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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARYS OFFICE
Public Utility Commission

In re: A-00102471, F001, Am-P Pitt-Ohio Express, Inc.
Amendment to permit the transportation, by motor
vehicle, of property, from points in that part of
Pennsylvania on and west of U.S. Highway Route 219
to points in that part of Pennsylvania on and east
of U.S. Highway Route 219, and vice versa; ***.
Further hearing.

Pittsburgh, Pennsylvania
March 8, 1989

DOCUMENT
FOLDER

Pages 232 to 415, inclusive

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MAR 27 1989

HOLBERT ASSOCIATES
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301 Market Street
Harrisburg, Pennsylvania 17101

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Further hearing.

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

Wednesday,
March 8, 1989
10:00 a.m.

BEFORE
JAMES PORTERFIELD, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

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

1 APPEARANCES CONTINUED:

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

6 Appearing on behalf of Protestants W.C. McQuaide,
7 Inc., Ward Trucking Corporation, Evans Delivery
8 Company, Inc.
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1 JUDGE PORTERFIELD: Raise your right hand, please.

2 WILLIAM T. MURPHY, having been duly sworn, was

3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. LAVELLE:

6 Q Please give the reporter your name and your business
7 address?

8 A William T. Murphy. Do you want the company?

9 Q Yes, if you will.

10 A Alling & Cory, 2920 New Beaver Avenue, Pittsburgh,
11 PA, 15233.

12 Q Mr. Murphy, what is your position with Alling & Cory?

13 A Customer service manager.

14 Q And to what extent do you get involved in
15 transportation matters for the company?

16 A Routing of shipments, and also to make sure that we
17 use the right companies for financial responsibility where we
18 can save money on inbound and outbound freight. Service to
19 our customers is probably the biggest thing of all, where we
20 get excellent service.

21 Q How long have you been employed by the company?

22 A Thirty-four years.

23 Q Briefly describe for us what the business of Alling &
24 Cory is?

25 A We're a wholesale paper distributor where we purchase

1 from the manufacturers, bring it into Pittsburgh, our
2 Pittsburgh warehouse, and then sell it to the various people
3 in our tri-state area, you might call it.

4 Q And who do you have as customers?

5 A Our main people probably would be printers, in-plant
6 print shops, anyone who uses paper products because -- the
7 hotels and office buildings where we sell towels and toilet
8 tissue. You -- almost anyone is considered a customer.

9 Q Would all of your products that you're going to be
10 speaking about fall into a paper product type category? Is
11 that the commodity we're concerned with?

12 A We would have other commodities, like shrink film.
13 We get into packaging and so forth, and I think they take a
14 different commodity, whenever it comes down to trucking. And
15 we have envelopes, which is a different commodity rate, too,
16 for the weight and so forth.

17 Q But the products, most of the products are paper of
18 some type?

19 A Paper, right.

20 Q They could be printing paper, office paper?

21 A Copy paper, printing paper, towels, toilet tissue.
22 It's anything -- it's wood, basically.

23 Q Okay. Now, you said you have some facility here in
24 Pittsburgh. What is that?

25 A We have a warehouse, Beaver Avenue. It's 110,000

1 square feet and that's where we store our merchandise and we
2 take -- ship out of there on a daily basis to our customer
3 base, which is the tri-state area basically.

4 Q How many trucks can you load or unload at one time?

5 A Well, you're talking about inbound?

6 Q Well, how many doors do you have available for
7 inbound or outbound?

8 A We have 11 doors at our facility because we load all
9 of our own equipment there at night and we run 11 trucks into
10 the area. But the inbound, we only have one receiver so we
11 only use one or two doors during the day for our receiving.

12 Q All right. And the other nine doors are available
13 for loading your trucks?

14 A For our trucks, or customer will calls and things
15 like that.

16 Q Do you use regulated carriers for outbound shipments?

17 A Yes. Mostly we've been using two carriers who have
18 been giving us a commodity rate.

19 Q Do those two carriers use the same nine doors as your
20 own trucks for loading purposes?

21 A Part of those doors, yes.

22 Q Well, not all of them?

23 A I mean not all of them, yes.

24 Q They use them in conjunction with your own trucks?

25 A It depends where the merchandise is staged in our

1 warehouse which doors are used.

2 Q What's the range in weight of your shipments?

3 A Out of our --

4 Q The outbound shipments now from the warehouse.

5 A Anywhere from a minimum shipment of one package up to
6 maybe 15,000 pounds.

7 Q That wouldn't constitute a full truckload, as far as
8 filling up the entire truck?

9 A No, but we may negotiate with the carrier to see if
10 we can get a 20,000 pound or 24,000 pound special rate to take
11 care of the whole truck.

12 Q What's the effect of that, then, as far as your --

13 A It would save our company money.

14 Q Why?

15 A Because it would give us a lower rate than what --

16 Q If you negotiate such an arrangement with a carrier
17 and use it, do you have exclusive use of the vehicle, or do
18 you expect your truck -- your shipment to be mixed with
19 someone else's?

20 A I think it would be mixed with someone else's.

21 Q Out of the warehouse do you select the carrier on all
22 of the traffic?

23 A We do that with our computer system, where we have
24 each customer with the carrier marked. As it prints off the
25 computer, it tells our shipper who to use in that case.

1 Q You or someone in your company designates the
2 carrier --

3 A Right. We have designated that carrier, and we can
4 changed it from time to time.

5 Q Now, do you also have inbound shipments to your
6 warehouse in Pittsburgh from points in Pennsylvania?

7 A From points in Pennsylvania, yes, we do.

8 Q Are they basically -- is there any difference in the
9 commodities that you receive inbound?

10 A It's all paper products, as far as it -- everything
11 would be paper products from Pennsylvania.

12 Q Would those shipments be the full range in terms of
13 weight?

14 A They would be anywhere from a minimum shipment up to
15 a truckload.

16 Q Okay. Now, you're familiar with the application of
17 Pitt-Ohio Express here, and there's a map in front of you of
18 the state. With respect to your facility in Pittsburgh, do
19 you understand that the applicable territory consists of parts
20 or all of six counties in the central part of the state, the
21 ones marked in red on your map?

22 A Right.

23 Q Do you have customers located in that six county
24 area, either on or east of U.S. Highway 219?

25 A Yes, we do.

1 Q Do you ship to them regularly out of your Pittsburgh
2 warehouse?

3 A Everyday into that area.

4 Q Where are some of those customers located? And if
5 you can, as you're doing this, give us the destination point,
6 the frequency or number of shipments you may make to them on
7 an annual basis, and total weight.

8 A Okay. Somerset, which is right there on the dividing
9 line, of course, and I'm not sure which of our customers are
10 on one side of 219 or some -- or the other side, but we have a
11 great deal of customers in Somerset, Pennsylvania, and being
12 that that, I think, is the capital, there is also -- that job
13 rates a lot more printing in that area because everyone --
14 being the local government being there.

15 JUDGE PORTERFIELD: County seat?

16 THE WITNESS: County seat. Bedford, Pennsylvania, we
17 have a number of --

18 BY MR. LAVELLE:

19 Q Excuse me. Before you go on to Bedford, can you tell
20 us how many shipments you make in the course of a week to
21 those Somerset customers?

22 A I would say -- I would venture to say maybe one or
23 two a day into that area.

24 Q Can you estimate or give us the total volume that
25 would go into that Somerset County area in a year's time?

1 A Maybe somewhere around 75,000 pounds a year.
2 Somewhere in there.

3 Q Now, I interrupted you. The next point you had
4 mentioned was Bedford.

5 A I'm not sure, a place like Confluence. Would that be
6 in Somerset? I think that's alongside.

7 VOICE FROM THE FLOOR: I think it's Fayette.

8 THE WITNESS: That's Fayette. Okay. Going to Bedford,
9 there's a printer's plus an industry in Bedford which we
10 service, and I would say -- let's see. I would say there's
11 probably a shipment a day into the Bedford area for the
12 printer's and also some industry over there, where those would
13 be maybe once a week or once every other week. Something like
14 that. I would say probably Bedford would be a little heavier
15 in the weight. I would say maybe 150,000 pounds a year.
16 Something like that.

17 BY MR. LAVELLE:

18 Q To all of those customers?

19 A To all of the customer base in Bedford, yeah.
20 Cambria County, we have a number of people in Ebensburg, and
21 that happens to be the county seat, and they generate a lot of
22 business up there. And I would say Ebensburg probably might
23 be maybe 250,000 pounds over a period of a year, and almost
24 daily we have a shipment going to the Ebensburg area. Blair
25 County. Is that where Altoona is in, Blair County? Am I

1 right?

2 Q Yeah.

3 A Altoona happens to be a very good place. They get a
4 lot of work. It runs down out of the Penn State area, who
5 generates an awful lot of printing and other things. I would
6 say daily we might have two shipments or three shipments into
7 Altoona area, and I would say over a period of a year we're
8 talking maybe a half million pounds of paper.

9 Huntingdon, we have a couple customers there, but
10 they're not very big buyers. They jump -- they buy in
11 truckload quantity, which we're not selling right now so,
12 therefore, they would be maybe once or twice a week, and the
13 amount of freight would be probably no more than 25,000 pounds
14 in a year. We have -- that's -- let's see. And then the last
15 one is Clearfield County. We have a couple customers in
16 Clearfield County, and I would say that out of our warehouse
17 maybe we might have 200,000 pounds a year and about maybe once
18 every other day, or something like that.

19 Q Are those the major customers that you have in those
20 counties?

21 A That's what I'm recalling, without having something
22 in front of me to do it, you know, go through it.

23 Q On the shipments that you make to these customers,
24 what service do you need from the motor carrier that might
25 serve you?

1 A Overnight service.

2 Q Why is that?

3 A Because the customers today, they don't have any
4 inventory and the people have been selling overnight service
5 out of the Pittsburgh area and that's what we need, and that's
6 the reason why we work with the carriers who are willing to do
7 this for us.

8 Q Do you have any competitors in the same business as
9 Alling & Cory that operate in the same general territory that
10 you compete with?

11 A Yes. There's about five of them here in Pittsburgh,
12 plus we have a lot of people coming out of the east in
13 Harrisburg that competes in there also, and also up from
14 Hagerstown, Maryland who comes up into the area. So we have a
15 lot of competitors out there.

16 Q Is the overnight service a factor in whether or not
17 you're obtained or retain business with these customers?

18 A I think it is because if they -- if we couldn't give
19 them overnight service, they could always buy it somewhere
20 else who would give them overnight service.

21 Q You indicated earlier that you do have some inbound
22 traffic. Where would you receive inbound traffic? From
23 points in the application territory here in Pennsylvania into
24 your warehouse I'm speaking of now.

25 A We wouldn't have -- we wouldn't have anything coming

1 in from this area here into our warehouse unless they were
2 returned merchandise, okay, which delivery is not that
3 important. We do have -- the only other place would be in
4 Lock Haven, Pennsylvania, where we do have inbounds coming
5 into our area, and if we can use the carrier for stop-off, to
6 stop in the area and with final destination into Pittsburgh,
7 that can be worked out.

8 Q Well, you understand that Lock Haven is within the
9 area, but not in the six county area we're talking about? You
10 understand that?

11 A Okay. I understand that.

12 Q And Pitt-Ohio already has authority from this
13 Commission to operate from Lock Haven to bring in inbound to
14 your facilities?

15 A Within this application?

16 Q No, there's no application for service from Lock
17 Haven into this six county area, so that inbound would not
18 then be a factor in this application, is that right then,
19 since there's no stop-off?

20 A Since there's no stop-off.

21 Q All right. Do you have any situations in which you
22 are involved in the transportation of shipments to customers
23 where the shipment does not originate at your own Pittsburgh
24 warehouse?

25 A Right. In other words, from the manufacturers. We

1 have -- we have a facility we use in Erie for LTL shipments
2 which we would ship into this -- which we could ship into this
3 area or back from Lock Haven or York, or someplace like that.
4 We do have other places.

5 Q Who is the manufacturer, if you don't mind mentioning
6 it?

7 A Hammermill Paper is the main one. They're in Erie
8 and Lock Haven, Pennsylvania.

9 Q The same type of paper products involved?

10 A Same types of paper products.

11 Q And do you control --

12 MR. GRAF: I'd have to object to that. Isn't Hammermill
13 a separate company?

14 MR. LAVELLE: Oh, yes. I'm not saying they're the same
15 company.

16 MR. GRAF: Don't they have a traffic department?

17 MR. LAVELLE: Well, my next couple of questions are
18 going to make this relevant.

19 JUDGE PORTERFIELD: Let's see where he goes with it, Mr.
20 Graf.

21 BY MR. LAVELLE:

22 Q The shipments that you're now referring to from
23 Hammermill in Erie, what involvement does your company have
24 directly in that operation from the paper plant to the
25 customer?

1 the consignee on any of the shipments from Hammermill?

2 A The con -- they would ship -- sometimes they ship in
3 our name, Hammermill Paper does, direct to the -- our
4 customer, which would be the consignee.

5 Q And who pays the carrier?

6 A We pay a number of those through our bank payment
7 plan. If we're the consignor, then it goes to our bank
8 payment plan. We pay that. Hammermill allows us a freight
9 allowance on the face of the invoice, which happens to be the
10 current contract rate which they give us.

11 Q Wait a minute. Is this going into your warehouse?

12 I'm not talking about anything going into your warehouse.

13 From Hammermill to your warehouse, who pays the freight?

14 A We do.

15 Q You do?

16 A We do.

17 Q All right. Now, forgetting your warehouse, on what
18 circumstance, if any, are you named as the consignor going to
19 your customers?

20 A If they want the freight bill to come down here for
21 us to pay the freight bill, then they ship it as our company
22 from Erie, Pennsylvania.

23 Q And what percentage of the time does that happen?

24 A In Hammermill, I would say probably -- maybe very
25 small. And you say percentage. I'm trying to think. Maybe

1 15, 20 percent of the time.

2 Q All right. Now, who calls the carrier?

3 A Hammermill does.

4 Q All right.

5 A But we put on our order which carrier we want to use.

6 Q All right. And where they're paying the freight,
7 they have a right to change it, don't they?

8 A They're not paying the freight. They're just giving
9 us the freight allowance on the face of the invoice. We're
10 paying it, whether it be on the invoice or the freight bill
11 comes down here.

12 Q All right. Do you have any documentation whether any
13 of these shipments went into the area of this application with
14 you today?

15 A No, I don't.

16 Q Do you have any documentation of whether any of it
17 originated in Erie or Lock Haven?

18 A With me today?

19 Q Yes.

20 A No.

21 MR. GRAF: I'd have to object to that. There's no way I
22 can test the validity of this. After all, it's a different
23 company. It's two different origins. He's based in
24 Pittsburgh.

25 MR. LAVELLE: Well, can I respond to this?

1 MR. GRAF: I think that's going a little too far.
2 Hammermill can come in and tell us all about it. He doesn't
3 have anything I can check it with.

4 MR. LAVELLE: That's not true.

5 JUDGE PORTERFIELD: Just a second, Mr. Lavelle. As I
6 understand it, he's designating the carrier on some of this
7 transportation.

8 MR. GRAF: But he doesn't have any documentation as to
9 which he's designating going into this area, if any. How can
10 I check it? It's an entirely different company.

11 JUDGE PORTERFIELD: That just goes to the weight, not to
12 the admissibility of the thing. I mean, if he says he does
13 it, it would certainly be more persuasive if he had a stack of
14 invoices here showing where he's selected the carrier.

15 MR. GRAF: Yes, and into this area.

16 JUDGE PORTERFIELD: That's --

17 THE WITNESS: I could show --

18 JUDGE PORTERFIELD: Go ahead, Mr. Lavelle. What were
19 you going to say?

20 MR. LAVELLE: I was going to say that the questioning
21 here, both what I started with and what Mr. Graf has developed
22 here, shows that the company does, in fact, designate the
23 carrier. Hammermill Paper Company follows its instructions.
24 And if a Hammermill witness were on the stand in this case,
25 Mr. Graf would then be asking them do you, in fact, control

1 the traffic, and if the witness said no, I take instructions
2 from Alling & Cory on that, then Mr. Graf at that point would
3 be objecting that the Hammermill witness wouldn't be the
4 proper witness.

5 MR. GRAF: That's hypothetical.

6 MR. LAVELLE: It happens in every case we're in.

7 JUDGE PORTERFIELD: Okay. As I say, my ruling is that
8 we have the witness' statement that he, in fact, selects the
9 traffic -- selects the carrier on product moving out of
10 Hammermill in Erie. And I don't know if we have developed the
11 representative destination area yet or not, but I think, Mr.
12 Graf, I'll repeat myself, your objection goes rather to the
13 weight of the evidence. It is testimony without documentary
14 evidence to support it, but nevertheless, it's evidence. Go
15 ahead, Mr. Lavelle.

16 MR. GRAF: All right.

17 FURTHER DIRECT EXAMINATION

18 BY MR. LAVELLE:

19 Q So you indicated your relationship of this company to
20 your operation. Do you have customers in this central part of
21 the state? And at this point we're now confined to the six
22 counties we're talking about, the territory between 219 and
23 U.S. 15. Do you have customers in that territory from which
24 Hammermill -- shipments are made from the Hammermill Erie
25 plant at your direction?

1 A Yes.

2 Q Where are they? And if you don't mind, give us the
3 same information you did before. In other words, the
4 destination, the frequency of your shipments and the volume.

5 A Well, Clearfield -- in Clearfield County, Clearfield,
6 Pennsylvania is the big place up there. We have a number of
7 shipments that go out of Erie into there. Again, into
8 Altoona. We have -- in Blair County we have a number of
9 printers in there which we have LTL. As I said before,
10 Huntingdon isn't a big county with us.

11 Q Are you able to, with respect to Altoona, to put a
12 number with that? How often do shipments go into that area?
13 What's the weight?

14 A I would say the weight could go anywhere -- it could
15 vary. Probably from 500 pounds up to 5,000 pounds.

16 Q I'm sorry. I didn't make myself clear. I meant
17 collective weight. On an annual basis, how much weight is
18 going into Altoona or Clearfield?

19 A Directly out of Erie?

20 Q Yes.

21 A I would say maybe 20,000 pounds in a year's time.
22 Clearfield would be probably maybe a little less, 15,000
23 pounds.

24 Q Okay. And you were --

25 A Bedford --

1 MR. GRAF: He mentioned Huntingdon also.

2 THE WITNESS: Huntingdon isn't a very big county with
3 us, our customer base. It's a weak county. Bedford would be
4 maybe 10,000 pounds or something in a year on LTL shipments.

5 BY MR. LAVELLE:

6 Q Those destinations are within that six county area
7 again?

8 A Right.

9 Q Do you not have customers -- let me ask you, do you
10 have any customers in the remainder of that territory, in the
11 central part of the state?

12 A Ebensburg, maybe -- that's a good area. Maybe we
13 have about 10,000 pounds a year into Ebensburg. And Somerset,
14 I would say maybe 10,000 pounds also with those.

15 Q Again, those are within that six county area?

16 A Right.

17 Q You don't have customers outside that area in the
18 central part of the state?

19 A Well, we have a Camp Hill -- we have a division in
20 Camp Hill.

21 Q Okay.

22 A And they butt right up against us, and these
23 counties, including Centre County in the north and Juniata and
24 Cumberland, is all serviced by our Camp Hill operation.

25 Q Okay. All right. I understand that. You mentioned

1 before that you have a private carriage fleet. Does it
2 operate other than to and from your warehouse?

