newcomer Trucking has filed a complaint
4 against Pitt-Ohio Express alleging certain improper
5 operations. The matter is set for hearing at this
6 Commission on June 19, 1985 before Judge Porterfield to
7 try -- if they think they have a complaint case, it's a
8 subject of a separate formal complaint proceeding set for
9 hearing within less than two weeks. That's the place to
10 try that issue, not this case.

11 MR. PILLAR: Your Honor, my answer to that is two-
12 fold. Number one, the fitness of the applicant is at issue
13 in this case. The only way I can demonstrate -- apparently,
14 it's now a burden in this case and now to demonstrate that
15 they are not a fit carrier to receive the grant of
16 authority, which is our position. To demonstrate that, I
17 must examine Mr. Hammel on what operations they have
18 conducted, what they have violated under the Public Utility
19 Law and we content and it is our protest that they have;
20 that they have violated the settlement stipulation; that
21 they are soliciting and transporting freight that is not
22 within the scope of their authority. That's my burden to
23 prove that. I think that is a valid point in this case.
24 That's my case here.

25 With respect to the complaint case, yes, we did file

1 a complaint case because the complaint case was filed in 126
2 order to give us an opportunity to present a complaint
3 against Pitt-Ohio. This isn't the complaint case. This is
4 the application case, but, fitness is a question. I think
5 in retrospect, and I've anticipated this, that I will at this
6 time move to consolidate the complaint case with this case.
7 If I'm going to be objected to presenting or pursuing the
8 complaint case in this case to raise fitness, and I will have
9 a lot of additional evidence in the complaint case that I
10 don't have here today. For example, I've requested
11 subpoenass of certain shippers who have refused to give me
12 any documentation about transportation on the part of the
13 applicant. Those subpoenas have been granted and will be
14 issued. Depositions will be taken in the next two weeks.
15 I can't present that evidence today. I can present it on
16 the 19th. I think the only way to solve this problem is for
17 us to have an opportunity to consolidate the complaint case
18 with this case and then I can raise the question of fitness
19 in the complaint case with this case in a consolidated
20 proceeding on one record or on a separate record. I
21 realize the complexity of that is raised by the fact that
22 Judge Porterfield has been assigned to the complaint case
23 and you are assigned to this case. I don't know whether
24 that can be resolved or not.

25 JUDGE GESOFF: I can look at my calendar and see if

1 I'm free on that date.

2 MR. PILLAR: I will file a motion if necessary, but,
3 I'm going to make that motion now so that I will then have
4 an opportunity to pursue -- we are at least entitled to our
5 day in court. That's what we are trying to get here and we
6 feel that fitness is a question in this case that Pitt-Ohio
7 should not be granted the authority by virtue of the fact
8 that they have consistently, in our opinion, -- that's what
9 we intend to prove -- violated the settlement stipulation
10 and their authority and I don't have the complaint case
11 prepared to present today, but, I would like to ask Mr.
12 Hammel about what -- at least set the foundation. If I
13 don't set the foundation, then it seems to me that you're
14 precluding me from putting in my evidence.

15 MR. LAVELLE: I don't think there is any purpose to
16 the consolidation of these two cases. This is a transfer
17 application. There are certain specific burdens of proof
18 and he has another avenue which is the ongoing case coming
19 up in two weeks for the complaint proceeding and that's where
20 he presents his evidence, in that complaint proceeding, not
21 this case.

22 JUDGE GESOFF: I'm sorry, I really don't agree, Mr.
23 Lavelle, because fitness doesn't seem to be an issue and we
24 can assume fitness perhaps under the burden of proof in a
25 transfer case, but, if that burden is on the protestant here,

1 then they have to have the opportunity, be given the
2 opportunity, to pursue that issue. If they didn't, they
3 would be denied due process and I'm not going to do that.
4 It seems to me a little nicer to consolidate and have the
5 other hearing exclusively for the complaint proceeding, but,
6 to consider that as an element and whether the transferee
7 here is fit or not. Off-the-record.

8 (An off-the-record discussion was held.)

9 JUDGE GESOFF: During an off-the-record discussion,
10 we discussed the outstanding motion and I decided that we
11 would continue this hearing and divorce from it the issue of
12 the settlement and the complaint proceeding. The hearing to
13 be held before Judge Porterfield on June 19 related to the
14 settlement stipulation and the complaint proceeding and it
15 will be heard by him if I get approval in the status of
16 hearing examiner. After a record is made in that case, it
17 will be assigned to me along with this proceeding on a
18 consolidated basis for a briefing and decision. I would,
19 therefore, be able to make a ruling in this transfer case on
20 the issue of fitness as it relates to the issue of the
21 complaint proceeding and also make a decision on the
22 complaint proceeding itself. Is that acceptable to both
23 counsel?

24 MR. PILLAR: That's acceptable to me.

25 MR. LAVELLE: I would have to note an exception to

1 that ruling.

2 JUDGE GESOFF: Do you want to give your reasoning on
3 the record for that?

4 MR. LAVELLE: I think it's improper to consolidate the
5 two cases together; that this is a transfer case. The
6 protestant has an opportunity to go forward today and
7 develop its case and should not intertwine these two cases
8 and delay the entire proceedings here and next week or two
9 weeks from now, on the 19th, they can develop their
10 complaint proceeding as they filed it.

11 JUDGE GESOFF: Well, as I indicated before, my reason
12 for denying your wish is that that would effectively
13 preclude the protestant here from testing the transferee's
14 fitness as it relates to this transportation which is the
15 subject of the complaint proceeding and I'm not going to do
16 that because it would deny them due process in my opinion.
17 So, I'll let it stand there, and, I just want you to know
18 that my decision, of course, is subject to approval, higher
19 authority, mainly the Chief Administrative Law Judge, who is
20 on vacation for another week. As soon as he returns, I'll
21 do everything in my power to get his approval on my ruling
22 and I will conduct the case on that basis. I note for the
23 record that I'm not sitting in for Judge Porterfield is that
24 I will be on vacation that week. Let's continue with the
25 cross-examination, the perimeters of which will be

1 confined to my ruling.

2 MR. PILLAR: Very well.

3 BY MR. PILLAR:

4 Q I assume from the fact, Mr. Hammel, that Pitt-Ohio
5 now has 125 employees that there has been steady growth in
6 the company from 1981, when you had 4 straight trucks and 2
7 tractor-trailers and presently, as I understand it, you do
8 have substantial equipment, both company owned as well as
9 leased from the family leasing company?

10 A That's correct.

11 Q And, of the equipment that the company now owns,
12 does it presently own any flatbed trailers?

13 A We lease flatbed trailers.

14 Q It doesn't own any?

15 A No.

16 Q Are the flatbed trailers that are leased shown on
17 Exhibit 6?

18 A Let me rephrase that maybe slightly. They are
19 available for lease. Now, we -- this is equipment that is
20 listed as leased here, but, we're paying monthly rent on.
21 There is flatbed equipment available for lease that we can,
22 of course, lease when the need arises.

23 Q I understand. All of the equipment that is
24 leased presently is van equipment; is that correct?

25 A That's right.

1 Q Has your company operated dump vehicles?

2 A No.

3 Q Has it ever?

4 A No.

5 Q Has the company ever engaged in transportation of
6 household goods and use?

7 A No.

8 Q Do you know whether Breman's ever engaged in such
9 transporation?

10 A I have no idea.

11 Q Do you know whether Breman's ever engaged in dump
12 truck hauling?

13 A I don't know that either. Breman's didn't have
14 the authority that long. They purchased it from Lightning.

15 Q What authority is that?

16 A I believe it's Butler. Wasn't that the Lightning
17 authority before Breman had it?

18 A All of the authority you are purchasing from
19 Breman, was that all Lightning authority?

20 A I believe so.

21 Q And, when did they acquire that authority; do
22 you know?

23 A I'm not certain, '78, '79. I think it was in
24 that area.

25 Q Did I understand you to say that after the

1 temporary authority was approved and you were authorized to
2 operate under the -- at least a portion of the Breman's
3 authority, that there was no physical change in the
4 operations of Pitt-Ohio in terms of PELE runs and that sort
5 of thing?

6 A That's correct.

7 Q Now, of the authority that was granted, the
8 temporary authority, is it a fact that some of the authority
9 that's in Exhibit 8 wasn't included for one reason or
10 another in the temporary authority grant and specifically
11 I'm referring to that Folder 10, Amendment N authority that
12 was referred to this morning which is on Page B-32? I don't
13 know if that's the only one that at least as to that, is it
14 true that you don't have temporary authority?