3 A No. Just out and makes deliveries and back. That's
4 our own local fleet.

5 Q All right. It doesn't get involved in the Hammermill
6 shipments to the customers?

7 A No. Our corporation has a fleet which does go to
8 Hammermill and picks up.

9 Q Okay.

10 A Okay. And they'll come into Pittsburgh and back out
11 again in a day's operation.

12 Q To what extent does your private fleet serve these
13 customers that you've previously mentioned in the six
14 counties?

15 A The six counties, we do not make any deliveries in
16 that area.

17 Q How does that freight get moved?

18 A It moves by the local -- the local carriers who we
19 have commodity rates with.

20 Q And who are they?

21 A Pitt-Ohio and PJAX.

22 Q And you say they move under a commodity rate?

23 A Yes.

24 Q Is that -- what's the significance of that? You've
25 mentioned that. Why did you bring that up?

1 A Well, it's money saving to our company. In order --
2 since we have a commodity rate, we're certainly going to save
3 money, and that's the name of the game, is proper for our
4 company.

5 Q Is that for your company, a specific rate for your
6 company in the tariffs?

7 A Yes.

8 Q There's no further discounting off that, is there?

9 A No.

10 Q If you know?

11 A No.

12 Q How have you -- excuse me. Let me back up a minute.
13 Have you used Pitt-Ohio, other than on the traffic to these
14 customers in these six counties?

15 A Everyday.

16 Q To what areas? Just generally. You don't have to
17 name the specific points, but just by region of the state.

18 A Okay. Our trucks deliver out maybe like 40 miles, 45
19 miles, and anything outside the zone, or when we're not going
20 there the next day, then we use Pitt-Ohio.

21 Q Do they serve within that 40 mile area at all?

22 A No. Usually -- well, they will serve within the 40
23 mile area. We've used them very close to us, and they get it
24 there the next day.

25 Q Why do you call them for that local service?

1 A Because we may go to, let's say, pick out a point
2 like Washington. We may go there on Mondays and Thursday. If
3 somebody wants something on Wednesday and they're calling in
4 on Monday or Tuesday, then we give it to Pitt-Ohio and they'll
5 deliver it the next day for us.

6 Q Do you sell your products out of the Pittsburgh area
7 into the surrounding states?

8 A Yes. Our territory goes into West Virginia and Ohio
9 and Maryland, and over as far as Washington, D.C.

10 Q Do you have any occasion ever to use Pitt-Ohio on
11 that traffic?

12 A All the time.

13 Q How often do you think their trucks are into your
14 place of business in Pittsburgh making pickups or deliveries?

15 A Everyday they're there. They're scheduled to come
16 into our place everyday and they pickup late shipments, where
17 they can get in there and get that overnight delivery to our
18 customers.

19 Q Have you ever had any experience with Ward Trucking
20 Company? Do you know that name?

21 A Yes, very familiar. I had a salesman come in and
22 talk to me about it, and I talked to him about the commodity
23 rate I had with the two local carriers, and that was the end
24 of it.

25 Q When was that discussion?

1 A Probably two years ago.

2 Q And they didn't get back to you with anything?

3 A Never got back to me.

4 Q Do you recognize the name Evans Delivery Company?

5 A Oh, about a year or two year ago I had a
6 representative coming in talking about full truckload
7 shipments. I told them we didn't make full truckload
8 shipments out of our facility, and never heard from them
9 again.

10 Q How about W.C. McQuaide?

11 A We used to do some work with McQuaide years ago, and
12 about when we were trying to get the commodity rates through
13 with the local carriers, I talked with Mr. McQuaide and he
14 said he wasn't interested.

15 Q If the Commission were to grant this application,
16 would you use Pitt-Ohio's service from your warehouse into the
17 six county area?

18 A We sure would.

19 Q And vice versa, to the extent there was any such
20 traffic?

21 A Coming back, yes.

22 Q On the Hammermill traffic that comes from their plant
23 into those same customers, would they be designated as the
24 carrier on that freight?

25 A They sure would.

1 MR. LAVELLE: Thank you, sir. I have nothing else.

2 CROSS EXAMINATION

3 BY MR. GRAF:

4 Q Sir, I understood you that out of Pittsburgh you were
5 using the two carriers on a commodity rate?

6 A Right.

7 Q And are you using both of them pretty much on an
8 equal basis?

9 A I think that PJAX is a little higher in our revenue
10 than what Pitt-Ohio is.

11 Q Who are you using on these shipments you designate
12 from Hammermill in Erie going into Clearfield?

13 A We asked -- we asked them to ship -- I asked
14 Hammermill, and I have a letter to -- that I could show you, I
15 don't have it with me, to use Pitt-Ohio on all shipments.

16 Q On all shipments?

17 A On all shipments, right.

18 Q Do you know whether they are, in fact, following your
19 instruction?

20 A Hammermill?

21 Q Yes.

22 A Some days they don't follow my instructions and they
23 get a nasty phone call.

24 Q Well, you've designated them. Do you know whether
25 they're actually being used to Clearfield, Altoona,

1 Huntingdon, Bedford, Ebensburg and Somerset?

2 A We check every invoice that comes in from Hammermill
3 Paper as to who the carrier was.

4 Q Do you know if Pitt-Ohio has, in fact, served from
5 Erie to all of those points?

6 A They have been used, and other carriers have been
7 used also.

8 Q Who have you used, other than Pitt-Ohio?

9 A Hammermill has used their own fleet on some of them,
10 and we've used PJAX.

11 Q Anybody else?

12 A Lyons.

13 Q Anyone else?

14 A Not to my knowledge. Those are the ones that --

15 Q And these were ones that you have routed all
16 Pitt-Ohio and Hammermill changed them?

17 A Right.

18 Q Do you know, volume-wise, what revenues you paid to
19 Pitt-Ohio out of Pittsburgh to the area you're talking about?

20 A We don't -- we've never broken it down that way.

21 Q All right. The same would be true out of Erie?

22 A We never break it down that way.

23 Q And you're aware that from Lock Haven in Clinton
24 County, these destinations of Clearfield, Altoona, Huntingdon,
25 Bedford, Ebensburg and Somerset would not be involved in this

1 application?

2 A That's right.

3 Q You're aware of that?

4 A I'm aware of that.

5 Q Now, as I understood, both McQuaide and Ward
6 indicated to you that they were not interested in publishing
7 commodity rates, is that correct?

8 A Well, Ward, Ward never came back, and I talked to Mr.
9 McQuaide and he said he was not interested in the commodity
10 rate.

11 Q All right. And they both have the authority to serve
12 all the points you've talked about?

13 A Yes.

14 Q And Evans has the authority out of Erie to serve all
15 the points you've talked about?

16 A I -- I'm not sure of that, but I think that's right.

17 Q But he solicited you and you only mentioned pool
18 distribution, is that correct?

19 A Truckloads, truckloads.

20 Q Truckloads?

21 A Yeah.

22 Q And you wanted LTL service?

23 A I told him we had no truckloads --

24 Q Oh, okay.

25 A -- is what I told him.

1 MR. GRAF: Thank you. That's all I have.

2 JUDGE PORTERFIELD: Redirect, Mr. Lavelle?

3 MR. LAVELLE: No redirect, Your Honor.

4 JUDGE PORTERFIELD: Let's take another witness. I'd
5 like to pace ourselves so we stay in good humor today, but I
6 think we have time for another one right now. Do you have any
7 preparation, or are you ready to go?

8 MR. LAVELLE: I'd like to have about two minutes.

9 JUDGE PORTERFIELD: Okay. Let's take about five and a
10 half, then.

11 (A brief recess was taken.)

12 JUDGE PORTERFIELD: Would you raise your right hand,
13 please?

14 ROBERT McAFEE, having been duly sworn, was examined
15 and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. LAVELLE:

18 Q What is your name, sir?

19 A Robert McAfee.

20 Q How do you spell you last name?

21 A M-c, capital A, f-e-e.

22 Q Would you give us your business address?

23 A 149 Delta Drive, Pittsburgh, PA, 15238.

24 Q And by whom are you employed?

25 A J.A. Williams Company.

1 Q What position do you hold with that company?

2 A Operations manager.

3 Q As the operations manager, do you get involved in
4 transportation matters for the company?

5 A Probably 100 percent of my responsibility is to be
6 involved in it.

7 Q Does that involve the selection of carriers to be
8 used by the company?

9 A Yes, sir.

10 Q How long have you been with J.A. Williams?

11 A Twenty years.

12 Q And in your present position?

13 A Going on a year now.

14 Q What is the business of J.A. Williams?

15 A J.A. Williams is an exclusive wholesale distributor
16 of consumer goods, such as electronics, consumer electronics,
17 televisions, VCR's; hard goods such as refrigerators, air
18 conditioners, freezers; what we call laundry, washers, dryers.
19 We're also in the parts distribution business for electronics
20 and certain lines of white goods.

21 Q Do you have at this address, at Delta Drive, any type
22 of facility that would be involved in this application case?

23 A We have a sales office and a smaller warehouse for
24 warehousing our parts operation, plus some small inventories
25 of some of the products that I described.

1 Q Who are the customers to whom you sell these items?

2 A We sell to -- we have a sales force that goes out and
3 calls on dealers, ranking anywhere in size from small mom and
4 pop type operations to larger chain accounts.

5 Q Are some of those accounts located in the State of
6 Pennsylvania?

7 A Most certainly. Most of them.

8 Q Most of them. Do you do any work or sell any of your
9 merchandise to points in other states, such as Ohio, West
10 Virginia?

11 A Yes. We cover the whole State of West Virginia with
12 a couple of our lines. We also have several counties in
13 Eastern Ohio, as well as Pennsylvania.

14 Q Do you have occasion to make shipments from your
15 Pittsburgh area facilities into that part of Central
16 Pennsylvania in Clearfield, Blair, Huntingdon, Bedford,
17 Cambria and Somerset Counties?

18 A Yes.

19 Q There's a map there that I think you can see the
20 portion I'm talking about.

21 A We have dealers in virtually every county in the
22 State of Pennsylvania.

23 Q All right. Do you make -- maybe you better give us
24 first an explanation, a little bit of background of how your
25 company operates, the day-to-day operations of the company and

1 how it functions.

2 A In reference to what?

3 Q Insofar as merchandise moving into your local
4 facilities and out to the customers, or vice versa.

5 A Well, it's the -- the parts is a daily shipment type
6 of thing. We ship parts to our retailers who, for whatever,
7 have to repair the products that we're selling. That's a
8 daily thing. The commodity itself coming out of Pittsburgh is
9 normally a redistribution of product that had been previously
10 consigned to someone, but may have been refused either because
11 it was a duplicate shipment or it was the wrong item that was
12 shipped, or some cases maybe it was thought to be damaged. We
13 bring it into our facility and check it, check the contents of
14 the carton and finding that it was not, in fact, we would
15 resell it to other dealers.

16 Q Some of those dealers are located within these six
17 counties?

18 A That's correct.

19 Q The other side of that from what you just said, a
20 dealer might be given a double order or he thinks there's
21 something wrong with it and it's recalled by you back to the
22 Pittsburgh warehouse?

23 A That is correct.

24 Q Does that ever occur in connection with your
25 dealerships in the six counties?

1 A Oh, yes. It could occur with any of our dealers in
2 any county in Pennsylvania.

3 Q So am I correct that there's a two-way movement here?

4 A Yes, sir.

5 Q Now, within that six county area, can you indicate
6 for us some of the locations of your dealers, or is it an
7 extensive list, or relatively small?

8 A Yes, it is. We have approximately 300 dealers
9 throughout the states of Pennsylvania and West Virginia and
10 Eastern Ohio. You know, if you'd like me to submit a list of
11 those dealers in those counties, I can do that for you.

12 JUDGE PORTERFIELD: Why don't you just give us an idea
13 of the dealers in the county seats of those counties and
14 general testimony of the surrounding area.

15 BY MR. LAVELLE:

16 Q For example, in Bedford County, do you have dealers
17 in there?

18 A Yes, we do.

19 Q More than one?

20 A I believe we do, yes, sir.

21 Q Do you have any idea -- can you tell us the frequency
22 with which you may make shipments from Pittsburgh to that
23 dealer, or dealers?

24 A That's hard to nail down because of the nature of the
25 activity of the shipments that we're talking about. You know,

1 if that dealer has to have inventory redistributed, I mean,
2 that's not a thing you can put a handle on. It's the type of
3 situation where when that arises, you've got to handle it
4 effectively and quickly and get that inventory out of his
5 inventory and redistribute it.

6 Q Okay. That's on the inbound phase of it, then?

7 A Right. As far as the parts going into those areas,
8 you know, things break down daily. I don't know how to tell
9 you, you know, what the frequency of it would be. We make
10 shipments into those areas everyday.

11 Q Maybe that's -- you have shipments from Pittsburgh
12 into these counties on a daily basis?

13 A Right.

14 Q Do you have shipments going the other direction on a
15 daily basis, or less frequently?

16 A I would say coming back would be less frequent.

17 JUDGE PORTERFIELD: I'm confused Mr. McAfee.

18 MR. GRAF: So am I.

19 JUDGE PORTERFIELD: Maybe you'll clear this up as you go
20 along, Mr. Lavelle. I don't understand. Your salesmen go
21 into these dealers and sell product. I don't understand the
22 origin of the product. Are we talking exclusively parts or
23 are we talking transporting VCR's?

24 THE WITNESS: We have basically two operations.

25 JUDGE PORTERFIELD: Go ahead, Mr. Lavelle.

1 BY MR. LAVELLE:

2 Q You mentioned parts shipments. Do you have an
3 inventory of parts for these appliances and other types of
4 equipment in Pittsburgh?

5 A Yes.

6 Q Do you supply those parts to your dealers as they
7 require it?

8 A Yes.

9 Q Those shipments are made to some of these dealers on
10 a daily basis?

11 A That's correct.

12 Q All right. Now, the appliances, the major item
13 itself, the VCR, the television set and so forth, do the
14 dealers receive those articles from you in Pittsburgh?
15 Initially does it come from your warehouse area?

16 A No.

17 Q Where would it normally come from?

18 A It comes from our warehouse in Baltimore. Those
19 items are shipped up from Baltimore, and it's on those
20 occasions when a shipment is refused or we have to reconsign
21 merchandise after it's been shipped from Baltimore, that we
22 use the carrier to pick it up from that dealer and either
23 bring it back to our warehouse in Pittsburgh or take it to
24 another dealer who we've resold it to.

25 MR. GRAF: Is there any way that we can locate these

1 dealers in these counties and give us some idea of how
2 frequently this occurs so we could tie it down?

3 JUDGE PORTERFIELD: We covered Bedford.

4 MR. LAVELLE: I'm trying to do that.

5 JUDGE PORTERFIELD: Go ahead.

6 MR. LAVELLE: I was going to follow this line up a
7 little bit with an example, if we might, just to clear it up.

8 MR. GRAF: All right.

9 BY MR. LAVELLE:

10 Q You've indicated, I think, Bedford you have some
11 dealers. The dealer there, let's say, deals in television
12 sets.

13 A Um-hum.

14 Q Places an order for a certain number of television
15 sets through your company. That initial shipment would
16 normally come from the Baltimore warehouse?

17 A That is correct.

18 Q All right. Now, let's say it gets there to the
19 dealership in Bedford and everything is fine. Would it be
20 accurate that that merchandise is then just displayed and sold
21 out of that dealer's inventory to retail customers as they
22 come in?

23 A Yes, sir.

24 Q And you actually don't get involved in that, as far
25 as a transportation matter in any way, do you?

1 A That is correct.

2 Q Let's assume there were ten television sets sent in
3 there, and for some reason three of them amounted to ones that
4 he thought were damaged or overstocked or wrong merchandise,
5 or what have you.

6 A Right.

7 Q Would those three television sets come back to your
8 Pittsburgh facilities in any event?

9 A They would either come back to our Pittsburgh
10 facility, or we -- or if it was a matter of being overstocked
11 and they weren't damaged, or whatever reason he refused them,
12 we would locate another dealer to purchase them. We would
13 have the carrier pick them up at that dealer and then
14 reassign them to another dealer.

15 Q Okay. Let's stick with what we've covered up to this
16 point, though. If it was damaged or if you had another dealer
17 who needed that particular merchandise, you would have the
18 shipment moved from Bedford back to your Pittsburgh warehouse?

19 A That is right.

20 Q Then if the merchandise were not totally damaged or
21 was just an overstocked situation and you developed another --
22 found another dealer in one of these counties, let's say in
23 Huntingdon County, who had a need for it, would that then
24 constitute a shipment outbound of that merchandise on a
25 reconsigned basis, or whatever term you want to apply to it?

1 A Yes, it would.

2 Q Would both legs of that, from Bedford to Pittsburgh
3 and Pittsburgh to Huntingdon, involve a regulated motor
4 carrier?

5 A Yes, sir.

6 Q The other part was if it was an overstocked
7 situation, you might have another dealer who would be in need
8 of that merchandise?

9 A Right.

10 Q Where might those dealers be located?

11 A There again, they could be located anywhere within
12 the State of Pennsylvania, or any of the other territories
13 that are covered by our -- those lines. I mean, we are given
14 those boundaries by those factories. Obviously, it would be
15 to our advantage to find another dealer as close to that
16 particular dealer as possible to defray or minimize the amount
17 of freight to redeliver it.

18 Q Now, who pays for the freight when you have a
19 reconsignment from one dealer to another?

20 A We do. J.A. Williams does.

21 Q In all cases you pay it?

22 A Yes, sir.

23 Q And you select the carrier that's going to transport
24 that traffic?

25 A Yes, sir.

1 Q Do you have dealers located in Western Pennsylvania,
2 west of U.S. Highway 219?

3 A Yes, sir.

4 Q That's the western third of the state?

5 A Yes, sir.

6 Q You do?

7 A Yes, sir.

8 Q Would there be occasions when merchandise would be
9 reconsigned? Have you ever had a case where it's reconsigned
10 from a point in the western third of the state to a point in
11 that entire central third of the state?

12 A It's very possible.

13 Q Do you have dealers throughout that territory?

14 A Yes, sir, we do.

15 Q Would there be reconsignments of freight from the
16 central third of the state back into any point in the western
17 third?

18 A Yes, sir.

19 Q I'm limiting it to those areas because that's
20 involved in this application. Now, are you able to tell us
21 where, in the central third of the state, you have
22 dealerships? The Judge suggested it earlier that you might do
23 it by reference on county seats or major cities.

24 A In every one of those counties we have dealers.

25 Q Is that also true with the western third of the

1 state?

2 A Yes, sir.

3 Q What service characteristics do you look for from a
4 motor carrier that is engaged to handle this traffic?

5 A We look for a timely delivery or pickup. It's very
6 important because now if a dealer has overstock, in most cases
7 that inventory is financed by a finance company and it
8 behooves him to get it out of his inventory and us issue him a
9 credit as soon as possible. So you need very timely pickup of
10 that merchandise because it could be tying up his credit
11 lines.

12 We need sometimes same day service, sometimes next day,
13 either picking up or delivering. We need -- we also need --
14 because in most cases when you reconsign merchandise, you've
15 got to make it lucrative to the person that you're going to
16 resell it to, and that normally means what we call taking a
17 hit on it, reducing the cost to find a home for it very
18 quickly.

19 So anywhere you can save on any component of the
20 pricing, which freight becomes a very important part, is to
21 your advantage. So consequently, you need to have competitive
22 rates that enable you to reduce the cost of that product on
23 your bottom line.