15 A That's correct.

16 Q Is there any other authority that is shown in
17 Exhibit 8 that is included in Exhibit 8 that you do not have
18 temporary authority?

19 A No.

20 Q You're sure of it on everything else?

21 A I'm fairly certain.

22 Q So, that since you've been operating this authority
23 under temporary authority, let's see, since -- when was it,
24 September?

25 A No, it was August 13, 1984.

1 Q Did you start operating on August 13?

2 A It would have been the next day probably.

3 Q Well, your rate wasn't effective until September 4;
4 isn't that true, your tariff?

5 A That's true, but, from what we understand from
6 counsel, you can begin operating immediately.

7 Q Even though the tariff wasn't published until
8 September 4, you were operating from August 4?

9 A Well, we --

10 MR. LAVELLE: Not August 4.

11 MR. PILLAR: I'm sorry. I thought you said August 4.

12 MR. HAMMEL: There were rates -- we belonged to the
13 Bureaus at the time.

14 BY MR. PILLAR:

15 Q But, you didn't publish the tariff in connection
16 with this emergency authority --

17 A That's correct.

18 Q Until effective September 4?

19 A That's correct. I don't remember the exact date
20 we started.

21 Q You testified it was the day after.

22 A I assumed it was the day after.

23 Q -- the day they closed.

24 A I assume it was the day after. I could be wrong.

25 Q I misstated that. It was the day after the

1 Commission approved the temporary authority.

2 A Again, I'm assuming that. I don't have any
3 written record of that. I know we began whenever we were
4 allowed to begin.

5 Q In any event, it was prior to September 4?

6 A Correct.

7 Q Now, since that time -- let me ask you this. Do
8 you have any evidence in the hearing room of any transportation
9 you performed under temporary authority?

10 A No, I don't.

11 Q Can you tell me whether you have provided any
12 service for United States Steel under the Folder 10,
13 Amendment O authority?

14 A I can't give specifics. I'm not prepared to give
15 specific on what we hauled since that day.

16 Q Is your answer to that question then you don't
17 know?

18 A That's right, I don't know, sir.

19 Q If I were to ask you that with respect to any
20 of the specific shippers, would your answers be the same or
21 might be no?

22 A I know we're serving a lot of those specific
23 shippers. Now, if you were to ask me if I served a specific
24 points, my answer would be I don't know. I know we're
25 serving Allegheny Ludlum, A. P. Greene, Harbison-Walker. If

1 you were going to ask me for a specific movement, I couldn't 135
2 give you that answer.

3 Q That's what I meant. I just wanted to know if you
4 are providing service under some of these authorities. For
5 example, Folder 10, Amendment M, All Metals, Inc. and
6 Charles Bluestone Company, are you providing service under
7 that authority?

8 A I don't know.

9 Q And Folder 10, Amendment K, Cerro Metal Products
10 in Center County, are you providing service under that
11 authority?

12 A That I don't know.

13 Q St. Joe Zinc, are you providing service under that
14 authority?

15 A Again, I don't know. We might be.

16 Q Folder 10, Amendment J.

17 A We may have made movements. It's not an everyday
18 movement that I would recall.

19 Q Are you serving, under Folder 10, Amendment I,
20 Harbison-Walker Refractories out of Pine Township, Armstrong
21 County, to points in Pennsylvania?

22 A Again, same answer.

23 Q Look at your Exhibit 8 for a minute, would you?
24 We'll save some time here. If you did not indicate on
25 direct examination a particular paragraph, may we assume then

1 that Pitt-Ohio, under its present authority, has those
2 paragraphs that you did not mention?

3 A Unless we missed one along the line.

4 Q Assuming you didn't?

5 A Assuming I didn't miss one, that would be correct.

6 Q Now, the authority, for example, to service under
7 Route 6 on Page B-2, that route runs along Route 8 via Etna,
8 which is in Allegheny County, Bakerstown, Highway Route 855,
9 Valencia, Mars, Conoquenessing and Highway Route 68 into the
10 city of Butler; is that correct?

11 A That's correct.

12 Q And, is that not the same route that appears on
13 Page B-6, which is the Class A route between Pittsburgh and
14 Butler?