24 Q Have you ever used Pitt-Ohio Express on any of your
25 traffic before?

1 A Oh, yes.

2 Q Do you use them on an interstate basis?

3 A Yes, we do.

4 Q Within Pennsylvania on an intrastate basis where they
5 now have authority?

6 A Yes.

7 Q For example, locally in the Western Pennsylvania
8 area, do you use them there?

9 A Yes, sir.

10 Q How far east do you use their services out of
11 Pittsburgh?

12 A We use them as far east as they're able to carry on
13 the commodity, as far as they've got rights to carry.

14 Q Do you go into the eastern third of -- Philadelphia,
15 do you have dealerships?

16 A I believe the furthestest western county we have with
17 our particular lines is Berks County, is in the lower eastern
18 part, and it kind of goes up along Lehigh and then goes up and
19 picks up the entire northern part of the state. That
20 particular area right around Philadelphia is a market onto its
21 own.

22 MR. GRAF: I'm sorry. Is a --

23 THE WITNESS: It's a market onto its own, and most
24 manufacturers, when they draw distribution lines of geography,
25 will carve that out as a market by itself.

1 BY MR. LAVELLE:

2 Q How frequently does --

3 A We have one or two lines that do go in there, but not
4 the majority of them.

5 Q How frequently does Pitt-Ohio provide service to your
6 company today?

7 A Daily.

8 Q Would there be any possibility, if this application
9 were granted, that traffic they are now handling under
10 interstate or intrastate authority, could be matched up so
11 that additional freight would be put on the same vehicle if
12 this new territory were authorized?

13 A I would say so, yes, sir.

14 Q How many doors do you have at your warehouse here for
15 loading trucks?

16 A Pittsburgh?

17 Q Yes.

18 A Three.

19 Q Are you using any carriers, other than Pitt-Ohio, for
20 this traffic in this tri-state area?

21 A No.

22 Q They're your sole carrier?

23 A With the exception of maybe some parts that we ship
24 to maybe parts of Ohio or West Virginia that they don't carry.
25 I'm not sure. That's routed by the people in our service

1 department.

2 Q What is the range and weight of the shipments that
3 you have been talking about?

4 A You mean primarily the activity that goes on in the
5 types of cases we've been talking about?

6 Q Right. In the western and central third of the
7 state, right.

8 A You could be talking about anything -- anything
9 that's -- that -- I would say 150 to 200 pounds up to -- you
10 know. The other end of that is open because it would depend
11 on how much merchandise you're redistributing from a
12 particular dealer.

13 Q Would most of the shipments be 5,000 and less, 5,000
14 pounds and less?

15 A I would say yes, yes.

16 Q Is that a fair statement?

17 A Yes.

18 Q Have you ever had any experience with W.C. McQuaide?

19 A Not under my present position, but I am familiar with
20 the McQuaide Trucking Company, yes. I've not had any direct
21 contact with them.

22 Q To your knowledge, has that company solicited
23 business from you?

24 A Recently?

25 Q Well, what do you call recently? Anytime?

1 A Oh, I'm sure they have. I'm sure that they may have
2 prior to my taking the position that -- I mean, they were used
3 on occasion.

4 Q Would anyone soliciting your company's business talk
5 to you?

6 A Yes, sir.

7 Q And has McQuaide approached you during the last four
8 years when you held this position?

9 MR. GRAF: I thought he only had that position one year.

10 MR. LAVELLE: I'm sorry. One year, then. I'm sorry.

11 THE WITNESS: They have not approached me, no.

12 BY MR. LAVELLE:

13 Q Have you dealt with Ward Trucking Company?

14 A No, sir.

15 Q Never?

16 A No, sir.

17 Q To your knowledge?

18 A To my knowledge, no, sir.

19 Q They haven't solicited your freight, to your
20 knowledge, in the one year you've held this position?

21 A That is correct.

22 Q What about Evans Delivery Company? Have you dealt
23 with them?

24 A I've never heard of them.

25 MR. LAVELLE: I have no further questions of the

1 witness, Your Honor.

2 CROSS EXAMINATION

3 BY MR. GRAF:

4 Q Sir, concerning your dealers in the counties that
5 we're talking about, let's say Bedford, for example, as you
6 are here today, can you tell us where your dealers in Bedford
7 County are?

8 A Where?

9 Q Yes.

10 A They're throughout the county. They're scattered
11 throughout the county. I can't give you specific --

12 Q Well, how many do you have? Do you know how many you
13 have in Bedford County?

14 A No, sir, I can't tell. I could supply that
15 information, if you wish me to do so.

16 JUDGE PORTERFIELD: Can you give him an estimate? Would
17 it be more than two dozen or less than two dozen?

18 THE WITNESS: I would say less than two dozen. I don't
19 think Bedford County has --

20 JUDGE PORTERFIELD: More than a dozen?

21 THE WITNESS: I would say somewhere -- I'm just
22 guessing. Somewhere between two and six possibly, depending
23 on the population of that county. The more population you
24 have, the more number of dealers you have to support.

25 BY MR. GRAF:

1 Q You don't know where they are, but they're that
2 number? Is that a fair statement?

3 A I would say that's a fair statement.

4 Q Can you tell me, with any of the counties that we're
5 talking about, other than Bedford which we've covered, like
6 Blair, Cambria, Clearfield, Huntingdon, Somerset, where your
7 dealers actually are located?

8 A Specific towns?

9 Q Yes.

10 A No, sir.

11 Q And can you tell us with certainty how many dealers
12 are in those counties?

13 A Today?

14 Q Today, as you're sitting here on the stand.

15 A No, I can't.

16 Q And can you tell us today, as you're sitting on the
17 stand, how many of those dealers, if any, have received parts
18 from your Pittsburgh warehouse?

19 A No, I can't.

20 Q Can you tell us with certainty as to how many of
21 those dealers, wherever they are, who have had a necessity of
22 sending merchandise they received from Baltimore back to you
23 because of, let's say, damage?

24 A I could supply you with that information, but I
25 can't --

1 Q But you don't have it here today?

2 A No, I don't.

3 Q All right. Can you tell us today, as you're on the
4 stand, which of those dealers have had any item that you sell
5 as a finished product, reconsigned to you in Pittsburgh?

6 A If my memory serves me correctly, about 35 to 45 days
7 ago we had to pick up product from High Point Electric and
8 bring it back to Pittsburgh.

9 Q And who carried it back?

10 A Pitt-Ohio.

11 Q And where was it from?

12 A High Point Electric. That's the name of the dealer.

13 Q Yeah. But where is he located?

14 A I don't have the exact town. I know he's out here in
15 Central Pennsylvania.

16 Q Somewhere?

17 A Yes, sir.

18 Q All right. Now, can you tell me with particularity
19 any reconsignment from any dealer in these counties that we've
20 been talking about that went to another dealer in Western
21 Pennsylvania?

22 A I can't speak specifically. Had I known that you
23 would have wanted that information, I could have brought it.
24 I didn't know that that was going to be needed.

25 MR. GRAF: Thank you. That's all I have.

1 JUDGE PORTERFIELD: Mr. McAfee, do you have dealers in
2 Allegheny County?

3 THE WITNESS: Yes, sir.

4 JUDGE PORTERFIELD: Could you estimate the number of
5 dealers you have in Allegheny County?

6 THE WITNESS: We have about 60 to 75 dealers in
7 Allegheny County.

8 JUDGE PORTERFIELD: Mr. Lavelle?

9 MR. LAVELLE: No redirect, sir.

10 JUDGE PORTERFIELD: Thank you, Mr. McAfee.

11 (Brief pause.)

12 JUDGE PORTERFIELD: Do you have to do some prep with the
13 witness?

14 MR. LAVELLE: I'm afraid I need a couple minutes.

15 JUDGE PORTERFIELD: Okay.

16 (A brief recess was taken.)

17 DANIEL McKENNA, having been duly sworn, was examined
18 and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. LAVELLE:

21 Q What is your name, sir?

22 A Daniel McKenna, M-c-K-e-n-n-a.

23 Q What company are you representing?

24 A Cardell Sales.

25 Q What is the business address?

1 A 1200 Galveston Avenue, Pittsburgh, 15233.

2 Q What is the business of Cardell Sales?

3 A We are manufacturers' representatives in the
4 electrical industry. We store and sell for 14, 18 different
5 manufacturers wire, conduit, fixtures, fittings, baseboard
6 heat, this kind of thing.

7 Q Who do you count among your customers?

8 A In Western Pennsylvania and in West Virginia it is
9 all of the electrical distributors. In the rest of the
10 eastern part of the United States, it is all, what we call
11 home centers. There are 84 Lumbers, Carter Lumbers,
12 Grossman's, Moore's. All the home centers that sell you
13 lumber and products, this kind of thing.

14 Q Do you personally become involved in the selection of
15 carriers that handle your freight?

16 A I handle it a hundred percent. I negotiate all the
17 rates and I assign the carriers. I assign carriers to every
18 bill that goes out of the building.

19 Q Where are you facilities located? What type of
20 facilities do you have?

21 A We have two warehouses on the North Side. One is
22 owned by Cardell and it's at 1200 Galveston, and across the
23 street I lease 9,000 square feet from Williams & Company, and
24 that's not the same company that was represented here a little
25 bit ago, J.A. Williams.

1 Q Do you use the warehouses to store the full range of
2 commodities you referred to?

3 A Right. Conduit, wire, fixtures, any kind of
4 fittings.

5 Q Do you have occasion to make shipments from your
6 warehouses in Allegheny County here to the six counties in the
7 Central Pennsylvania area that the applicant is asking to
8 serve?

9 A Yes, we do. Now, I have to distinguish here. We
10 ship a lot of our products on our own trucks and we're on a
11 two week shipping schedule to all our customers, and the
12 balance, either what doesn't fit on our trucks or what has to
13 be shipped inbetween our shipping schedule, is done by common
14 carrier.

15 Q The two week schedule is what you do with --

16 A With our truck.

17 Q Explain what you mean by that.

18 A We will go, let's say, to State College or Altoona,
19 or something along this area. We will call the customers four
20 days before we are going up there with our truck and we will
21 solicit the business for those three days before and build the
22 orders. We're building a load, in other words. And then on
23 the assigned day, the truck will then go up and hit all of
24 those customers in that area. We won't come back to them for
25 two more weeks. We do all of West Virginia and all of Western

1 Pennsylvania that way, on a two week schedule.

2 Q When you do that two week schedule, are you using
3 your own trucks primarily?

4 A That is for our own trucks only.

5 Q Do you have occasion when your customers require
6 shipments of certain materials that don't coincide with that
7 two week schedule?

8 A Yes, more than I wish. And that means that I must
9 use common carrier, or if I can't get a common carrier, and
10 that happens every once in awhile, then I have to go out and
11 lease a piece of power equipment, hook into one of our
12 trailers and take somebody out of the warehouse that has a
13 Class 3 and send him up with the product, and that's a loser
14 for me.

15 Q What part of your total traffic out of your
16 warehouses into the Central Pennsylvania area is handled by
17 your private trucks?

18 A Probably in the neighborhood of 40 percent out of my
19 own property warehouse. The leased warehouse, which has the
20 conduit in it basically, it's probably about 20 percent goes
21 on common carrier. The rest goes on our truck. Did I
22 confuse --

23 Q Yes.

24 A I'm sorry. I mixed it up. On my truck, about 60
25 percent of all the shipments in Western Pennsylvania goes on

1 my truck. About 40 percent goes common carrier. I swapped it
2 around. I'm sorry.

3 Q Is that applicable to both warehouses?

4 A No. That is my warehouse. The warehouse across the
5 street, about 80 percent goes on my truck and 20 percent goes
6 common carrier.

7 Q The shipments that you make from these two
8 warehouses, are they roughly the same size, and what range of
9 weight might they be?

10 A No. They can vary. Out of my warehouse, most of
11 what's shipped is wire, and it will vary from a thousand
12 pounds to 15 to 20,000 pounds, depending on the order. In the
13 other warehouse the main commodity is conduit, which is pipe,
14 and most of it is steel, and if that's true, it can be
15 anywhere from 5,000 to 15,000 pounds, and it's ten foot long.

16 Q What kind of motor vehicle equipment, and I'm
17 speaking of trailers now, do you need for the type of material
18 that goes out of your own facility?

19 A My own facility, most everything will go in a van.

20 Q And how about out of the other warehouse?

21 A About 50/50 flatbed and van.

22 Q Now, getting back to this central area here in the
23 state, do you have customers or electrical distributors in
24 that area to which you make shipments?

25 A Yes, we do. In the Somerset area we've got two,

1 maybe three distributors that we ship every two weeks to on
2 our own truck, and probably four -- three or four times
3 inbetween on common carrier. The Miller Electric and D.W.
4 Jones -- or D.W. Rhodes are two of them up there. Total
5 weight, common carrier right now, would be maybe 5,000 pounds
6 every two weeks, so --

7 Q That's in Somerset County?

8 A Somerset, Bedford -- well, Somerset area. We have
9 one customer up in Bedford, and it's a dying customer so I
10 can't really tell you -- it's been, in the past, to the tune
11 of 5, 10,000 pounds every two weeks, but it's not that now and
12 I just can't tell you whether it's going up or going down.

13 Q What about Clearfield County? Do you have any
14 customers in there?

15 A We have some. N.R. Supply (phonetically) up in
16 Clearfield. We have a couple in DuBois. They're small
17 distributors. But again, they are a real pain for my truck.
18 All across 80 is a pain because they're so sparsely situated
19 and they don't order a great deal of product, so it costs me
20 an awful lot to deliver them on our truck. When I can ship
21 them common carrier, it's cheaper across the board to do it.
22 As far as pounds, we're talking 12, 15,000 pounds a month and
23 that's all.

24 Q Now, when you're giving a figure of 12 to 15,000
25 pounds a month, is that the volume that's available now for

1 regulated carriers to handle?

2 A That's correct.

3 Q Or is that the total?

4 A That's the total, but it would be -- in this case, if
5 Pitt-Ohio got this authority, I would gladly not deliver it on
6 my truck and make it common carrier because it's costing me
7 too much to do it on my own vehicles.

8 Q Would the traffic then going to Clearfield County, if
9 this application is approved, be switched from private
10 carriage to Pitt-Ohio?

11 A Yes.

12 Q And you would discontinue that two week schedule on
13 your own trucks?

14 A That's right. That's right, and that's an advantage
15 that the customer has, that I don't hold up the shipments.

16 Q What about Bedford County and Somerset County? Would
17 you discontinue your run into those two counties on your own
18 trucks and give it all to the carrier?

19 A If -- unless the product -- unless the sales
20 increased drastically, yes, because again, it's a dead area
21 for me.

22 Q And the volume figures you gave us were --

23 A Would be --

24 Q -- total that would be available for regulated
25 carrier?

1 A Yes, sir, those are totals.

2 Q How about into Cambria County, the part that's east
3 of 219? Do you have customers in that eastern --

4 A Where does Altoona come into?

5 Q That's Blair County.

6 A Okay. Okay. That's -- I got Phillipsburg up --
7 Phillipsburg Electric. That is a pain also across 80 there.
8 I don't know which county that comes into, Bill.

9 MR. GRAF: That's Centre County.

10 THE WITNESS: That's Centre also, okay. I don't know
11 how much more I have up in Clearfield. I've got Bird Electric
12 in Windber. That's farther down.

13 BY MR. LAVELLE:

14 Q What county is that, do you know?

15 MR. GRAF: Somerset.

16 BY MR. LAVELLE:

17 Q That's in addition to the Somerset figures you gave
18 us before?

19 A Yes. I didn't realize that was Somerset. Bird can
20 end up to be 40 to 60,000 pounds a month. The problem with
21 Bird is he will call up this morning and want it tomorrow
22 morning.

23 JUDGE PORTERFIELD: Or better, yesterday morning.

24 THE WITNESS: Well, that's the next problem I've got.
25 He'll want it today because it has to go to a job site

1 somewhere, and I've got a problem right now that way because I
2 can't get it there the same day unless I go rent a piece of
3 power equipment, and that's a killer.

4 BY MR. LAVELLE:

5 Q Would that -- is that the 40 to 60,000 pounds a
6 month --

7 A That's gross.

8 Q That's gross?

9 A Yes, sir.

10 Q Would that all be given to Pitt-Ohio in the future?

11 A Probably not all of it, but the great majority of it
12 because -- I hate to say this about any customer, but they
13 don't like to live within my constraints. Okay. They like to
14 dictate when and where they're going to get the product, and
15 that's one customer that does not fit well into my scheme of
16 things.

17 Q Now, you mentioned that this customer wants things on
18 a same day basis?

19 A And I have a problem that way now if --

20 Q How would -- I'm sorry.

21 A Let's say if he ordered -- and this has happened
22 recently. If he ordered 10,000 pounds of conduit and he said
23 I need it tomorrow, then I have no problem sending it out
24 common carrier. I call Pitt-Ohio and say I have to have it
25 there tomorrow or the next day, and it will be taken care of.

1 But there are times when somebody on a job site has made a
2 mistake, or whatever, and they'll say by 1:00 o'clock this
3 afternoon it must be on the job site because we got to unload
4 it and put it up this evening. I have a problem there because
5 I can't get it to Pitt-Ohio because they can't deliver it the
6 same day out of Pittsburgh, and that means either I give up
7 the order or I rent a piece of equipment.

8 Q All right. Now, how would the approval of this
9 application affect that situation for you?

10 A Pitt-Ohio has told me, we've already talked about it,
11 if this is approved, I can call them by 10:00 o'clock in the
12 morning and they will assign a piece of equipment and take it,
13 dead head it right straight up for me. Now, we've done this
14 in other areas where they have authority. Now, whether it's
15 Uniontown out of Pittsburgh, or wherever, where I've had a
16 problem, they've put it on the table and take it right up for
17 me. We can't do that out of Pittsburgh into these counties.

18 Q They've provided same day delivery in those
19 situations?

20 A Yes, sir.

21 Q You would apparently expect that to be done in this
22 new area as well?

23 A We've talked about it and I'm told there's not a
24 problem with it, so I would expect it.

25 Q Now, you mentioned that Blair County -- Altoona is a

1 point you mentioned there.

2 A Altoona. I have Hite Company in Altoona who, God
3 bless them, do not like my truck. They have a hang up, saying
4 that because they order so much material, they are paying for
5 the truck and everyone that I deliver on the way up and on the
6 way back, they are subsidizing their competitors, so they
7 require us to ship common carrier. In fact, they won't allow
8 our truck in their dock, so it has to be common carrier. In
9 that case of miscellaneous goods, we can ship anywhere from
10 10,000 to 35,000 pounds at a shot, and we can go up twice a
11 week sometimes. There's a great deal of freight that can go
12 into there.

13 Q Do you have any customers in the other County of
14 Huntingdon?

15 A Very little. Every once in awhile we got a job site
16 or something out there, but we have very little. Now, in all
17 of these counties there are Busy Beavers and some Carter
18 Lumbers, and those kind of things which once a month a
19 shipment will come through for them, a thousand pounds at a
20 time, and we ship them all. But I can't -- I just -- I can't
21 tell you how much for each one of the 84 Lumbers, or whatever.
22 I know Curwensville's got one and some other ones. I'm not
23 sure.

24 Q Those distributors are handled by private carriage or
25 regulated truck?

1 A Almost all of those are regulated.

2 Q You don't use your private carriage on those?

3 A No.

4 Q Now, what carrier is the regulated carrier that's
5 involved here with this freight?

6 A Pitt-Ohio is. It's just that it cannot be done in
7 the same day out of Pittsburgh into these counties. The rest
8 of Pennsylvania, all of West Virginia, Maryland and Jersey are
9 all Pitt-Ohio.

10 Q So you're using them to other points, both in and out
11 of the state?

12 A Oh, yes. Yes, sir.

13 Q Is your company in direct competition with others
14 selling the same type of materials to the same distributors
15 and --

16 A There are, I think, 10 or 12 manufacturers'
17 representatives in Pittsburgh in the electrical industry. We
18 compete with each and every one of them and they call on the
19 same electrical distributors as we do.