15 A Which paragraph are you looking at?

16 Q Number 26 on Page B-6.

17 A I don't think it's exactly the same because it
18 doesn't give us Zelienople and Harmony.

19 Q You're talking about the route between Beaver Falls
20 and Butler via New Brighton, Zelienople, and Harmony that
21 appears on Page B-2?

22 A Right.

23 Q That route is between Beaver Falls and Butler?

24 A It gives us those points along those routes which
25 are Zelienople and Harmony which I don't believe Paragraph 26

1 on B-6 does. Do you agree?

2 Q Yes, I understand that, but, with respect between
3 Pittsburgh and Butler routes, it's the same route; isn't it?

4 A No. One is over Highway 8 as I read it and the
5 other one is moving from 8 to Beaver Falls and Beaver Falls
6 across.

7 Q Where do you see that?

8 A Highway 8 between the cities of Etna, Bakerstown,
9 Route 855, Valencia, Mars, Evans City, Conoquenessing and
10 Highway Route 68.

11 Q Stop right there. Isn't that the same route that
12 appears on Page B-6? Is there any difference?

13 A With the exception of Route 68 and points along
14 there.

15 Q That Route 68 is the route you're talking about on
16 B-2 that runs between Beaver Falls and Butler?

17 A That's right.

18 Q You already have that authority, don't you?

19 A No, I don't.

20 Q Can't you serve between Beaver and Butler Counties?

21 A Yes, I can serve between Beaver and Butler
22 Counties, but, as I read that, that would give me Harmony on
23 that route from Allegheny County to Pittsburgh, right?

24 Q Is that the way you interpret that?

25 A And, Zelienople.

1 Q Are you providing service that way? Are you
2 providing service through Harmony to and from Pittsburgh
3 under that route?

4 A Well, --

5 MR. LAVELLE: Your Honor, if I may interrupt, there
6 is a significant difference between the two routes we're
7 talking about here, which hasn't been pointed out yet.

8 JUDGE GESOFF: What is it?

9 MR. LAVELLE: Route 26 on Page B-6 is a Class A route
10 between Pittsburgh and Butler over certain highways. The
11 Route 6 back on B-2 is one of six routes and if you look at
12 B-1, it starts to transport as a Class D carrier property
13 from points in the County of Allegheny to points on the
14 following routes, and vice versa. You've got Allegheny
15 County set out as a base territory on B-1. Then, over
16 certain routes from Pittsburgh to Butler and on into Beaver
17 County. The base territory in one case is Allegheny County
18 and the other one is the City of Pittsburgh. They may be to
19 some extent the same routes, but, the authority is quite
20 different base territory wise and one is Class A and one is
21 Class D.

22 MR. PILLAR: I'll accept that explanation. I think
23 Mr. Lavelle is correct.

24 BY MR. PILLAR:

25 Q Has your company engaged in household goods

1 transportation since this temporary authority was granted? 139

2 A No.

3 Q Page B-2 you refer to the fact that this authority
4 will give you authority to haul uncrated refrigerators and
5 so forth for McCray Refrigerator Sales. Do you know whether
6 that company exists?

7 A Mr. Pillar, there are a lot of authorities that
8 this gives us that are obviously inconsequential and some are
9 more important than others and if you like, we can go over
10 all of the inconsequential ones. I don't know if they are
11 still in there --

12 Q That's all I want to do. How about food commodities
13 for the Bureau of Public Assistance, have you provided any
14 of that service?

15 A Not that I know of.

16 Q Do you know whether they ship any commodities?

17 A I don't have any idea.

18 Q How about Colonial Biscuit, Route 17 on B-5, do
19 they exist?

20 A I haven't the faintest idea.

21 Q How about the Fort Pitt Brewing Company? Do they
22 still ship beer out of the City of Jeannette?

23 A I don't know.

24 Q Would you agree with me that some of the routes,
25 in fact, many of the routes that you identify as getting new

1 authority, at least in part, overlap the 15-county authority 140
2 that you have at the present time?

3 A Not identically because it gives us the truck load
4 steel which we didn't have before but if you're speaking of
5 LTL, there are some LTL that overlap, yes.

6 Q For example, Route 38 is one that you mentioned on
7 Page B-9, which was a Class D authority from Allegheny County
8 to certain points, and I think it traverses a corner of
9 Butler County, Valencia, Mars, Evans City and Harmony, but
10 the rest of the authority in there, New Castle, Beaver County,
11 and so forth, that would all be in your present authority;
12 wouldn't it?

13 A Again, I have to tell you that we certainly, since
14 the temporary authority has been issued, we have secured
15 business on a truck-load proportion down to those areas from
16 Oakmont to Ellwood City where we now have a nice haul on a
17 truck-load steel. We didn't have that previously.

18 Q I see. Have you provided any service from the
19 Borough of Portersville, Butler County, to any points in
20 Pennsylvania since temporary authority was granted?

21 A Have I, out of Portersville, that I don't know.

22 Q You mentioned in your direct testimony that Route
23 42 would give you new authority that you don't have now.
24 What new authority would 42 give you that you don't already
25 have?

1 A On page?

2 Q B-10.

3 A The right to interchange property.

4 Q Okay. Just that? It doesn't give you any new
5 territory, but, it gives you the right to interchange?

6 A Right.

7 Q Are you prepared to tell us today which of these
8 specific shippers are still active and in business at this
9 time and which aren't?

10 A I would probably come close. Again, some of these
11 we are not totally familiar with because we just began
12 service for them, but, I know the ones we are actively
13 calling on or soliciting business.

14 Q How about Walworth (phonetic) & Company?

15 A Walworth is no longer in business.

16 Q How about the Elliot Company in Jeannette?

17 A The Elliot Company, yes.

18 JUDGE GESOFF: Which route are you talking about?

19 MR. PILLAR: The Elliot Company is on B-13, Route 1.
20 Walworth is on B-12, next to the last one.

21 BY MR. PILLAR:

22 Q You mentioned in your direct testimony a company
23 known as Hammel Express, which you have a small stock
24 ownership. Does that company also hold authority from the
25 Pennsylvania P.U.C.?

1 A Yes, it does.

2 Q And, does it generally serve -- tell us general
3 what area it serves?

4 A Western Pennsylvania, 25 road miles of the City
5 of Pittsburgh and also present points in Washington and
6 Fayette County.

7 Q And, that would be property authority?

8 A Right.

9 Q And, would that be --

10 A Class D.

11 Q And, in Beaver County, for example, how far would
12 Hammel serve?

13 A Well, I don't know exactly how far 25 miles goes.
14 I think it goes down to about New Brighton, Beaver,
15 Pennsylvania.

16 Q Is the Hammel's authority restricted against
17 steel?

18 A No.

19 Q You can transport steel under that authority?

20 A Yes.

21 Q And, can you serve portions of Butler County under
22 Hammel's authority?

23 A Yes.

24 Q Points within 25 miles of the City?

25 A 25 miles.

1 Q I take it that authority is active?

2 A Correct.

3 Q Mr. Hammel, the company, Pittsburgh-Johnstown-
4 Altoona Express purchased the balance of the Breman's
5 authority, who was the owner of that company?

6 A I think Donald Hammel, Jr.

7 Q How is he related to you?

8 A He is a cousin, first cousin.

9 Q If I were to ask you in 1984, when temporary
10 authority was commenced, how much equipment Pitt-Ohio had at
11 that time compared to what it has today, can you tell us?
12 Let me ask it the other way. Has there been any increase in
13 the amount of equipment that Pitt-Ohio has today as
14 compared to September 1, 1984?

15 A Yes.

16 Q How much additional has it acquired?

17 A I don't have the equipment list from back then.
18 I'm sure you have one on file somewhere.

19 Q Just give me your educated guess.

20 A We probably increased, probably another 8 straight
21 trucks, 3 tractors. That sounds about right.

22 Q So, that would mean then that this would be
23 company owned equipment that we're talking about, or, is it
24 leased?

25 A I think we bought those, company owned.

1 Q So, in looking at your Exhibit 6, then, in
2 October or September of '84, you had roughly 15 company
3 owned trucks and 30 company owned tractors plus the other
4 vans and leased equipment, if your estimates are correct?

5 A Are you assuming that this equipment list was
6 prepared in September of '84; is that what you're telling me?

7 Q No. I'm assuming this equipment list is current.

8 A This is current, right.

9 Q You are showing 23 straight trucks and you say you
10 added 8 since September of '84. I'm assuming then that you
11 must have had about 15 in '84.