20 Q You've alluded to the fact that if a customer -- I
21 forget which one we were using. I think it was the Windber
22 example.

23 A Bird Electric.

24 Q If that customer calls and wants a delivery
25 immediately and you can't ship it right then --

1 A He calls the next one on the list.

2 Q They don't wait for you?

3 A No, sir. In most cases they can't. They've got a
4 contractor out there. They've got half a dozen people they're
5 paying scale to stand around waiting for something, and I can
6 understand that.

7 Q Does any of your deliveries, are they made to job
8 sites?

9 A Yes, sir.

10 Q As opposed to storage areas?

11 A Yes, sir. When it comes to common carrier, probably
12 10 percent in the State of Pennsylvania is sent to job sites
13 and/or utility companies like West Penn Power or Duquesne
14 Light, or whatever, which is very easily to put it in the same
15 category as a job site because it gets handled the same way.
16 It takes forever.

17 Q Are you familiar with the carriers that are opposing
18 this application? Let me take them in order. W.C. McQuaide,
19 have you had any experience with them?

20 A McQuaide is the house carrier for Westinghouse
21 Electric Company in Pittsburgh. This is the supply company,
22 WESCO, who is a customer of ours. They're an electrical
23 distributor. McQuaide is their house carrier, and in most
24 cases, when Westinghouse ships from branch to branch or
25 something, they would specify McQuaide. As long as they pay

1 the freight, I will go along with that.

2 When I pay the freight, I don't go along with it. Two
3 reasons. First of all, the rates that I have with McQuaide --
4 well, I don't have any. They've never come to an agreement
5 with me. It's just a street discount that I have. If you
6 call them on the phone, at least until the last couple months
7 I know this is true, you'll wait a couple hours to get
8 through. It's busy continually. I'm told they've got a new
9 line in now, another 800 number. I haven't used it and I
10 don't know.

11 I know that was one of our biggest problems for a long
12 time, was that we just couldn't get through. I would have to
13 call Westinghouse then and tell them it's 4:00 o'clock in the
14 afternoon, you gave us an order at 12:00, I still have not
15 gotten ahold of the carrier, I have another carrier that can
16 take it and deliver it tomorrow, you make a choice, and they
17 then somehow get ahold of McQuaide and McQuaide comes in 4:00,
18 5:00 o'clock.

19 Q What are your shipping hours? How late --

20 A Basically until 4:30, but if the need arises, we've
21 been there until midnight. It just depends on what the story
22 is.

23 Q So you are using McQuaide only when it's directed
24 by --

25 A That is correct.

1 Q -- WESCO?

2 A And I have had -- been called on them once in nine
3 years. That was about two months ago, and I'm not sure that
4 the man came in. It may have been just a phone call, but it
5 was the first time I've ever been contacted by them, as far as
6 soliciting business.

7 Q Have you ever used Ward Trucking Company?

8 A Seven or eight years ago I used them for a couple of
9 months, and I had one of the Ward boys come in to talk to me.
10 I don't think anybody has called on me for six or seven years
11 since then.

12 Q How about Evans Delivery Company?

13 A Is this the Evans out of Pottsville?

14 Q Yes. I think that's where they're located.

15 MR. GRAF: Yes.

16 BY MR. LAVELLE:

17 Q The president is Burt --

18 A Burt Evans. I know Burt Evans. He came in and had
19 lunch with me quite a few times over the years. We don't use
20 them. I have used them two or three years ago, but we just
21 never agreed on a discount and we could just never work out
22 the territory. In all three cases, though, none of these
23 carriers are in town, as far as the terminal, that I could
24 call and get them there in 15 -- you know, 15 minutes, or
25 whatever. But the one that I can talk to the most would be

1 Evans, if I had to talk to any. In fact, the man that runs
2 the terminal at Evans now used to work for Pitt-Ohio.

3 Q Has your business over the last several years been
4 growing or going the other direction, or just maintaining its
5 own?

6 A We are growing at a rate of roughly 20 percent a
7 year. Last year was 22, and it was 20 the year before.

8 Q And is that growth concentrated in any area, or does
9 it also apply to this six county area we're talking about
10 here?

11 A It's -- the growth is Western Pennsylvania and West
12 Virginia. The growth is about 70 percent there, and the other
13 30 percent is in the home improvement area across the eastern
14 part of the United States.

15 Q But are you experiencing a growth in your business in
16 this particular area?

17 A In this, yes. With, let's say, Hite and -- Hite and
18 Bird especially. Those two have been growing and they
19 themselves are growing like crazy, and as long as we keep a
20 piece of it, we're in good shape.

21 Q If this application is approved as to this area that
22 we're talking about, is it your company's position to
23 discontinue your private carriage operations into that
24 territory, with very minor exceptions, one being that Windber
25 customer?

1 A It would be a gradual -- in some cases, such as the
2 Windber, it would be a gradual thing. We'd taper off, but in
3 most of it we would just do away with our own trucks going up
4 there because it's not profitable for us and it would work out
5 very, very well for us.

6 Q Is that the reason why you're supporting this
7 application?

8 A That's correct. Right now we can get the service,
9 but if I need something emergency, if I need it that day, I
10 can't, and that's a problem. It doesn't happen everyday, but
11 all we need is once in awhile to mess everything up that you
12 can't take care of it.

13 MR. LAVELLE: Thank you, Mr. McKenna.

14 CROSS EXAMINATION

15 BY MR. GRAF:

16 Q I don't know whether I correctly understood you, but
17 I've got the impression that you are using Pitt-Ohio
18 exclusively into this Central Pennsylvania area that we've
19 been discussing, is that correct, of the common carriers?

20 A Ninety-five, 98 percent of it, yes, sir.

21 Q And over what period of time has that prevailed?

22 A Well, that quantity, that percentage has been in the
23 last three or four months, I would think. It was -- it's
24 always been a great deal. I mean, 60, 70 percent for years,
25 but I've used other carriers like, say, PJAX. I used PJAX

1 into part of this territory up until two years ago.

2 Q I see. Well, let's say in 1988, for the -- just take
3 the year of 1988.

4 A Okay.

5 Q Into the Counties of Somerset, Cambria, Blair,
6 Huntingdon, Clearfield, what percentage of the business did
7 you give to Pitt-Ohio?

8 A The whole year, I can't really say. I'd have to look
9 at how much of the year did we deliver on our truck.

10 Q Well, I thought that was separate from what we've
11 been talking about.

12 A It is now, but I can't tell you -- we've been phasing
13 out as much as we can, little by little, and I can't tell you
14 exactly in '88 when part of it could have been phased out.
15 That, off the top of my head, to be honest with you, I can't
16 tell.

17 Q Well, did you use Pitt-Ohio during the entire year of
18 '88 to this area, when your private carriage wasn't doing it?

19 A I -- if -- I think so, but I, you know --

20 Q You don't know the extent?

21 A As long as they were able to take it, I would have
22 used them. Now, if they told me that they couldn't take it,
23 and I know at one time -- that's where I have a problem here,
24 is the cutoff. I know at one time they were not accepting the
25 freight going to this area, and I know that it --

1 Q Who were you using then?

2 A PJAX.

3 Q And you cut PJAX when? Two years ago they stopped?

4 A Well, I started limiting them two years ago. Cutting
5 them off, it was in '88 somewhere, that we finally just broke
6 the cord.

7 Q As you limited them, when did the limitation start?

8 A I don't quite understand what you mean, sir.

9 Q Well, you said you limited PJAX.

10 A Well, in that case we would --

11 Q And then there was a cutoff.

12 A We would -- if I limited them, what it meant is most
13 likely we delivered it on our trucks instead of common
14 carrier.

15 Q Even though it wasn't on your schedule?

16 A No. We'd make the customer wait.

17 Q I see. All right. Well, can you tell us, to the
18 best of your knowledge, did you use Pitt-Ohio and PJAX jointly
19 in 1987, for example?

20 A Yes, sir.

21 Q To this area?

22 A I can't say that. I don't know. There was a day --
23 let's say part of '87, I'm sure that is true.

24 Q All right.

25 A That -- no, wait a minute. Let me finish. I'm sure

1 maybe in '87, at least part of it, this whole area was all
2 PJAX. That's all I gave them. In '86, I'm sure it would have
3 been, and even part of West Virginia I would have given to
4 PJAX at that point.

5 Q But you don't know when you started tapering off, is
6 that --

7 A No. Exactly, no, sir, I don't. I just can tell you
8 now, at this present point, I'm not using PJAX and I haven't,
9 I know, for three or four months.

10 Q All right. Now, are you using any other carrier
11 other than Pitt-Ohio to these points?

12 A No, sir. Either my truck or Pitt-Ohio. Now, that
13 we're talking of the counties that we're --

14 Q Yes, yes.

15 A No. That's all I'm using right now.

16 Q You said that it's about 95 percent of your traffic
17 is going PJAX into this area, or did I misunderstand you?

18 A PJAX?

19 Q Yes -- no.

20 A Wait a minute.

21 Q It's Pitt-Ohio you said 95 percent?

22 A Yes, sir.

23 Q That's what I'm trying to get straight. It was 95
24 percent going Pitt-Ohio?

25 A Yes, sir.

1 Q Who's handling the other 5 percent?

2 A In this area?

3 Q Yes.

4 A Our trucks.

5 Q Oh, your trucks?

6 A Yes, sir.

7 Q I see. So whatever isn't going your truck is going a
8 hundred percent Pitt-Ohio?

9 A Yes, sir.

10 Q When did that start?

11 A That's what you asked me already. I can't give you
12 -- I know in the last couple of months it's been that way, but
13 I can't tell you how far back. I'd have to dig out bills and
14 check.

15 Q All right. On the Westinghouse traffic you
16 mentioned, do they pay the freight on that?

17 A Some, and some not. When they don't --

18 Q Then you route it?

19 A Then I determine, yes, sir.

20 Q When they the freight, you use McQuaide?

21 A Yes, sir. As long as McQuaide picks up.

22 Q All right. Now, Ward you said you haven't used for
23 seven or eight years?

24 A Yes, sir.

25 Q And I think you said you didn't use Evans at all, but

1 they had solicited?

2 A I used them four or five years ago.

3 Q Oh, I see.

4 A For awhile, three or four months, but it never really
5 developed into a great deal and it's fallen -- I don't even
6 think I have rates with them, or discounts with them right
7 now.

8 Q Do you know where their terminal is?

9 A I didn't hear you, sir.

10 Q Do you know where the Evans terminal is?

11 A Exactly, no, but I know it's up -- I want to say
12 North Huntingdon. Somewhere up that way.

13 Q All right. On the account at Windber --

14 A Yes, sir.

15 Q -- is that one that you're going to discontinue your
16 private carriage?

17 A That will probably be a combination of both.

18 Q Have you decided what percentage of it would go
19 private carriage?

20 A I think that wouldn't be my decision. I think it
21 will be more the decision of the customer. If the customer
22 can live with my trucking schedule, we would probably keep a
23 good portion of it there, but they are one that always has an
24 exception. Those exceptions would definitely go common
25 carrier.

1 Q I see. And the one in Altoona you have already
2 discontinued?

3 A That is their choice, yes.

4 Q And how long has that prevailed?

5 A The last letter was about two months ago.

6 Q Was there a prior letter telling you not to bring it
7 private carriage?

8 A The prior letter was years ago, four, five years ago,
9 and it was actually different management and at that time they
10 were specifying PJAX and we were using PJAX to deliver to
11 them. And on that, I don't know, there was a mending of the
12 ways or something and we started using our truck then again,
13 and we did that for years until -- and then until the present,
14 a couple months ago, somebody stepped on somebody's toes, the
15 letter came through and they said they didn't want to see us
16 anymore, just send it common carrier.

17 Q All right. Do you always honor your customers'
18 request in that regard?

19 A Well, it depends on the customer. Sometimes, but
20 somebody the size of Hite you don't have a lot of choice.

21 Q Is Pike, is that the Altoona one?

22 A Hite, H-i-t-e.

23 Q Oh, Hite. Hite. What was the fella in Windber?

24 A Bird, B-i-r-d, Electric.

25 MR. GRAF: I had it reversed. Okay. Thank you. That's

1 all I have.

2 THE WITNESS: Yes, sir.

3 JUDGE PORTERFIELD: Mr. Lavelle?

4 MR. LAVELLE: I have no redirect.

5 JUDGE PORTERFIELD: Shall we try to get another witness
6 in before lunch? It's your preference.

7 MR. LAVELLE: Can I take a couple minutes?

8 JUDGE PORTERFIELD: Yeah.

9 (A brief recess was taken.)

10 BILL CARLIN, having been duly sworn, was examined and
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. LAVELLE:

14 Q What is your name, sir?

15 A Bill Carlin, C-a-r-l-i-n.

16 Q What company are you employed by?

17 A A.R. Chambers.

18 Q Where is your office? What's your office address?

19 A 111 35th Street in the Strip District.

20 MR. GRAF: Could you speak a little louder, sir?

21 THE WITNESS: 111 35th Street in the Strip District.

22 BY MR. LAVELLE:

23 Q That's in Pittsburgh?

24 A Yes, sir.

25 Q What is your position with A.R. Chambers?

1 A I'm the purchasing manager.

2 Q Do you have any functions involving transportation?

3 A Yes, sir. I'm strictly responsible for all the
4 inbound and basically all the outbound.

5 MR. GRAF: Can you speak a little louder?

6 THE WITNESS: All the inbound and outbound going.

7 MR. GRAF: It's very hard to hear you.

8 THE WITNESS: Sorry. 100 percent.

9 BY MR. LAVELLE:

10 Q How long have you had that job with that company?

11 A I've been with the company 11 years, but in my
12 present position six.

13 MR. GRAF: How long?

14 THE WITNESS: Six years.

15 BY MR. LAVELLE:

16 Q What kind of plant or office facility do you have
17 there?

18 A We deal -- we're wholesale for construction,
19 industrial and packaging supplies. We have one central
20 location, which is at 111 35th Street, and we service all our
21 customers from that location.

22 Q Is that a warehouse?

23 A Yes, sir. It's office and warehouse.

24 Q What specific commodities does your company deal
25 with?

1 A Anything related to construction. For example,
2 concrete, insulation, curing aspects, apoxies. Anything that
3 has to do with road type of work, whether it be residential or
4 commercial. We're basically more orientated commercial than
5 residential.

6 Q To what types of companies do you sell your
7 materials?

8 A All major construction companies throughout the
9 Allegheny County area here. Anyone that has anything to do
10 with packaging. For instance, a mailing mart or something.
11 Industrial, our industrial business has not been as good since
12 the steel mills have got in trouble here.

13 MR. GRAF: You're letting your voice trail off and I'm
14 missing half your answer.

15 THE WITNESS: I said our industrial portion of our
16 business has tailed off over the past few years because of the
17 steel industry.

18 MR. GRAF: And you're now in packaging, is that it?

19 THE WITNESS: We're construction and packaging. I said
20 packaging, that could be anybody.

21 MR. GRAF: Oh, okay.

22 BY MR. LAVELLE:

23 Q Do the shipments you make from your warehouse fall
24 into a full truckload category, or are they much smaller than
25 that?

1 A They're all mostly LTL shipments.

2 Q Ranking up to what maximum weight?

3 A Oh, maximum weight of, I would say, no more than
4 9,000 pounds.

5 Q What type of motor vehicle equipment do you need to
6 transport these commodities?

7 A Vans.

8 Q Is everything moved in some sort of packaged form,
9 carton?

10 A It's either on pallets or individual cartons. It's
11 like -- the type of commodities we carry, it depends on what
12 it is. It's better off to band them or palletize them if you
13 can, but there are certain situations where you just can't.
14 Let me give you an example. Styrofoam insulation, it's in
15 sheets. Sometimes we get it banded, and it depends on how
16 much the customer orders of one size. There's six in a
17 bundle. If he orders an odd size, odd number off of six, then
18 you go into individual sheets.

19 Q Do you sell this material through wholesalers that
20 have fixed outlets? Let's use 84 Lumber as an example. Do
21 you sell to people like that?

22 A Oh, yes, we sell -- people buy from us for resale.
23 We do not go out and set up retailers.

24 Q But an established company --

25 A An established company will buy from us.

1 Q Do you have any of those types of accounts or
2 customers in the six counties in the central part of
3 Pennsylvania?

4 A Yes, we do.

5 Q Where are they located?

6 A One major one we have in State College.

7 Q That's in Centre County. That's beyond. The six
8 counties are the ones in the map shaded in red.

9 A Well, no major ones in those counties. The major
10 portion of business that we do in that county is with the
11 construction and PennDot.

12 Q Do you have any of these customers who, for lack of a
13 better term, have fixed locations in the sense of stores that
14 they sell to other customers?

15 A No, not --

16 Q As a wholesaler-retail agent?

17 A No, sir. Not on a steady basis, no, we don't.

18 Q What are the type of customers, then, that you're
19 dealing with, then, in that area?

20 A Mostly the contractors and PennDot.

21 Q Now -- okay. Go ahead.

22 A Go ahead. I'm sorry. What I was just going to say
23 was depending on how much work was done in that area, I can
24 give you specifics going by years. 1987, for instance, it was
25 not such a good year for our company in those locations. 1988

1 was the difference between night and day, as far as doing our
2 volume business in those areas.

3 Q You mentioned PennDot as being one of your customers.
4 What -- how do you get involved with them? What do they
5 order from you and for what purpose?

6 A Well, PennDot orders -- they bid work, okay, for
7 instance, to the contractors. In turn, we get a supply list
8 from the contractors of what material is needed on the jobs.
9 We make our bid against it, against all the other local supply
10 houses here in town, and hopefully, you know, we get -- we win
11 the bid because of our pricing. In most -- I wouldn't say
12 most instances, but you know, the majority we have been
13 awarded the contracts. And then when you are awarded the
14 contract, not through directly PennDot itself, through the
15 contractor that's doing the work for PennDot, then there's --
16 your work is done there and then, in turn, we have to service
17 that contractor in that area.

18 Q Have you in the past -- do you currently have work in
19 these six counties that require shipments by motor carrier?

20 A Yes, sir.

21 Q Can you give us some examples of where these jobs --
22 I assume we're talking about --

23 A Right. These are basically job sites. Most of the
24 contractors we're dealing with, they're centrally located
25 here, I'd say, the Allegheny County area, but their work is

1 beyond that. They don't just do all the work locally here.
2 Bedford we have -- you have some -- Trumbell Corporation
3 working up there. You have Clearfield County. We have P.J.
4 Dick up there, which is a subsidiary of Trumbell. Mellon
5 Stewart, we used to do quite a bit of work with them, but
6 they're no longer -- they've gotten in trouble. We deal
7 direct -- well, Harrisburg is out of these areas here. But
8 you just -- I don't want to just concentrate my efforts on the
9 major contractors. You could have the father/son team that
10 just doesn't -- can't find his local work around here, he's
11 got to branch out a little more, but we have a product he
12 needs to finish the job or to start the job. We service that
13 type of account, too.

14 Q Based on your experience, how many shipments do you
15 have during a period of time? Let's say a week or a month,
16 from Pittsburgh --

17 A To those counties here?

18 Q Right.

19 A On a week, okay, in a good season, anywhere from 50
20 to 60 per month.

21 MR. GRAF: That's shipments?

22 THE WITNESS: Yes, sir.

23 BY MR. LAVELLE:

24 Q And they would be going to wherever the job sites in
25 those counties would be located?

1 A Yes, sir.

2 Q Most of it is job site delivered?

3 A Yes, sir. When you're dealing with construction and
4 contractors, you're -- most of the time you are going right
5 directly to the job site.

6 Q What type of lead time do you normally have to fill
7 orders for your customers, these contractors?

8 A Well, there are a lot of instances. Just referencing
9 the gentleman that was up here before me. You get into those
10 situations where a contractor calls you 4:00 o'clock in the
11 afternoon and needs something first thing tomorrow morning, or
12 he'll call you at 8:00 o'clock in the morning, I need it
13 today. Okay. You cannot get away from that when you're
14 dealing with construction.

15 Normally, we like to have -- we always tell the person
16 who would be placing an order, something like next day
17 delivery, two days at the most, okay, depending on where the
18 area is, too. But normally, we try to orientate our customers
19 to at least giving us notice for at least one day. If you
20 order today, get the material tomorrow.

21 We've been able to service, but you won't get away from
22 the guy calling, I need it yesterday and all that there, and
23 that's where, in my job, I have to have a dependable carrier.
24 The bottom line in our company is service for our customers.
25 You know, they -- that's what -- they don't -- a lot of times

1 they don't care about cost. They want the service.

2 Q Have you had occasions where you've had these calls
3 come in late in the day for service?

4 A Always, right. Especially during heavy construction
5 season, which starts basically from April and runs until the
6 end of October, depending -- and beyond that, depending on how
7 the weather is. The nicer the weather, the more construction
8 can go. In your busy season, I would say in my experience
9 what I've been doing, four times a week, four days out of
10 five, I get put on the spot, as I call it. You know, our
11 salesman gets a call and his customer needs something right
12 away tomorrow. Well, the salesman has to turn it over to me
13 and it's my responsibility, if we don't have it a lot of
14 times, I have to go right to our vendor and have it shipped
15 directly to the job site.

16 Q Do you have much freight going directly from a vendor
17 to the job site?

18 A Yes, sir.

19 Q In those situations, who chooses what carrier should
20 be called to handle the freight, you or the vendor?

21 A I do because I'm looking for -- right now, if I get
22 that call at 2:00 o'clock in the afternoon and he needs that
23 item by tomorrow morning, I'm not going to leave it in the
24 hands of my vendor. My vendor, once it leaves -- once it
25 leaves his warehouse, or wherever he's servicing me from, he's

1 made his sale. Okay. He's not worried about it. He did his
2 job and got it out of his -- but my job is to get that
3 material to the job site at the appropriate time it is needed,
4 so that's why I want control who I am having pick the material
5 up and carry it.

6 Q Does your company pay the freight charges on those
7 direct shipments from the vendor to the job site?

8 A Yes, sir.

9 Q Where are your vendors that you deal with on this
10 basis located?

11 A Okay.

12 Q In Pennsylvania?

13 A In Pennsylvania?

14 Q Yes.

15 A I have one in Bristol.

16 Q That's Eastern PA?

17 A That's Eastern PA.

18 MR. GRAF: Is that Bristol?

19 MR. LAVELLE: Bristol.

20 THE WITNESS: Yes, sir, Bristol.

21 MR. LAVELLE: That's out of the area, but he mentioned
22 it.

23 BY MR. LAVELLE:

24 Q Do you have any in Western Pennsylvania, west of 219?

25 A That I buy from?

1 Q Yes.

2 A We have some local here in town.

3 Q All right.

4 A In Allegheny County here.

5 Q Do you have any outside Allegheny County?

6 A Not in the particular areas that we're discussing
7 here that I buy from.

8 Q No. I'm saying -- maybe I didn't make it clear. Do
9 you have vendors located in that western third of the state,
10 not just Allegheny County, but the entire western third of the
11 state?

12 A Up here you're talking about?

13 Q Anywhere from Erie County down to the West Virginia
14 border.

15 A That we buy from, yes, we do. Okay. Erie we buy
16 from, up in Erie. New Castle is a big area that I buy from
17 that -- all these people that -- every vendor that I've bought
18 from, whether it be local, inside Pennsylvania or outside
19 Pennsylvania, I've had to service in these counties on
20 situations that I've been explaining to you.

21 Q Do you have -- now, you said these counties, and I
22 assume you're talking about the six counties involved?

23 A Yes, sir.

24 Q Do you have work -- do you get contracts that have to
25 supply materials to customers' job sites that are located at

1 anyplace in that central third of the state? Not the part
2 that's the six counties, but the entire eastern -- I'm sorry
3 -- central third that lies between U.S. 219 on the west and
4 U.S. Highway 15 on the east?

5 A Yes. All that central part we service -- maybe it
6 will help you. We service 100 percent of Pennsylvania.
7 Wherever our contractor goes and needs material, we will
8 service. Like I was explaining before, depending on how much
9 construction work is being done in the season and plus
10 whatever the -- if he is -- the people we deal with, whether
11 they win the bid or not, depending on how much I can service
12 that company.

13 Q Now, have you -- do you continue to have movements
14 from distributors, suppliers, outside Allegheny County going
15 to job locations in that central third of the state?

16 A Right now?

17 Q Now, or have you ever had such a --

18 A Oh, yes, sir.

19 MR. GRAF: Yes, now or ever?

20 THE WITNESS: Both.

21 MR. LAVELLE: Both.

22 MR. GRAF: All right.

23 BY MR. LAVELLE:

24 Q Where are some of those other jobs now located?

25 A Okay. You have some up in Clinton County there,

1 Cumberland, Franklin, Potter, Cameron, and I would assume one
2 time or another, just -- you know, my memory don't serve me
3 right here, but as you know, PennDot works in 100 percent part
4 of the state, too. So if -- I'm sure we've serviced PennDot
5 in all these areas one time or another, whether past, present
6 and I'm sure in the future, too.

7 Q So there are occasions to have material moved direct
8 from the vendor to these sites you mentioned?

9 A Right.

10 Q Would there also be from the vendors into the six
11 counties as well, which you've already described some of your
12 locations are?

13 A Right. Like I was explaining before, too, we service
14 100 percent of Pennsylvania. Dealing in contractors, our
15 business goes where the contractor goes to his -- if he has --
16 we'll take Trumbell, for instance, Corporation. If his
17 business is more centrally -- all his business is located in
18 the western part of Pennsylvania. We'll service him. If he
19 branches out -- he can be in both places at the same time, in
20 the western and central part. We have to be flexible enough
21 to be able to service these people.

22 Q Do you ship from your warehouse to these other
23 customers in either the western third of the state or the
24 entire central third of the state?

25 A Yes, sir, we do quite a bit of shipping right from

1 our warehouse, too.

2 Q Do you have shipments available at your warehouse,
3 for example, going to points both within the six county area
4 and beyond the same day?

5 A Yes, sir.

6 Q Has that ever occurred?

7 A Yes, sir.

8 Q If you had a carrier that was able to pick up all of
9 those shipments going into both areas and move them out direct
10 to your destination, would there be any benefit to you?

11 A Sure, yes, sir. The reason I say it's a benefit for
12 me is you're eliminating congestion at your dock.

13 Q How so?

14 A Well, by having -- you can schedule one truck to come
15 in rather than having another truck. And then we only have a
16 three door facility for loading and unloading purposes, and
17 what creates a problem there, if you get too many trucking
18 outfits coming to pick material up -- we service contractors
19 and the general public at our warehouse. It is will calls,
20 too. You can come down and place an order if we have
21 something, and just -- you know. Plus you can have the truck
22 come in at one time. You have time to get all your shipments
23 ready.

24 You can schedule, say, okay, I'd like you to come in
25 today at 3:00 o'clock. Rather than have the guy call, you

1 call in for one pickup and state can I have one shipment going
2 to, say, State College. Okay. You might send a truck right
3 in. Where in half an hour you might get another call. You
4 have to send another truck in. This way we can have your
5 truck in by 3:00 o'clock everyday and by 3:00 o'clock you have
6 all your shipments ready for them.

7 Q How would Pitt-Ohio assist you, if at all, in those
8 late afternoon calls you get for service from a contractor
9 that's short on material, has an emergency?

10 A They're nine blocks down the street from our
11 location. I have -- in many instances, where we have ran into
12 that problem, our business hours are from 7:30 to quarter
13 after 4:00. We'll get a call ten after 4:00 or as we're
14 walking out the door, a gentleman needs something tomorrow.
15 We've had such a good relationship with these people that I've
16 called them up, they've come up and picked the material up,
17 whether I've had to stick around or someone else, whether it
18 be 15 minutes, half an hour to an hour. They've honored our
19 requests.

20 Q If for any reason you can't get the material on any
21 kind of shipments or on an overnight basis routine to your
22 customers, wherever they might be, do your customers have
23 someone else to turn to for the material?

24 A A lot of times what will happen is they will come up
25 and pick it up. It's mandatory they have it, or I have to

1 look for some other option.

2 Q What if they can't pick it up and you're unable to
3 get the service that you need, overnight service let's say?

4 A Well, then I explain my situation to the contractor
5 so he makes sure he understands what I'm saying, that I cannot
6 service him in time and let him know this is my other
7 alternatives, and let him -- see what he has to agree on, too.
8 Then I can just go one step further. The reason I say that is
9 because we've had experience where if a material does get
10 there late, it's sent back, you can't use it or he's gone
11 somewhere else and we've lost the sale.

12 Q That's an alternative, that he doesn't buy from you?

13 A Right. We could end up -- that could be bad business
14 for us, for future business because we weren't able to service
15 them.

16 Q Have you had any solicitation of your business from
17 W.C. McQuaide?

18 A No, sir, not at all.

19 Q How about Ward Trucking? Have they come after your
20 business?

21 A No, sir.

22 Q Or Evans Delivery Company?

23 A Evans I've never heard of.

24 Q So you've not used any one of these three companies,
25 to your knowledge?

1 A No, sir.

2 Q Are you using Pitt-Ohio Express today?

3 A Yes, sir.

4 Q You indicated generally you are?

5 A Yes, sir.

6 Q To other points in the State of Pennsylvania?

7 A Yes, sir.

8 Q Do you use their service on an interstate basis to
9 any extent?

10 A Yes, sir.

11 Q How have you found it to be?

12 A Excellent.

13 Q What part of your traffic within this application
14 area, whether it be Allegheny County, the six counties, or the
15 general western third or the central third of the state, how
16 much of that traffic would they receive in the future if this
17 application is granted?

18 A Oh, I'd say out of a hundred percent of our outbound
19 shipments, 40 percent.

20 Q How are the other 60 percent going to go?

21 A How would -- okay. I would still use Pitt-Ohio
22 locally here, too.

23 MR. GRAF: I can't hear you. I would still what?

24 THE WITNESS: I'm sorry. Maybe I misunderstood.

25 JUDGE PORTERFIELD: The way he answered was I would

1 still use Pitt-Ohio locally here, too.

2 THE WITNESS: Right.

3 JUDGE PORTERFIELD: There's some confusion, so reask the
4 question.

5 BY MR. LAVELLE:

6 Q My question was, if the application is granted, of
7 your traffic moving between --

8 A From Allegheny County?

9 Q Well, in the application area that we've already
10 discussed, how much of that traffic would you give to
11 Pitt-Ohio to handle?

12 A Oh, all of it.

13 Q All of it?

14 A Yes, sir.

15 Q What was the 40 percent figure you referred to in
16 your answer before?

17 A Well, I'm just saying out of the --

18 MR. GRAF: You're going to get it confused if you get
19 back to that 40 percent. He's answered it as to the
20 application.

21 BY MR. LAVELLE:

22 Q As to the application area they would be tendered a
23 hundred percent of your traffic?

24 A Right.

25 MR. LAVELLE: That's fine. Let's leave it at that.

1 THE WITNESS: I think that 40 percent, that's the volume
2 out of a hundred percent of outbound we do goes into that
3 area.

4 MR. LAVELLE: Thank you. I have no further questions of
5 the witness.

6 CROSS EXAMINATION

7 BY MR. GRAF:

8 Q Let's start with 1988. As I understood the
9 situation, PennDot on highway work would put out a bid and
10 then a contractor bids on that particular job, and then the
11 contractor puts out his order sheet of what materials he'll
12 need and exposes it to the various suppliers, including your
13 company?

14 A Yes, sir.

15 Q And that pertains to highway work and bridge work?

16 A If you're working with PennDot, right.

17 Q Yeah. All right. Now, on all of that traffic, it's
18 going into highways and bridges for the Commonwealth and
19 that's exempt from regulation, is it not?

20 A I don't understand what you mean exempt from
21 regulation.

22 Q It doesn't require PUC permit for that type of
23 commodity, so long as it's going into a highway or a bridge?
24 That's PennDot?

25 A No. We have to service --

1 MR. LAVELLE: Excuse me. Wait a minute. I'm not sure I
2 understand what this question is.

3 MR. GRAF: What I'm saying, if it's materials going into
4 the construction of a highway out on a bridge, which is what
5 he is talking about, it's exempt from regulation. That's
6 point one.

7 MR. LAVELLE: I'm not necessarily agreeing with that
8 principle of law, number one.

9 MR. GRAF: You tell me when they changed it.

10 MR. LAVELLE: I'm going to go get the statute before I
11 answer it. I'll have to get it at a break.

12 JUDGE PORTERFIELD: I'll give you a copy.

13 MR. GRAF: Let's go to the next stage.

14 JUDGE PORTERFIELD: Okay.

15 BY MR. GRAF:

16 Q Other than PennDot work, a contractor may be bidding
17 on a building, for example, and secure that bid, then that
18 contractor would likewise put out bid sheets of the supplies
19 needed for the completion of that job?

20 A Right.

21 Q And then you and others would bid on it, and you may
22 or may not get the bid?

23 A Yes, sir.

24 Q All right. Now, how many of those jobs which did not
25 involve highway construction or highway repair did you have in

1 the six county area during 1988, if any?

2 A You talking percentage wise or job --

3 Q No. How many jobs were you the successful bid to
4 supply the materials to the contractor in 1988?

5 A I know I've been undercutted, but I'll bet you we've
6 had at least close to a hundred jobs in those areas.

7 Q That were buildings?

8 A Yes, sir.

9 Q All right.

10 A By buildings, could you clear -- building to me is a
11 four structure wall.

12 Q It's a building --

13 A Okay.

14 Q -- of any type. It's not a highway now.

15 A Right. Okay.

16 Q I'm not talking about highways.

17 A By building, what I mean, we could be talking about a
18 local, little general store or we could be talking --

19 Q Any kind of construction --

20 A Okay.

21 Q -- that you have gotten the bid to supply, and I'm
22 talking about the six county area.

23 A Yes, sir.

24 Q And you had a hundred of those?

25 A Yes, at least.

1 Q All right. Now, who handled that material going in,
2 in 1988, to these hundred contracts?

3 A Who handled it?

4 Q Yes. Who handled the transportation?

5 A Me.

6 Q No. What carrier did you employ?

7 A Oh, right now. I used Pitt-Ohio.

8 Q No, not right now.

9 A Oh, okay.

10 Q '88.

11 A In 1988?

12 Q Yes.

13 A Once I found out that Pitt-Ohio could service those
14 areas, I turned my business over to Pitt-Ohio.

15 Q And when did you find that out?

16 A Oh, it was somewhere around, I'd say, approximately
17 February of '88.

18 Q February of '88. Who did you use before February of
19 '88?

20 A PJAX.

21 Q All right. Are you still using them?

22 A Not right now, unless I have to get same day service,
23 which Pitt-Ohio can't offer me right now.

24 Q All right. Now, at the present time, in 1989, we're
25 not very far into it, but do you have any contracts now for

1 building work?

2 A Right now. We've had contracts out for bid. We have
3 them out for bid all year long.

4 Q I'm not talking out for bid. Contracts that you won
5 that you have a fixed contract, this year, in the six county
6 area?

7 A Yes, I'm sure we do.

8 Q Well, do you know?

9 A Do I know?

10 Q Yes.

11 A I'm trying to think in particular now. It's been
12 awhile since me and my sales manager sat down and talked.
13 Yes, we do.

14 Q All right. Where is it? Where is the contract for?

15 A Bedford.

16 Q Bedford. Is that Trumbell's work?

17 A No. This is -- we're talking a different whole line
18 of business right here. I can give you one company, a big
19 company's name up there. Cannondale.

20 Q What is it?

21 A Cannondale.

22 Q Cannondale?

23 A Cannondale.

24 Q All right. When you were talking about Trumbell
25 before, was that for --

1 JUDGE PORTERFIELD: They're not the bicycle frame
2 people, are they?

3 THE WITNESS: Yes, sir.

4 JUDGE PORTERFIELD: Is that right? I thought they had a
5 Pennsylvania facility. I didn't know where it was. Off the
6 record.

7 (A discussion was held off the record.)

8 BY MR. GRAF:

9 Q This Trumbell that you were talking about before, is
10 this one of the PennDot jobs?

11 A Yes, sir. Trumbell had some PennDot jobs.

12 Q All right. Is that what he does primarily?

13 A No.

14 Q Does Trumbell have anything in Bedford County now,
15 other than highway jobs?

16 A Not to my knowledge.

17 Q Nothing that you're connected with?

18 A No, sir, not with Trumbell.. Now?

19 Q Yeah.

20 A Okay.

21 Q All right. Now, any other contract for building
22 work, distinguished from highway construction?

23 A There's work going to be done in there. I can't give
24 you numbers right now because we're not in --

25 Q You're not in as yet? You're bidding?

1 A Right.

2 Q All right. Now, in Clearfield County you mentioned a
3 contractor by the name of Dick, I believe?

4 A P.J. Dick. P.J. Dick, which is a subsidiary of
5 Trumbell.

6 Q Is that PennDot work?

7 A No, sir.

8 Q What was that?

9 A Just general contracting work, commercial.

10 Q Do you know what it was?

11 A Building.

12 Q A building. All right. And is that finished?

13 A To my knowledge, it is.

14 Q Do you have anything there now for building in
15 Clearfield County, if you know?

16 A No, not offhand right now. We have all kinds of bids
17 out right now, but nothing right now.

18 Q I understand that, but I can only ask one question at
19 a time and I'm trying to be direct with it.

20 A Directly, nothing right now.

21 Q All right. Do you have any, of your own knowledge,
22 in Blair County now?

23 A That we have work being done right now?

24 Q Yes. That isn't highway work.

25 A That isn't highway work. If you want me to give you

1 names, I can't, no. But I know we have work being done there.

2 Q But you don't know where it is?

3 A Not in particular. It's being done in the county.

4 Q How do you know if it's in the county if you don't
5 know where it is?

6 A I'm trying to explain to you the way our business is
7 set up and the way it is run.

8 Q And I'm trying to understand it.

9 A I can't give you -- I can tell you right now we have
10 a hundred bids out just for one particular county.

11 Q I'm not talking about bids.

12 A Today, I don't know.

13 MR. LAVELLE: Your Honor, we're getting into an argument
14 here.

15 THE WITNESS: Is Altoona in Blair County?

16 JUDGE PORTERFIELD: Mr. Graf was asking a fair question.

17 Altoona is in Blair County.

18 MR. LAVELLE: I'm sorry. May I give the witness a map
19 here with points on it, if that would help him? Do you have
20 any objection to that?

21 MR. GRAF: Fine. No, of course not. All I'm trying to
22 do is get specific answers.

23 JUDGE PORTERFIELD: I understand, Mr. Graf, and you're
24 asking certainly legitimate questions. Do you know if you
25 have any contracts today in the Altoona or the Blair County

1 area? Is that all right, Mr. Graf?

2 MR. GRAF: That would be fine.

3 THE WITNESS: I can tell you, yes, I know we do, but how
4 many, I can't tell you.

5 BY MR. GRAF:

6 Q Or where you can't tell me, is that right?

7 A Oh, in Altoona we have them.

8 Q All right. What is the nature of the job in Altoona
9 that you have now?

10 A It's no major, big job. We have no major, big job
11 right now. We have work being done there now. What I am
12 saying is by the little construction company. We don't just
13 deal with the major contractors in Pittsburgh.