12 A I can't recall offhand. That's about right.

13 Q And, between the years 1981, when you had very
14 little equipment and '83 or '84 when you added the
15 equipment that you have testified to, when was the
16 equipment built up? When did it start; was it gradual?

17 A It has been pretty consistent, I would say. I
18 don't have any, you know, we don't prepare as graphs or
19 anything to watch our growth as far as equipment if that's
20 what you're asking. I can't give definitive answers on a
21 day to day how many we have each day. This is what we had
22 the last time we did it.

23 Q Well, let's look at it from a financial point of
24 view. In 1984, your revenues were \$6.8 million dollars.
25 How much of that was P.U.C. intrastate?

1 A I don't have that figure with me.

2 Q Can you give me an estimate percentage?

3 A In '84?

4 Q Yes, sir.

5 A That's all depending on exactly what day the
6 authority was granted, which I wasn't familiar with totally
7 there. So, I would hate to give you a number because I
8 might be so far off. I know that our P.U.C. has increased
9 in '84 over '83 because of our authority obviously and it
10 will be greatly increased in '85, but, I would hate to
11 give an educated guess on the record because I might not
12 even be close.

13 Q And then in 1983, your revenues were \$3.6 million
14 dollars. Do you know what they were in 1982?

15 A I believe they were around \$2 million dollars.

16 Q Would you say your equipment then has grown in
17 proportion to the amount of revenue that you have?

18 MR. LAVELLE: Your Honor, I don't think he answered
19 the question, but, I don't understand the relevancy of where
20 this is all going, the materiality of this particular
21 proceeding.

22 MR. PILLAR: I think it's very material. We have a
23 company in here today crying the blues about how it couldn't
24 operate and lost money and here is a company that has the
25 same area of operations essentially and has grown and

1 prospered fantastically.

2 MR. LAVELLE: So what. One company didn't operate
3 well and went into Chapter 11 and had to terminate its
4 operations and another company is operating effectively and
5 is the purchaser of those rights to continue the service.
6 So what?

7 JUDGE GESOFF: I don't see any connection there.

8 MR. PILLAR: Those are all of the questions that I
9 have.

10 JUDGE GESOFF: Any redirect?

11 MR. LAVELLE: Yes. I just have a couple of
12 questions.

13 REDIRECT EXAMINATION

14 BY MR. LAVELLE:

15 Q Mr. Hammel, sir, you were asked questions
16 concerning specific shippers that appear in the latter part
17 of Exhibit 8. That's the authority being purchased as to
18 whether or not you were serving them, and, you said you
19 really didn't know the details of it. Do you know this
20 much. Do you know whether or not your soliciting or
21 serving any of those companies on an interstate basis?

22 A Well, Mr. Pillar found some of the companies that
23 he was aware were either out of business or very remote.
24 There are many companies that we're soliciting and hauling
25 both intra and interstate. Obviously, we solicited U. S.

1 Steel. We're doing, because, of this new ETA, we're doing
2 a nice business with Allegheny Ludlum, A. P. Greene, both
3 very successful companies.

4 Q To clarify the record though, I think it should be
5 pointed out with respect to that temporary authority
6 application, I thought it was clear this morning, from our
7 discussion off-the-record at one point, that the emergency
8 temporary authority covering a portion of the rights being
9 requested in the transfer, but, not all of them. This
10 Exhibit 8 sets forth all of the rights that Pitt-Ohio is
11 applying for in this case. The temporary authority
12 application which was granted covers the rights up through
13 B-16.

14 JUDGE GESOFF: That hasn't been said on the record
15 yet.

16 MR. PILLAR: I never knew that before either.

17 MR. LAVELLE: I thought this morning when we had
18 that off-the-record discussion, you asked --

19 MR. PILLAR: I asked about what Folder 10, Amendment N.

20 MR. LAVELLE: No. There were questions about Folder
21 10, Amendment N which is included in the pages I just
22 indicated, but, there were also questions concerning, I
23 believe, U. S. Steel was one specific one you mentioned.
24 You mentioned specifically All Metals, Inc. --

25 MR. PILLAR: I mentioned that on cross-examination,

1 not this morning.