14 Q I understand that.

15 A Anything related to construction.

16 Q All right. But now you're in charge of
17 transportation -- for whom is the job in Altoona? That's all
18 I'm asking you.

19 A When a person would call in and order and needs
20 material for a job, whether it be in Altoona --

21 Q Now wait. Let's try to get on the same wave length.

22 A I don't have any right now. Okay? Zero.

23 Q All right. Fine. All I've asked you about is
24 specific points and I'm trying to be direct so I'm not
25 confusing. Do you have any that you are aware of, as you're

1 sitting here today, in Huntingdon County?

2 A Aware of presently, right now?

3 Q Yes, while you're sitting on the stand that you can
4 tell me about that you have direct knowledge of.

5 A No.

6 Q All right. How about --

7 THE WITNESS: Judge, can I say something?

8 JUDGE PORTERFIELD: Well --

9 BY MR. GRAF:

10 Q How about Cambria County?

11 A Pardon me?

12 Q Cambria County?

13 A Particular, no.

14 Q Somerset County?

15 A No.

16 Q I think we've talked about Clearfield and I think
17 we've talked about Bedford. Now, let's get to the second
18 phase of what I'd like to ask you. You indicated you had
19 vendors in Erie and New Castle --

20 A Um-hum.

21 Q -- for example. And those vendors ship into your
22 warehouse, point one?

23 A Right.

24 Q And you also indicated that there have been occasions
25 when the vendors have shipped to job sites in the Central

1 Pennsylvania area?

2 A Yes, sir.

3 Q Now, do you have any contracts going there now, where
4 the vendors are making such shipments to any specific point,
5 first, in the six county area?

6 A Right.

7 Q And where is that?

8 A Bedford.

9 Q Bedford. And is that going to the Cannondale --

10 A No.

11 Q -- location, or is it going to the Trumbell for the
12 road job?

13 A It's going to Standard Register.

14 Q Standard Register?

15 A Right.

16 Q In Bedford?

17 A Yes, sir.

18 Q Is that a parking lot or what?

19 A Standard Register is a paper manufacturer of forms.

20 Q These are paper forms, it's not contracting
21 equipment?

22 A That's not what we're servicing them.

23 Q What are you servicing them?

24 A White Styrene board.

25 Q Styrene board. All right. Are there any others --

1 Standard Register is in Bedford?

2 A Yes, sir.

3 Q Who is handling that traffic?

4 A Who is handling it for me right now?

5 Q Yes.

6 A Pitt-Ohio.

7 Q Pitt-Ohio is handling that. And how long have they
8 been handling that?

9 A Oh, since June of last year.

10 Q Since June of last year. Are there others in Erie
11 that are shipping, to your knowledge, in this Central
12 Pennsylvania area?

13 A As of today, no.

14 Q All right. As to New Castle, what's the nature of
15 that supplier?

16 A W.R. Grace.

17 Q And what do they supply in the commodity line? Is it
18 construction material?

19 A Construction material.

20 Q Now, do you have any now moving from W.R. Grace in
21 New Castle to any construction job in the Central Pennsylvania
22 area where you are paying the freight?

23 A As of today?

24 Q As of today.

25 A Not today, no.

1 Q Do you have any contracts for it that you're aware of
2 where you are specifically going to use that traffic and
3 you're going to control it?

4 A If we win some bids.

5 Q If you win the bids?

6 A Right.

7 Q All right. Fine. Now, you mentioned there was a
8 possibility of movement from your warehouse at Pittsburgh to
9 the six county area, which we've already discussed, and also
10 from Pittsburgh to the Central Pennsylvania area?

11 A Um-hum.

12 Q What's the nature of that present traffic?

13 A It would be construction related, if there's a job
14 going on in that area.

15 Q If there's a job?

16 A Right.

17 Q But as of now you can't give me any specific
18 instances, is that it?

19 A No, not as of right now. I'm just talking major
20 contractors.

21 Q Okay. And there aren't any, as I understand it, at
22 present?

23 A Right.

24 Q That have anything?

25 A As of today.

1 Q This is something that you're contemplating happening
2 in the future, if the bids are granted and you get them?

3 A Right, basing that on prior experience.

4 Q I understand, whatever you base it on. You can base
5 it on anything. That's your expectation, right?

6 A We've done it every year.

7 Q Is it your expectation?

8 A Yes, sir.

9 Q All right. Now, you mentioned that you had vendor
10 movements going to Clinton County, that is from the vendor
11 directly to Clinton County. Do you mean you have these now?

12 A Not as of today.

13 Q All right. That's what we're trying to find out.
14 Cumberland County as of today?

15 A No.

16 Q Franklin County as of today?

17 A No.

18 Q Potter County as of today?

19 A No.

20 Q Cameron County as of today?

21 A No.

22 Q All right. Do you have any shipping documents with
23 you which would cast some light on the past experience you've
24 had of this nature?

25 A No. I was told I wouldn't have to produce them. If

1 I do, I can.

2 Q Okay. Would you be willing to do that?

3 A Yes, sir.

4 Q Who is serving the Trumbell job in Bedford County
5 now? You said there was one there?

6 A No, no, I did not say there was a job in Trumbell
7 right now -- or in Bedford County.. I said Trumbell has had
8 work in Bedford County.

9 Q All right. When was the last one Trumbell had in
10 Bedford County? Was it in 1988?

11 A 1988.

12 Q And do you remember what month it was?

13 A No, sir, I don't.

14 Q Some time in '88?

15 A It was in the summer of '88.

16 Q Summer of '88?

17 A Right.

18 Q Who handled the traffic?

19 A Pitt-Ohio.

20 Q And you mentioned the P.J. --

21 A PJAX.

22 Q No. Dick Company in Clearfield, didn't you, the
23 contractor in Clearfield?

24 A Yes.

25 Q Who was that?

1 A P.J. Dick.

2 Q All right. Who handled that traffic?

3 A Pitt-Ohio.

4 Q And when was that? Also in the summer?

5 A Summer of '88.

6 Q And who's handling the Cannondale job now?

7 A Pitt-Ohio.

8 Q At the present time are you using any carrier other
9 than Pitt-Ohio in Pennsylvania?

10 A In Pennsylvania?

11 Q Yes.

12 A No.

13 Q And how long has that situation prevailed? How long
14 has it been Pitt-Ohio has been your only account in
15 Pennsylvania?

16 A My only -- I take it back, as far as Pennsylvania.
17 Anything outside of Allegheny County we will use Pitt-Ohio.

18 Q All right. And you have other carriers you use
19 within Allegheny County?

20 A Yes, sir.

21 Q How many of them? Just curious.

22 A Two.

23 Q You indicated neither McQuaide nor Ward nor Evans has
24 solicited you in the past?

25 A No, sir.

1 Q Have you ever called on them?

2 A Yes, I have.

3 Q Which ones?

4 A McQuaide.

5 Q Have you used them?

6 A No, because I've just -- what the gentleman said
7 before, which was true, you can never get ahold of them.

8 Q When did you try to get ahold of them?

9 A Oh, it's been over three years since I've tried it.

10 Q Three years ago?

11 A Yes, sir.

12 Q Would you be the person they solicit?

13 A Yes, sir.

14 Q Do you have any knowledge at all of their authority,
15 what they're able to do authority-wise?

16 A Similar -- not full knowledge, but I know they do
17 service Pennsylvania.

18 Q How about Ward? Do you have any knowledge of what
19 their authority is?

20 A No, sir.

21 Q Or Evans?

22 A No, sir. Evans I've never heard of.

23 Q Okay. So you wouldn't know where to call them if you
24 tried?

25 A No, sir.

1 MR. GRAF: Okay. Thank you. That's all I have.

2 MR. LAVELLE: Sir, a couple of questions here.

3 REDIRECT EXAMINATION

4 BY MR. LAVELLE:

5 Q Your business generally, is it a seasonal type of
6 business?

7 A Yes, sir. That's what I was trying to explain about
8 when I had to pinpoint jobs as of today, March 8th. I can't
9 think of any, but I just --

10 MR. GRAF: Well, wait. The question was is it seasonal,
11 and he answered it yes. Now we're going into something else.

12 MR. LAVELLE: Sure, I'm going into it. I'm going to
13 follow-up with another question, if it's all right.

14 MR. GRAF: Fine. That's all I'm saying. Can't the
15 witness answer what you asked?

16 MR. LAVELLE: If you object to his answer, you make an
17 objection.

18 MR. GRAF: Yes, I do.

19 MR. LAVELLE: I'm not going to cut him off.

20 THE WITNESS: Yes, it's seasonal work.

21 BY MR. LAVELLE:

22 Q What is the high period or peak period, insofar as
23 your shipments are concerned? Between what months can that
24 take place?

25 A April until the end of October.

1 Q And of your annual volume of traffic, what part of it
2 would move during that particular period during the year, what
3 percentage?

4 A A hundred percent of the year in that period of time
5 what --

6 Q Sure.

7 A Oh, 70 percent of our business.

8 Q Now, when are -- these bids that you've referred to,
9 when are they normally let?

10 A They're presented -- bids are presented 12 months out
11 of the year. You can be getting a bid right now for a job
12 being started in the fall or late summer. That part of my --
13 our business I don't get involved with. I do the buying of
14 the material itself.

15 Q I understand that, but I'm trying to find out when
16 these bids -- the bids take place all year round?

17 A All year long, and you can be getting the bids back
18 in.

19 Q Now, you answered a number of questions here on cross
20 examination to the effect that you have no present traffic,
21 but it's in a bid stage. You're awaiting award of a contract
22 apparently?

23 A Yes, sir. Could I just --

24 Q When do those contracts, for that type of work you're
25 talking about, when are they awarded?

1 A They will be coming in this month, no later than next
2 month.

3 Q For the next season?

4 A Yes, sir.

5 Q In this six county area here, you indicated you had a
6 minimum of 100 jobs in 1988, of a non-highway type?

7 A Yes, sir. That could consist of -- when I give you a
8 figure of 100, that could be a father/son team just water
9 proofing a basement of a home.

10 Q Okay. How does that number of jobs compare to 1987?

11 A Our volume of business was better in '88 than it was
12 in '87.

13 Q Do you expect to be awarded any bids for 1989?

14 A Yes, sir.

15 Q If you are awarded bids, will you need transportation
16 service?

17 A Yes, sir.

18 Q To the areas you've discussed?

19 A Yes, sir.

20 Q For the commodities you've talked about?

21 A Yes, sir.

22 MR. LAVELLE: I don't have any other questions of the
23 witness.

24 MR. GRAF: I have nothing further.

25 JUDGE PORTERFIELD: Thank you very much, sir.

1 THE WITNESS: Thank you.

2 JUDGE PORTERFIELD: Are we going to make any decisions
3 -- I want some lunch. My blood sugar --

4 MR. LAVELLE: I don't have a witness here anyway.

5 JUDGE PORTERFIELD: Okay. Let's take an hour's lunch.

6 (Lunch recess was taken at 1:00 o'clock p.m., to
7 resume at 2:00 o'clock p.m.)

8 JUDGE PORTERFIELD: Ready to go?

9 MR. LAVELLE: Yes, sir.

10 JUDGE PORTERFIELD: Raise your right hand, please.

11 KENNETH LAMISON, having been duly sworn, was examined
12 and testified as follows:

13 MR. LAVELLE: Before we put this witness on, could I
14 raise an issue that was -- came up with the last witness, I
15 believe, on that one aspect of his testimony?

16 JUDGE PORTERFIELD: On the exemption --

17 MR. LAVELLE: Either on or off the record.

18 JUDGE PORTERFIELD: Let's do it on the record. What Mr.
19 Lavelle is referring to is Mr. Graf brought up during cross
20 examination of the last witness before lunch the issue of
21 whether or not the involved transportation wasn't exempt of
22 some provision of the Code or other, and Mr. Lavelle wanted to
23 address that issue.

24 MR. LAVELLE: Over the break I looked at a copy of the
25 statute, and if I'm looking at the same section Mr. Graf was

1 thinking about, the so-called road construction materials
2 section --

3 MR. GRAF: Yeah.

4 MR. LAVELLE: I don't have it in front of me. Maybe I
5 should have it, but it says there's an exemption that applies
6 to the transportation of certain commodities, including road
7 construction materials, but it also has in dump vehicles as
8 one of the criteria there, and that's what I thought. I never
9 understood that exemption to apply to non-bulk or commodities
10 that were not handled in dump vehicles.

11 MR. GRAF: There were some cases, though, that expanded
12 it beyond dump vehicles. We can worry about that later.

13 JUDGE PORTERFIELD: That's an issue for briefing, if Mr.
14 Graf wants to address that.

15 MR. LAVELLE: All right.

16 MR. GRAF: All right.

17 MR. LAVELLE: We're prepared to call the next witness
18 then. Mr. Lamison.

19 JUDGE PORTERFIELD: Lamison?

20 THE WITNESS: Yes. L-a-m-i-s-o-n.

21 MR. LAVELLE: Would you keep your voice up so Mr. Graf
22 and the reporter can hear you?

23 DIRECT EXAMINATION

24 BY MR. LAVELLE:

25 Q Give us your name and your business address.

1 A Kenneth Lamison, and we're at Avenue B in Leetsdale,
2 Pennsylvania with the Okonite Company?

3 Q How do you spell Okonite?

4 A O-k-o-n-i-t-e.

5 MR. GRAF: O-k-o --

6 THE WITNESS: -- n-i-t-e.

7 BY MR. LAVELLE:

8 Q In what county is Leetsdale?

9 A Leetsdale is on the western edge of Allegheny County.

10 Q What position do you hold with Okonite?

11 A I'm the service center manager of the Pittsburgh
12 warehouse.

13 Q How long have you had that position?

14 A Five years.

15 Q Does that involve you in the company's transportation
16 activities?

17 A Yes.

18 Q Do you have charge of the selection of carriers?

19 A The selection of carriers is based out of our
20 corporate headquarters. We've got a list of about a dozen
21 carriers to use all across the country, and as far as the
22 outbound traffic here from Leetsdale, I make the decision on
23 those moves.

24 Q Do you function as a traffic coordinator or traffic
25 department for the company here?

1 A Yes.

2 Q What type of operation do you have at Leetsdale?

3 A It's a wire and cable warehouse where we receive, in
4 bulk, electrical wiring cable and cut the cable to a length
5 the customer orders and reship it.

6 Q Just so there's no confusion in your use of that
7 terminology, when you said in bulk, did you mean in volume, as
8 opposed to a bulk type commodity?

9 A Right. In master reels.

10 Q You don't produce it?

11 A Correct. It's produced in our manufacturing plants
12 in New Jersey, in California and Kentucky.

13 Q Is that the commodity that you ship out from your
14 warehouse to various customers?

15 A Right.

16 Q Is there anything besides the wire and the cable?

17 A We have a small amount of splicing materials, which
18 include tape and cement, and those, from time to time, are
19 shipped out along with the cable.

20 Q What is the range in the weight of the shipments that
21 you make?

22 A Okay. As far as LTL shipments, we'd ship anything
23 from 71 pounds, which is just over the UPS limit, right up
24 around to 20,000, depending on where we find a break where a
25 truckload would be less expensive. Generally, 20,000 is a

1 pretty close estimate. There are times on a real short haul
2 where possibly a 20,000 pound shipment by LTL might be cheaper
3 than truckload because minimum charges might be incurred on
4 truckload shipments.

5 Q What percentage of your traffic or shipments,
6 individual shipments would be in the 20,000 pound or lower
7 category?

8 A I'd say 90 to 95 percent are going to go LTL.

9 MR. GRAF: Ninety-five percent LTL, did you say?

10 THE WITNESS: Right.

11 MR. LAVELLE: Ninety to 95.

12 MR. GRAF: Ninety to 95?

13 THE WITNESS: Right, based upon number of shipments.

14 BY MR. LAVELLE:

15 Q The balance, then, would be what you consider
16 truckload traffic, where your freight would move at a
17 truckload rate?

18 A Correct.

19 Q Would it necessarily be the only freight on the truck
20 at the time?

21 A From time to time there's going to be a case where a
22 truckload carrier might have X amount of space available, left
23 on the truck and we might be taking up 30 feet instead of the
24 entire 48 feet of the truck. But more often than not, we're
25 going to be looking at the whole truck.

1 Q To what types of customers do you ship these various
2 materials?

3 A We can ship it to an end user, which would be a job
4 site where they're installing electrical cable, utilities,
5 coal mines, railroads and distributors of electrical cable.

6 Q What part of your shipments would go to a job site?

7 A I'd say, in the area we're talking about, in Central
8 Pennsylvania, as much as 20 percent because we've got the -- a
9 good bit of utilities out there.

10 Q When you refer to Central Pennsylvania, since you're
11 located in Allegheny County, you're limiting that to the six
12 counties, are you not?

13 A Yes. I'd say, of the portion drawn on the map here,
14 we ship more into those six counties than into the balance.

15 Q Okay. In that six county area, then, can you
16 indicate for us where you have customers, and would these
17 locations be job sites, or would they be the physical office
18 of where maybe a customer has its headquarters, but not
19 necessarily the shipping destination point?

20 A Okay. We've got Penelec locations in Altoona. We've
21 got Cooke/Wilson, which is a mining cable distributor which
22 distributes to the --

23 MR. GRAF: Can you speak a little louder? It's very
24 hard to hear you.

25 THE WITNESS: We've got Cooke/Wilson Supply in

1 Ebensburg, who is a mining cable distributor. In Windber, and
2 I believe also in Altoona, we've got Bert Electric. We've got
3 -- we've got some locations out there. I'm not sure exactly
4 where they are for West Penn Electric. And the other, APS, or
5 Allegheny Power Systems. Most of these would be job sites.

6 MR. GRAF: Where is that one?

7 THE WITNESS: They would be spread throughout that area.
8 Anywhere the utility would be doing their repair work on their
9 substations.

10 BY MR. LAVELLE:

11 Q You referred to Altoona, which is Blair County?

12 A Right.

13 Q And Ebensburg, which is Cambria; Windber, which is in
14 Bedford?

15 MR. GRAF: Somerset I think.

16 MR. LAVELLE: Excuse me.

17 MR. GRAF: I think it's Somerset, isn't it?

18 MR. LAVELLE: Yeah. You're right. I'm sorry. Windber
19 is in Somerset.

20 MR. GRAF: I think so.

21 BY MR. LAVELLE:

22 Q Do you have any shipping points in Clearfield County?

23 A Is DuBois in Clearfield County?

24 Q Yes.

25 A Okay. We have up in DuBois. I believe there are

1 some Penelec locations up there also.

2 Q Approximately how frequently do you have occasion to
3 ship to Altoona during the course of a year?

4 A I'd say monthly or more.

5 Q What would the total volume over a year's time amount
6 to in terms of pounds?

7 A That can change, depending on how much we have
8 stocked in our warehouse at a given time, but I'd say 40,000
9 pounds would be a conservative estimate.

10 Q How about the DuBois customer, or Penelec? How
11 frequently do you ship to them?

12 A Once again, depending upon what we have in stock and
13 how desperately it's needed. It could be 20 to 30,000 pounds.
14 These figures could triple, depending on customer need.

15 Q Does that depend where you're shipping? When you're
16 talking about Penelec, that's the last two customers I think
17 you referred to.

18 A Right.

19 Q Locations -- what causes the jump, the fluctuation in
20 their needs?

21 A They could merely have a power outage. They could
22 run out of stock that we've been handling for them on a
23 blanket, where we're manufacturing X amount of feet per year
24 and a couple months might go by where they don't need any, and
25 then all of a sudden they want 50,000 feet because they've got

1 a project when the weather breaks and they've got to install
2 quite a bit of cable to get something on line.