2 MR. LAVELLE: I mean in cross-examination you
3 mentioned those and asked him about those companies.

4 JUDGE GESOFF: You could have objected then on the
5 basis of question is not relevant because you have no
6 authority to operate under temporary authority in those
7 areas and that's the point you're making now, correct?

8 MR. LAVELLE: That's what I'm trying to clarify now
9 because I wasn't sure whether the question was limited to
10 are you serving them period or are you serving them on any
11 basis. That's why I started to ask him if they are serving
12 them on an interstate basis so he could tell us if he is
13 not and now I'm trying to point out that the ETA only covers
14 a portion of those rights.

15 JUDGE GESOFF: Fine. I don't think the record knew
16 that. I certainly didn't know that until you just said it;
17 that the temporary authority rights only go up to and
18 including Page B-16.

19 MR. LAVELLE: That's right.

20 MR. PILLAR: While we're on this point, Your Honor,
21 I wonder if I might ask Mr. Lavelle to state on the record
22 the status of the temporary authority request for Folder 6,
23 through Folder 10, Amendment 0, whether it's been published
24 or filed or what the status is?

25 MR. LAVELLE: I know it has been filed.

1 MR. PILLAR: I haven't seen it published, but, I
2 might have missed it.

3 MR. LAVELLE: It was filed in November, I believe, of
4 1984 subsequent to the amendment of the --

5 JUDGE GESOFF: Off-the-record.

6 (An off-the-record discussion was held.)

7 BY MR. LAVELLE:

8 Q Mr. Hammel, let me ask you a question. Would you
9 agree that the emergency authority that was granted on
10 August 14, 1984 covered that portion of the rights set forth
11 in Exhibit 8 at Page B-1 through B-16?

12 A Yes.

13 Q And, is it not correct that those were the
14 operating rights that were the subject of the original
15 agreement of sale?

16 A That's right.

17 Q With Breman's insofar as your company is concerned?

18 A That's right.

19 Q And, temporary authority was granted on August 13,
20 1984 with respect to those rights?

21 A That's right.

22 Q Do you know subsequent to that date that the sales
23 agreement was amended to include the balance of authority
24 that Breman's had originally intended to retain; is that
25 correct?

1 A Correct.

2 Q Is that authority set forth in Exhibit 8 at
3 Pages B-17 through B-33?

4 A That's right.

5 Q Was there an adjustment made in the purchase price
6 to be paid to Breman's as a result of the inclusion of that
7 authority in this transaction?

8 A Yes, there was.

9 Q What was the increase in the purchase price?

10 A The adjustment was \$5,000.00.

11 Q Bringing the total to be paid by Pitt-Ohio Express
12 to Breman's to what figure?

13 A Bringing it to \$25,000.00 from \$20,000.00.

14 Q In your direct testimony, I thought we had covered
15 this under the terms of the agreement. As it now stands,
16 including all of the authority, how much money was put into
17 escrow?

18 A \$4,000.00 was put into escrow to cover everything.

19 Q Then, there was a balance of \$21,000.00?

20 A Right.

21 Q Which brings us to the \$25,000.00?

22 A Right.

23 JUDGE GESOFF: And, the only agreement I have in the
24 file sent to me is representative of \$50,000.00 with
25 a \$4,000.00 escrow and a subsequent \$16,000.00 payment and

1 now you have updated it for me.

2 MR. LAVELLE: I'm sorry. I didn't know there was a
3 gap in there.

4 JUDGE GESOFF: Yes. You weren't in the room when I
5 mentioned this to Mr. Vuono, but, the subsequent agreement
6 is not in the file that I have and it's not in the record
7 and, as a matter of fact, the previous agreement is not in
8 the record either unless you move it into the record under
9 the Commission's Rules. I'm being technical. We're on the
10 1984 rules. So, maybe that doesn't apply.

11 MR. PILLAR: Can we go off-the-record for a minute?

12 (An off-the-record discussion was held.)

13 JUDGE GESOFF: Back on the record.

14 BY MR. LAVELLE:

15 Q In answer to Mr. Pillar's question, you indicated
16 that flatbed equipment was available on a lease basis.
17 From what source would that be available?

18 A From Martera, Incorporated. We also have owner
19 operators that are on lease with Pitt-Ohio that haul inter-
20 state shipments that enables us to solicit truck load steel
21 on a shorter haul for these people which has been very
22 attractive to them. We don't necessarily have to have
23 equipment ourselves, flatbed, to handle this.