3 Q Ebensburg in Cambria County, how frequently do you
4 make shipments to that customer?

5 A That's a mining cable distributor. What we do is
6 we'll ship to them so that they can have this cable out to the
7 mine anytime the coal mine has a power outage with their
8 cable. They will get in touch with them, we will ship the
9 cable out that day so that they can have that and, some more
10 items that they handle. For instance, connectors and other
11 mining cable machinery that Cooke/Wilson over in Ebensburg
12 would stock, and that can be anywhere from three times a week
13 to once every two months, depending on -- it's a very hit and
14 miss type of business, where it's feast or famine, so to
15 speak.

16 Q When you ship to that customer, do you ship to a
17 central location and they distribute it from there to the
18 mines, or --

19 A Right.

20 Q Or do you ship to the mine directly?

21 A We will ship to Cooke/Wilson, I'd say 90 percent of
22 the time. There are times when the order might be of such a
23 size that it would be more work than they care to get involved
24 with to reload it onto their own truck, so they'll have us
25 ship it directly to a mine. That's not terribly common,

1 though.

2 Q When they call for service -- you indicated something
3 about same day delivery, or shipping the same day?

4 A The next morning is absolute latest they want it
5 there. If they call me, you know, for instance, on a day like
6 today at 2:00 o'clock in the afternoon, they automatically
7 expect that to go out that afternoon and they have to have it
8 there by the following morning. From time to time they'll
9 come by with their own trucks and pick things up, and from
10 time to time they will inquire about same day delivery.

11 Q Do they have a variety of different sizes?

12 A Yes. Just about anything any of the mines in that
13 area could possibly be using, we try to have on hand for
14 immediate shipment. They don't inventory this.

15 Q That's what I was going to ask. They use you as the
16 inventory point?

17 A Right.

18 Q Is that true on the Altoona and DuBois customers as
19 well?

20 A Penelec, I believe at Altoona there might be a bit of
21 a store room there, where they get involved in some storage.
22 Now, I mentioned Altoona. I just realized ConRail in Altoona
23 was another storage point there for the railroad. They are a
24 little less service conscious, but it can become a great
25 volume of shipments going there

1 Q Have you included that in your estimate of your
2 annual volume to Altoona? You said 12 plus shipments a year.
3 Would that include the ConRail?

4 A No. That would just be for Penelec. There could be
5 another 12 to 20 for ConRail.

6 Q And in terms of tonnage, what did that come to over a
7 year's time?

8 A Probably another 50 to 60,000 pounds.

9 MR. GRAF: I didn't quite get that. I thought his
10 volume was 12 to 20,000.

11 THE WITNESS: That was for Penelec.

12 MR. LAVELLE: Twelve to --

13 MR. GRAF: What was ConRail's volume?

14 THE WITNESS: Fifty to 60,000 pounds.

15 MR. GRAF: Per year?

16 THE WITNESS: Yes.

17 MR. GRAF: Okay.

18 BY MR. LAVELLE:

19 Q You had mentioned also -- was it Windber --

20 A Yes.

21 Q -- Somerset County? How much do you send to them in
22 the course of a year, and how often?

23 A That one is a very seldom shipping point. I believe
24 DuBois is a more common point for that particular customer,
25 but they have areas all over Clarion, Clearfield, Blair County

1 where we might ship to a job site. The volume isn't that
2 great, but it's very service sensitive.

3 Q They call and want immediate service delivery?

4 A Correct.

5 Q Now, you mentioned West Penn and Allegheny Power
6 Systems as being other customers that have projects through
7 this area?

8 A Right.

9 Q Do you have any such projects now?

10 A Yes. As of late, most of what we've been shipping
11 has been into the Maryland panhandle, but there are areas all
12 around there that -- I can't even remember all the different
13 towns. We've got Connellsville over in Westmoreland County,
14 some in Fayette County, all over in that area. APS, the
15 primary power distribution company, they've got a lot of
16 different substations and each one of those substations can
17 enter a purchase order on us, since we have a blanket order
18 for all their locations, so any of them can enter a purchase
19 order.

20 Q In 1988, do you recall shipping anything to Allegheny
21 Power Systems that would be in this six county area? That
22 includes along the border there of the states, Somerset
23 County --

24 A I recall sending out in that central area, due to the
25 fact that it was a routing question, but I can't name a town

1 exactly.

2 Q Do you have any shipments that would come inbound to
3 your Leetsdale warehouse from origins in that six county area?

4 A Yes. We have Bedford, Altoona, and I believe those
5 are the two major ones.

6 Q What is that, the commodity that you're receiving
7 inbound?

8 A Okay. Those would be materials for our splicing
9 kits. Out of Altoona we get lead pipe which we manufacture a
10 kit for splicing, what's known as paper and lead cable, which
11 would be used in a very high voltage situation. And out of
12 Bedford we get a tape manufactured by WESCO in Bedford. It's
13 called a varnish cambric tape, which is, once again, used in
14 high voltage supplies.

15 Q What does the lead pipe from Altoona amount to in the
16 course of a year's time?

17 A You'd be talking as much as 40,000 pounds or more,
18 since it's very dense material. It's a bit sporadic. We can
19 order 30 pounds in one order and then not see another need for
20 it for a few months.

21 Q What about the tape from the Bedford location?

22 A Once again, you're talking 30 to 40,000 pounds, and
23 that's usually an item we need fairly quickly. Either of
24 these items are not something we want to wait for for any
25 great length of time because usually, when we order those,

1 we've got splicing kits to make for our customer and it can be
2 a service problem if we don't get those in in a timely
3 fashion.

4 Q On the shipments coming in from Bedford, how has that
5 been transported up to this point?

6 A Okay. Those have come in by McQuaide because WESCO
7 is the manufacturer and they choose to route it that way
8 because they are taking care of the freight.

9 Q So that's a move that's beyond your company's
10 control, as far as designating the carrier?

11 A It's something we'd like to get into changing. We're
12 undergoing a corporate -- can I call it a program, as looking
13 at some of our vendors and the way they're choosing to route
14 the freight to see if we're losing money by, you know, paying
15 more for freight than we need to, when we could use the
16 carriers that we've been using on outbound shipments, or
17 recommend that those vendors use the same carriers that we're
18 using more frequently.

19 Q As long -- regardless of what your investigation
20 discloses, as long as WESCO would pay the freight on that,
21 would you be limited to making a recommendation, as opposed to
22 changing the routing?

23 A Right. That's -- as long as they're paying the
24 freight, all we can do is make a recommendation. And
25 basically, our recommendation will be based upon the service

1 as we see it, and I know it's been a two day point inbound
2 from the shipments that have been made there.

3 Q How about from Altoona? Do you control that and
4 select the carrier?

5 A Once again, there's a case in point where we have
6 been requesting the carrier list that we have been using, and
7 the vendor up there has not been honoring that and we have
8 been paying more for freight than we need to, plus the service
9 is not acceptable to us.

10 Q Why not?

11 A It's taking at least two days to get in, sometimes
12 three.

13 Q What carrier is being used on that?

14 A That was Ward. Apparently, the fact that we're out
15 on the western rim of Allegheny County, it's not a place that
16 Ward tends to blanket service with too well, and they would
17 regard a shipment such as that as, you know, pretty much not
18 one they're going to make everyday. They might go into that
19 area X number of times per week, instead of an everyday trip.

20 Q Does the shipper in Altoona pay the freight on this?

21 A They prepay and add-in, so that we pay the freight in
22 the long run.

23 MR. GRAF: Did he name the shipper in that --

24 THE WITNESS: That's Federated Fry Metals.

25 MR. GRAF: Spell Fry.

1 THE WITNESS: F-r-y.

2 MR. GRAF: Fry. Okay. Thank you.

3 THE WITNESS: You're welcome.

4 BY MR. LAVELLE:

5 Q Have you -- while we're on this, have you tried to
6 use Ward on an outbound basis from --

7 A No.

8 Q -- Leetsdale?

9 A No. They're not one of the carriers who negotiate
10 with our corporate headquarters.

11 Q How about McQuaide?

12 A Nor are they.

13 Q Do you have shipments, in addition to going to the
14 six county area, to other points within Pennsylvania?

15 A Yes, we do.

16 Q Both -- are they mainly west of those counties, or do
17 they also go east?

18 A I'd say the Philadelphia area would get more so than,
19 say, for instance, Erie. I'd say more so east.

20 Q Do you have shipments available for a carrier to move
21 at the same time going into the six counties, as well as other
22 points in Pennsylvania?

23 A Yes. From time to time we'll have sufficient
24 quantity for truckloads so that we could make a stop-off at a
25 final destination with a truckload to save money over an LTL

1 shipment.

2 Q Can you give me an idea where some of those other
3 points in Pennsylvania would be that you could combine
4 shipments?

5 A Well, besides Philadelphia, we've shipped a good
6 amount to the Mechanicsburg U.S. Army Depot and also Luke,
7 Maryland (phonetically), which is in the panhandle just south
8 of, I think, Fulton County, possibly Bedford, but it's just
9 south of the Pennsylvania border.

10 Q How large is your shipping facility out here? How
11 many doors do you have?

12 A We've got five shipping doors and about a 55,000
13 square foot warehouse.

14 Q How many total carriers do you have serving your
15 company?

16 A We've got a dozen out of the Pittsburgh area which
17 serve both long haul intermediate and region short haul
18 carriers. By the way, that counts Pitt-Ohio and Hammel's as
19 two.

20 Q Okay. What kind of motor vehicle equipment do you
21 want the carrier to provide to haul your freight?

22 A Well, we have requests for just about any imaginable,
23 peculiar need the customer might come up with, from
24 refrigerated from time to time, flatbed quite often. Because
25 of job site delivery, where they've got a crane to off-load

1 it, instead of using the closed trailer -- and one of the more
2 important things we've noticed in recent past is straight
3 trucks are not acceptable to a lot of our customers who cannot
4 off-load our particular product, which is cable on reels which
5 can sometimes be 4 or 5,000 pounds apiece, and they have to be
6 off-loaded with a lift truck and some of the companies that
7 we've used, that our customers request, have attempted to
8 deliver those on straight trucks and cannot drive the lift
9 trucks onto them, so there's an off-loading problem there. So
10 generally, we prefer to have those delivered on a tractor
11 trailer.

12 Q What service do you demand the carrier provide once
13 it picks up a shipment?

14 A Well, we'd like to automatically assume that anything
15 within the State of Pennsylvania will be there the next
16 morning. We've come to expect that since -- for instance,
17 with Pitt-Ohio we can get New Jersey service, Maryland
18 service, southern tip of West Virginia, all throughout Ohio
19 and just about any place in their Points Guide the next day,
20 so we naturally assume anything in Pennsylvania is going to be
21 there the following day without fail.

22 Q How long does it take to load the equipment at your
23 place of business?

24 A Depending upon the type of order. For instance, if
25 we've got a substantial order for a volume type item that we

1 might have that's blanket, for instance, for Penelec that
2 might require 40 reels, it might be advantageous for us to
3 have someone spot a trailer so we can load that throughout the
4 day and not tie up our lift truck for any great length of time
5 just on loading that particular truck, where it can go on and
6 do other things also.

7 Q Have you had equipment spotted by Pitt-Ohio?

8 A Yes, for that particular reason.

9 Q Where you're using them, were they able to give you
10 this consistent overnight service?

11 A Yes.

12 Q If the application is approved, would -- what
13 percentage of the traffic going into this area would be routed
14 by way of Pitt-Ohio?

15 A I should think a hundred percent.

16 Q I'm not sure if I covered this or not, but did you
17 say that you had, in fact, used Ward Trucking on inbound
18 service?

19 A On inbound, yes. It was Federated Fry Metals that
20 had used them.

21 Q Okay. Are you in competition with other
22 manufacturers or distributors of similar products?

23 A Yes. As a matter of fact, one of our competitors is
24 Rome Cable, which is based up in Rome, New York, so we could
25 get into competition in Central Pennsylvania with their

1 ability to distribute into that area in an equally timely
2 fashion.

3 Q Does the caliber of the motor carrier service
4 available to you, then, have some impact on whether or not
5 you're successful in getting these accounts?

6 A Without a doubt. As a matter of fact, I've noticed
7 an increase in business to the eastern points in Pennsylvania
8 and New Jersey due to the fact that we're able to get material
9 out there more quickly than our competitors, and won't want to
10 see that trend reversed due to, you know, inabilities of
11 finding carriers to be able to blanket the area.

12 Q That increase in business in the eastern part of the
13 state came about when you started to use what carrier?

14 A Well, Pitt-Ohio had been our major carrier into, say,
15 Philadelphia; whereas, just short of there in, say, Harrisburg
16 area, it would have been a back haul for them maybe three or
17 four years ago. And since they have added some terminals,
18 we've used them throughout the eastern part of the state and
19 we've seen an improvement in service.

20 Q And then in your business as well, I take it?

21 A Yes.

22 MR. LAVELLE: Thank you, Mr. Lamison.

23 CROSS EXAMINATION

24 BY MR. GRAF:

25 Q Sir, how long have you had the customer in Altoona?

1 A Penelec --

2 Q Yes.

3 A -- has been our customer for longer than I've been
4 with the company.

5 Q That's over five years?

6 A Yes.

7 Q And how long have you had the ConRail customer?

8 A Probably at least ten years. We happen to be getting
9 about 90 percent of the railroad cable business now, so --

10 Q How long has the Ebensburg customer been with you?

11 A At least since 1971.

12 Q And Windber?

13 A That's a more recent distributor that we've taken on,
14 so that's within the last five years.

15 Q And Penelec at DuBois?

16 A Once again, their purchasing is all out of Altoona,
17 so we'll get a purchase order from them directing us to ship
18 it to a number of different locations.

19 Q How long have you been --

20 A It would be identical to Altoona.

21 Q Five years?

22 A In excess of five years.

23 Q Now, in that five year period, what carrier have you
24 used to Altoona?

25 A Pitt-Ohio recently and --

1 Q How recently?

2 A In the last two years. I believe it was in January
3 of '88, when I got a Points Guide.

4 Q From them?

5 A From them stating that that area was now open.

6 Q And prior to that, who did you use?

7 A We used Pittsburgh-Johnstown-Altoona Express.

8 Q And that would be both for ConRail and Penelec?

9 A Yes.

10 Q Ebensburg, who are you using there now?

11 A Once again, that was Pittsburgh-Johnstown, and
12 recently that customer has requested that we ship Pitt-Ohio
13 for the service advantage, both at that location and in
14 southern West Virginia.

15 Q And that was about the same time, January of '88?

16 A Or perhaps a little later in '88.

17 Q Windber, you said, was within the last five years.

18 Who have you been using there?

19 A That was either PJAX or Pitt-Ohio. This is an
20 instance where it depends on what else -- what time the order
21 comes in of the day and what other trucks might be at the dock
22 at that time. Quite often we find ourselves, you know, at
23 4:00 o'clock in the afternoon getting an order over the phone,
24 and whoever happens to be there at the dock is going to get
25 the shipment, to not let it run into the next day.

1 Q It will be one or the other of them?

2 A Right.

3 Q On DuBois who do you use?

4 A That would be Pitt-Ohio or PJAX, once again.

5 Q Is that pretty much the same thing, whoever is at the
6 dock first gets it?

7 A Generally. As I say, it's going to be -- going to go
8 with past experience, where we've had the better service. And
9 if we happen to have a carrier that's been there and gone that
10 day and the other carrier happens to be there, for instance,
11 PJAX and there's one shipment coming out at the end of the
12 day, rather than let that go until the next day, we'll put it
13 on there.

14 Q What percentage of your traffic have you been giving
15 to PJAX into DuBois?

16 A Into DuBois, just as a rough estimate, maybe 30
17 percent.

18 Q And as to Ebensburg, what percentage?

19 A I'd say roughly the same, 25 percent, 30 percent.

20 Q And Windber?

21 A Roughly the same thing. There might even be some UPS
22 involved with that customer. As I say, they're a recent
23 addition as a distributor and we're still bringing them on.

24 Q Now, you mentioned something about the number of
25 carriers that you have available to you?

1 A Right. Our corporate traffic office in Ramsey, New
2 Jersey does all the negotiating with the carriers to set up
3 the programs, insofar as the different locations. We've got
4 five warehouses and six manufacturing plants throughout the
5 country.

6 Q I'm only talking about your warehouse. What carriers
7 are authorized by your home office, other than Pitt-Ohio and
8 Hammel's that you've told us about?

9 A Okay. Pittsburgh-Johnstown-Altoona.

10 MR. LAVELLE: Can I ask you a question here? Are you
11 concerned with anywhere in the world, or just to Pennsylvania?

12 MR. GRAF: I understood that he had six carriers
13 available in his warehouse. The same question you asked him,
14 and that's what I'm trying to find out, who they are.

15 THE WITNESS: I said there are 12 carriers available
16 throughout the country, both long haul, short haul and
17 intermediate.

18 BY MR. GRAF:

19 Q I'd still like to know who they are.

20 A Yellow, ABF, Consolidated Freightways, Conway Central
21 Express.

22 Q What was that?

23 A Conway Central Express, Red Star Express.

24 Q All right.

25 A Pittsburgh-Johnstown-Altoona Express, Pitt-Ohio and

1 Hammel's.

2 Q All right.

3 A Is that 12 or 11?

4 Q Well, that's eight.

5 A Then it's only eight. At one time we had 12. We've
6 tapered off.

7 Q Let's deal with the eight.

8 A Okay.

9 Q Yellow Freight is an ICC carrier?

10 A Correct. We've used --

11 JUDGE PORTERFIELD: To move this thing along, let's ask
12 him out of those -- what carriers he uses intrastate out of
13 that list.

14 MR. GRAF: I can do it either way. If he just answers
15 yes or no, it would also be quicker.

16 MR. LAVELLE: Your Honor, I don't think the witness has
17 gone off. He hasn't given any answers than what he's asked
18 for.

19 JUDGE PORTERFIELD: What carriers do you use intrastate
20 out of that group?

21 THE WITNESS: Pittsburgh-Johnstown and Hammel's and
22 Pitt-Ohio.

23 MR. GRAF: All right.

24 BY MR. GRAF:

25 Q Now, you're aware of the authority of those carriers,

1 are you not?

2 A To some degree.

3 Q Are there any other carriers that you're aware of who
4 can provide service to the six county area you've been talking
5 about and back again?

6 A As far as back again, I'm not sure. You know, as a
7 matter of fact, I've learned a lot on this today, but I think
8 of the carrier list I gave you, the only other carrier that
9 has any intrastate authority that I know of is Red Star
10 Express.

11 Q How about McQuaide? Don't they have intrastate
12 authority?

13 A They're not on our corporate carrier list.

14 Q No, but I'm talking carriers other than that. Are
15 you aware that McQuaide has statewide authority?

16 A I'm aware basically that they're an intra-PA type of
17 carrier. I'm not sure of the realm of their authority.

18 Q Well, are you aware that they can go between any two
19 points in Pennsylvania?

20 A No, I did not know that.

21 Q Are you aware also that they could serve New York and
22 New Jersey and the surrounding states, plus more?

23 A I believe I was aware that they can serve New Jersey.
24 I believe we've had inbound from New Jersey from one of our
25 vendors via McQuaide.

1 Q I see. Are you aware that Ward also has statewide
2 authority?

3 A I was aware that they had some Pennsylvania
4 intrastate authority, but not to what degree.

5 Q And you don't know what their ICC rights might be?

6 A I'm aware that they have some interstate authority,
7 but I have no idea to what degree.

8 Q Now, you did say that you were aware that Red Star
9 does have some Pennsylvania authority?

10 A Correct, but I would not use them due to their
11 limited blanketing of the area. For instance, anything they
12 were going to ship into Erie would, I believe, go through
13 Buffalo, New York, or vice versa. But they've got such
14 limited terminal routings in Pennsylvania that their service
15 would obviously suffer.