24 Q But, you don't show on your Exhibit 6 any leased
25 flatbed equipment?

1 A No, I don't. We really -- we don't do that
2 ourselves. Most of our flatbed work is handled by owner
3 operators.

4 Q I have no other questions.

5 RECROSS-EXAMINATION

6 BY MR. PILLAR:

7 Q Mr. Hammel, just to clarify what we discussed off-
8 the-record then, as I understand it from the authority that
9 was acquired under temporary authority which runs through
10 B-16 on Exhibit 8, that's the authority that was purchased
11 originally for \$20,000.00?

12 A Correct.

13 Q The balance of the authority from B-17 on was
14 added as a supplemental agreement consideration for which
15 was \$5,000.00?

16 A Correct.

17 Q Is Pitt-Ohio paying any consideration to Breman's
18 for operating under temporary authority?

19 A No.

20 Q Do you have any idea what revenues Pitt-Ohio has
21 generated from Breman's authority since the temporary
22 authority?

23 A No. We haven't kept any separate records.

24 Q Those are all of the questions I have.

25 MR. LAVELLE: I would move into evidence Exhibits 1

1 through 8 if the other ones haven't been admitted.

2 JUDGE GESOFF: They'll cover everything that way.
3 Any objections?

4 MR. PILLAR: No.

5 JUDGE GESOFF: They may be admitted.

6 MR. LAVELLE: I would also ask that you incorporate
7 by reference the application itself and attachments to it.

8 JUDGE GESOFF: Any objections?

9 MR. PILLAR: I don't -- I'm sorry, Bill, but I don't
10 have a copy of that. If that's going to be incorporated as
11 an exhibit, I would like to have a copy of it.

12 MR. LAVELLE: It's not an exhibit but the Judge
13 indicated that things can become part of the record, such
14 as a pleading notice and the application was part of the
15 record.

16 JUDGE GESOFF: Pleadings have to be moved in. That's
17 under the new rules for sure. I'm not sure about the
18 previous rules. If you want to be safe, move them in. If
19 If you have an objection -- if you don't have a copy, you'll
20 get a copy, okay?

21 MR. PILLAR: Okay. I would like a copy of whatever
22 is going to be referred to on briefs so that I can have an
23 equal chance.

24 JUDGE GESOFF: It's admitted on condition that you
25 be provided a copy.

1 MR. PILLAR: Under the consideration of the ruling
2 that you made previously, I'm going to withdraw Exhibit A
3 then and offer it at the other case since we've already had
4 discussion about that.

5 JUDGE GESOFF: Okay. The court reporter will withdraw
6 Exhibit A. You can mark it withdrawn. You're excused, sir.
7 You're going to put your witnesses on?

8 MR. PILLAR: Off-the-record.

9 JUDGE GESOFF: Off-the-record.

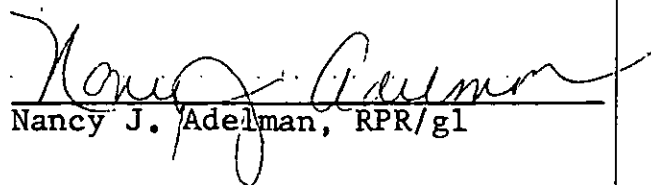
10 (An off-the-record discussion was held.)

11 JUDGE GESOFF: During the off-the-record discussion,
12 we discussed the lateness of the hour and length of time that
13 protestant would take to put on his case. We decided to
14 end the hearing at this time. Mr. Lavelle will call me on
15 Monday to see if either June 14, June 24 or July 2nd is
16 okay with either he or Mr. Vuono. Mr. Lavelle has indicated
17 -- I'm sorry, Mr. Pillar has indicated that any of those
18 dates are all right with him. So, we'll recess for now and
19 the hearing will be continued. Thank you, gentlemen.

20 MR. LAVELLE: Thank you.

21 (The hearing recessed at 3:55 P.M.)
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6 I hereby certify that the proceedings and evidence
7 taken by Dan Noll before the Pennsylvania Public Utility
8 Commission are fully and accurately indicated in his notes
9 and that this is a true and correct transcript of same.
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12 Nancy J. Adelman, RPR/gl
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