16 Q All right. I think that answers that fairly. Do you
17 have any personal knowledge of where any of these job sites
18 might have been in the past in the six county area?

19 A Other than the cities I mentioned. There are
20 numerous smaller towns that I did not take the time to write
21 down.

22 Q All right. But as you're sitting here today, you
23 don't know where they might be offhand?

24 A No. Basically, when I get a shipment like that, my
25 routing is by zip code. I'll check the zip code versus a

1 Pitt-Ohio guide, to check that the zip code is a covered point
2 for me. To get into counties is far more time than I have
3 available for the one area of my tasks each day which gets
4 involved with routing freight.

5 Q And a carrier that has a zip code tariff filing would
6 be a big help to you?

7 A Well, as I said --

8 Q It simplifies your routing?

9 A Right, as opposed to trying to determine what county
10 some town is located in and whether or not a carrier can
11 service that town, or if they must service it as an ICC point
12 and have it go through another terminal.

13 Q So any carrier that had a Pennsylvania operation that
14 didn't have to go through another outside state point, that
15 has a direct zip code directory, would help you in affecting
16 your routing, would it not?

17 A Yes, for one reason being that the less our freight
18 is transferred, the better it is because we can incur damage
19 since we've got electrical cable on wooden reels. It's easy
20 enough to damage that.

21 Q That's direct service?

22 A Well, I mean --

23 Q You want direct no-transfer service?

24 A Right. No-transfer service.

25 Q With a zip code routing so you know where it is?

1 A True.

2 Q And can find it more quickly?

3 A Correct, and don't have to be concerned about, you
4 know, which county something is involved with.

5 Q All right. And you'd also want somebody to give you
6 the type of equipment you want on an overnight basis?

7 A Correct.

8 MR. GRAF: Thank you. That's all I have.

9 MR. LAVELLE: Just one question here.

10 REDIRECT EXAMINATION

11 BY MR. LAVELLE:

12 Q If Pitt-Ohio were granted the authority here and had
13 the ability to operate from points in Allegheny County to all
14 points in the State of Pennsylvania and you knew that, your
15 routing problems are over, aren't they?

16 A Yes. As a matter of fact --

17 Q I mean, your zip code tariff then becomes
18 superfluous, as far as checking authority is concerned?

19 A Correct. As a matter of fact, it's basically that
20 way now, with the only exception that I'm aware of those
21 counties run as ICC through Cumberland, Maryland, with the
22 possible occurrence that that freight might move at that other
23 terminal, and a slight concern there on how we're loading it
24 and possibly have to call in an empty trailer so that it's
25 nose loaded and wouldn't be transferred.

RE CROSS EXAMINATION

1
2 BY MR. GRAF:

3 Q Well, any carrier that can give you direct service to
4 points in Pennsylvania would accomplish the same thing,
5 wouldn't it, so long as they gave you overnight delivery?

6 A But we would have to go through our New Jersey
7 corporate thing again; whereas, that's more hassles that we
8 don't really need. It would be more to our advantage to have
9 one of the carriers that we've been using for the ten years
10 that we've been in Pittsburgh to incur that authority.

11 Q Let me put it another way. If your home office in
12 New Jersey was approached directly by the carrier and they put
13 them on the list, it would accomplish the same thing and
14 wouldn't be any extra work to you at all, would it?

15 A I guess not.

16 MR. GRAF: All right. Thank you.

17 JUDGE PORTERFIELD: Anything else, Mr. Lavelle?

18 MR. LAVELLE: No, sir.

19 JUDGE PORTERFIELD: Thank you, Mr. Lamison.

20 THE WITNESS: You're welcome.

21 JUDGE PORTERFIELD: Can we take a long enough break so I
22 can go upstairs and get a cup of coffee and come back down?

23 (A brief recess was taken.)

24 RICHARD SPITLER, having been duly sworn, was examined
25 and testified as follows:

DIRECT EXAMINATION

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BY MR. LAVELLE:

Q Would you give the reporter your name and business address, sir?

A My name is Richard Spitler, S-p-i-t-l-e-r, and my business address is Allegheny Distributing, 109 Sagamore Hill Road, Pittsburgh, 15239.

Q What is the name of your company?

A Allegheny Distributing, Incorporated.

Q And what type of business is it?

A We are in the wholesale distributors of lawn and garden equipment, specifically Toro lawn mowers and snow blowers.

MR. GRAF: Lawn and garden equipment, and then you said something else.

JUDGE PORTERFIELD: Toro snow blowers. We're going to hear about his rough season so far.

THE WITNESS: Two of them.

JUDGE PORTERFIELD: Two of them back to back.

BY MR. LAVELLE:

Q You have products that are both summer and winter seasons?

A Yes, sir.

Q By the way, what is your position with this company?

A I am president and half owner.

1 Q And how long have you been involved with the company?

2 A Since 1977.

3 Q And do you get involved in transportation matters,
4 make carrier selections and --

5 A Yes, I do.

6 Q Where do you ship these products from?

7 A From?

8 Q Yes.

9 A 109 Sagamore Hill address.

10 Q Do you have a warehouse at that location?

11 A Yes.

12 Q How large is that?

13 A The building is 10,000 square feet, and 7500 of it is
14 warehouse. The rest is parts and office.

15 Q How many doors or docks do you have available for
16 loading trucks?

17 A Two docks.

18 Q Do you have large facilities, insofar as putting
19 shipments together for tendering them to carriers?

20 A No. That's part of our problem. The space is quite
21 limited, and as soon as I receive a truck or two in, I must
22 ship many orders out to make room for the next couple of
23 trucks. So one of my criteria is that not only good service,
24 that I use few carriers. I like to have as few coming to me
25 and ringing the door bell and backing up and loading, and so

1 forth, as possible.

2 Q You indicated that 7500 square feet of your place is
3 warehouse?

4 A That's correct.

5 Q Does that still require a somewhat limited inventory?

6 A Well, it requires great move-through.

7 Q Explain what you mean by that?

8 A After I get it in, I have to get it right back out
9 again. Number one, it's seasonal, and number two, I don't
10 have the space. Lawn mowers, and particularly riding lawn
11 mowers, are quite bulky, so I can't hold --

12 Q Okay. I was getting back to your answer a minute ago
13 when you said a truck or two comes in loaded with materials.
14 You've got to quickly get them turned around and out?

15 A That's correct.

16 Q So that you don't keep anything for any lengthy time
17 in inventory?

18 A We try not to.

19 Q Do your shipments all range in the less than
20 truckload category on your outbound freight?

21 A Primarily, yes.

22 Q To whom do you ship these snow blowers and lawn
23 mowers?

24 A Typical dealers of lawn and garden, supply house or a
25 hardware store. Usually small retail accounts.

1 Q You do not deal with large chain stores or people of
2 that size?

3 A No, we do not.

4 Q You're familiar with this application and the fact
5 that Pitt-Ohio has authority now from Allegheny County to
6 virtually all of the State of Pennsylvania and vice versa?

7 A Yes.

8 Q The application is limited to service, as far as
9 Allegheny County is concerned, to those six counties in the
10 central part of the state?

11 A Yes, sir.

12 Q Now, do you have customers in that six county area to
13 which you make shipments?

14 A We do.

15 Q Is there any standard, as far as your company is
16 concerned, as to how many shipments you make to a given
17 customer in a year's time, considering the two main seasons of
18 your business?

19 A Because of the seasonality, we usually work three or
20 four months ahead of the season. Right now I'm shipping lawn
21 mowers.

22 Q Today? You're shipping lawn mowers today?

23 A Yes. In August we'll be shipping snow throwers,
24 hopefully.

25 MR. GRAF: Snow blowers?

1 THE WITNESS: Hopefully. The dealer usually places a
2 spring order or a stock order. It usually takes us two -- at
3 least two shipments to fill that because of availability of
4 product to me and because of my space requirements, and then
5 usually one for -- a stock order for snow equipment, and
6 hopefully there is one or two shipments of reorders during the
7 year.

8 BY MR. LAVELLE:

9 Q So any typical account, then, would receive how many
10 shipments from you during the course of a year?

11 A Five or six.

12 Q In addition to your own space requirements that
13 requires you to get things out in a hurry, do your customers
14 require any quick service from you, insofar as delivery is
15 concerned?

16 A Yes. To be competitive -- we have no trucks. We
17 reply a hundred percent on common carrier, and most of my
18 competition do have trucks and can provide overnight service,
19 and I can meet that now with the Pitt-Ohio good service that
20 they give.

21 Q Do you have competitors of the Toro line of
22 products --

23 A No.

24 Q -- more in the central part of the state, or are you
25 competing with other manufacturers?

1 A I'm competing with Lawn Boy and Snapper and other
2 manufacturers.

3 Q It's not a competitor in the same line of Toro, but
4 different manufacturers?

5 A That is correct.

6 Q Do you know whether or not any of those competitors
7 who are set up like you are, distributor to the retailer, are
8 located in the central part of the state closer to --

9 MR. GRAF: I'd have to object now. That's stretching it
10 a little far. He's going into what his competitors do.

11 MR. LAVELLE: Where they're located.

12 JUDGE PORTERFIELD: If he knows where they're located.

13 THE WITNESS: My competitors are not located in the
14 central part of the state.

15 BY MR. LAVELLE:

16 Q They would be in the major cities like you are?

17 A Yes.

18 Q By reference to those six counties, can you tell us
19 now where some of your customers are located, and at the same
20 time -- well, you've already told us approximately the volume,
21 so what we're really looking for is some of the locations.

22 A Well, Clearfield, DuBois. In Cambria County I have
23 about three dealers. Blair County.

24 MR. GRAF: Where were the Blair County? You said Blair
25 County had about three or something?

1 THE WITNESS: No, no. Cambria.

2 MR. GRAF: Who are they?

3 THE WITNESS: I have Milkis Lawn and Garden
4 (phonetically).

5 BY MR. LAVELLE:

6 Q Do you know the town or city it's located in?

7 A Johnstown. And Ray's in Summerhill, and Pristo
8 (phonetically) in Windber.

9 MR. GRAF: Okay.

10 BY MR. LAVELLE:

11 Q You mentioned Clearfield. Is that the only location
12 in Clearfield County?

13 MR. GRAF: He mentioned DuBois, too.

14 MR. LAVELLE: DuBois. I'm sorry. They're both in
15 Clearfield County.

16 BY MR. LAVELLE:

17 Q Are those the only two where you have dealers in --

18 A I believe so.

19 Q How about in Bedford County? Do you have any
20 customers in Bedford County?

21 A Bedford. We have D & M Supply in Bedford.

22 MR. GRAF: Where are they?

23 THE WITNESS: In Bedford.

24 MR. GRAF: Bedford.

25 BY MR. LAVELLE:

1 Q Did you mention anyone in Blair County? Do you have
2 any customers there?

3 A Blair, we have -- let's see. In Altoona we have Elso
4 Hardware (phonetically). In Hollidaysburg we have Blair
5 Automotive. Roaring Springs we have Roaring Springs
6 Department Store.

7 Q Are those the main ones in Blair County?

8 A Yes.

9 Q Do you get as far east as Huntingdon County, which is
10 to the east of Blair?

11 A We have one dealer in Bellwood, or Bellville. Is
12 that in Huntingdon County?

13 MR. GRAF: That's also Blair County.

14 THE WITNESS: Blair.

15 MR. LAVELLE: I think the town is Bellwood, isn't it?

16 MR. GRAF: Bellwood.

17 MR. LAVELLE: Yes, in Blair County.

18 MR. GRAF: Right out of Altoona, east of --

19 THE WITNESS: Well, we have a dealer there, Cornmesser
20 (phonetically), but this is Sam Pechi (phonetically). He's
21 down in Bellville, I believe.

22 MR. LAVELLE: If I can help the witness out, there's a
23 Bellville, Pennsylvania, but it shows Mifflin County, which is
24 farther to the east.

25 BY MR. LAVELLE:

1 Q Is that what you had in mind? It's to the east of --

2 A Yes, it is. I'm sorry.

3 Q Okay. That's outside the territory.

4 MR. GRAF: That's out.

5 BY MR. LAVELLE:

6 Q Would those basically, then, that you've given us, be
7 your primary dealers, then?

8 A Primary dealers, yes.

9 Q Okay. You mentioned a minute ago that you have been
10 using Pitt-Ohio Express' service. Do you have customers in
11 the western part of the state, in Allegheny County and
12 surrounding counties?

13 A Yes. We distribute in the western half of
14 Pennsylvania, from State College west.

15 Q Are you using Pitt-Ohio in the western part of the
16 state?

17 A We are.

18 Q Do you also ship into surrounding states? Is that
19 your territory?

20 A We have two counties in Ohio, Harrison and Jefferson,
21 and 16 counties in northern West Virginia.

22 Q Have you ever had occasion to use Pitt-Ohio to those
23 areas?

24 A Yes.

25 Q What carrier is handling your traffic now into these

1 six central counties?

2 A Some PJAX, but primarily Pitt-Ohio.

3 MR. GRAF: Primarily what?

4 THE WITNESS: Pitt-Ohio.

5 MR. GRAF: Your voice falls off and I can't hear you.

6 THE WITNESS: Sorry.

7 MR. GRAF: Okay. Some PJAX and primarily Pitt-Ohio?

8 THE WITNESS: Yes, sir.

9 BY MR. LAVELLE:

10 Q How would you rate Pitt-Ohio's service?

11 A Excellent.

12 Q Do they pick up your shipments when you want them
13 picked up and deliver them on schedule?

14 A That is excellent, and they spot a trailer for me, as
15 they did last week, when we have heavy shipments. I can't
16 think of any time they do not accommodate us.

17 Q Would there be any advantage -- strike that. There
18 are several carriers opposing this application. One of them
19 is Evans Delivery Company. Are you familiar with them?

20 A I never heard of them until today.

21 Q How about Ward Trucking Company? Have you used them?

22 A I've heard of them, but I've never used them.

23 Q Have they ever come in and solicited your business?

24 A Oh, yes. Everybody comes in and leaves a brochure.
25 I'm not interested in more carriers. That just ties me up.

1 Q Okay. Make the assumption that Ward Trucking has the
2 authority to cover all points in the State of Pennsylvania, so
3 that if you used them you wouldn't be -- you could substitute
4 them for some other carrier or carriers now without adding
5 anyone. Is there any reason why you can't do that, or
6 wouldn't want to do that?

7 A I wouldn't want to because to stage an order that
8 some will be going to West Virginia, a couple to Ohio, a
9 couple to Allegheny County, Butler, so forth, I want to get
10 them all staged. I want one person to come and I want to fill
11 up his truck and he takes off. I don't want to be bothered
12 with ten pieces to this one and 15 to another one.

13 Q Is that what you see as a possibility with Pitt-Ohio,
14 if this application is granted, to do just that?

15 A Very definitely.

16 Q How about W.C. McQuaide? Have you had any experience
17 with that company?

18 A Not recently, but in the past we used them.

19 Q On outbound shipments?

20 A Yes.

21 Q What was your experience -- how long ago was that?

22 A I don't think I've used McQuaide for two years now.

23 Q How was the experience with McQuaide at that time?

24 A It ended on a very sour note. We had some damaged
25 freight and it took months and months to settle the claim. We

1 close at 4:30 so we like freight to be picked up not later
2 than 4:00 o'clock. Many times their drivers would be late and
3 they'd just miss us because we'd be closed, or come at 4:25
4 and expect to be loaded, and I guess it fit their schedule
5 going back to Johnstown, but it certainly didn't fit mine.

6 MR. LAVELLE: I believe that's all I have. Thank you.

7 JUDGE PORTERFIELD: Mr. Graf.

8 CROSS EXAMINATION

9 BY MR. GRAF:

10 Q You were asked whether you could use Ward if it had
11 statewide authority, and you said well, it wouldn't cover the
12 situation of shipments maybe going to West Virginia or another
13 state, right?

14 A Yes, sir.

15 Q Now, if Ward also had the capacity of picking up your
16 freight to the portion of Ohio in which you have business and
17 West Virginia, as well as Pennsylvania, that would meet that
18 obstacle, would it not?

19 A Probably, but there's no advantage to me to do that.

20 Q I see. Now, how long have you been at this
21 particular warehouse?

22 A I think we moved in January of 1979, so ten years.

23 Q And in that time, the whole time you've had two
24 docks?

25 A Yes, sir.

1 Q On the situation with McQuaide, where was that
2 freight going to that you said was damaged?

3 A I believe it was going to Johnstown. I was also
4 distributor for snowmobiles at that time and that was a
5 snowmobile.

6 Q Did they pay the claim? You said it was months in
7 getting it.

8 A Eventually they paid it.

9 Q You don't know when this was, do you?

10 A Not -- no, not really.

11 Q Within the last two years?

12 A It was about two years ago.

13 Q All right. And you haven't used them since then I
14 gather?

15 A I don't believe we have.

16 Q Other than PJAX and Pitt-Ohio, they're the only
17 carriers you've used to the points you've named, with the
18 exception of two years ago you used McQuaide to Johnstown, is
19 that correct?

20 A Yes.

21 Q Do you need van equipment for this movement?

22 A Yes. We like to load onto a semi and have it
23 delivered on straight jobs.

24 Q You'd like to have it transferred?

25 A Yes. When they break it down to deliver them -- most

1 of my dealers are very small and they prefer a straight job.

2 Q So the transfer of freight doesn't bother you so
3 much, it's to facilitate the unloading to your dealer, is
4 that --

5 A It's convenient for me to operate, to put it on a
6 truck.

7 Q I understood that.

8 A If it's convenient, arrives the next day to the
9 dealer and it's convenient for him to unload it, that's my
10 only concern.

11 MR. GRAF: Thank you. That's all I have.

12 JUDGE PORTERFIELD: Redirect, Mr. Lavelle?

13 REDIRECT EXAMINATION

14 BY MR. LAVELLE:

15 Q Sir, you were questioned about McQuaide or Ward?

16 A Yes.

17 Q And asked the question if they had the authority to
18 serve the surrounding states in which you also market
19 products, if that would at least give you the total coverage.
20 Do you know today whether or not those carriers actually offer
21 service to all points in your market area, including non-
22 Pennsylvania points?

23 A I know nothing about Ward, and I'm under the
24 impression that McQuaide did not cover some of the other areas
25 in Ohio and West Virginia. I could stand corrected. That's

1 my impression.

2 MR. GRAF: That's your impression. Now, if --

3 MR. LAVELLE: Wait a minute. I'm still doing my
4 redirect.

5 MR. GRAF: Sorry. I thought you were done.

6 BY MR. LAVELLE:

7 Q Whether or not they have the authority, do you know
8 whether or not they offer service to those points?

9 A They didn't offer service to the points I was using
10 that was satisfactory to me, so it was a moot point, as far as
11 I'm concerned. I'm not interested in doing business with
12 McQuaide.

13 MR. LAVELLE: Thank you.

14 JUDGE PORTERFIELD: Recross, Mr. Graf?

15 REXCROSS EXAMINATION

16 BY MR. GRAF:

17 Q If, as a matter of fact, the record discloses that
18 both Ward and McQuaide can handle your entire service area and
19 could do it on one pickup, regardless of where it is going,
20 that at least would cover that aspect of it, consistent with
21 you're saying you don't want to do business with McQuaide, is
22 that a fair statement?

23 A Perhaps from your standpoint, but from my standpoint
24 I have an experienced -- good experience with my present
25 carriers and I am not interested in switching.

1 Q All right. So regardless of what the record shows in
2 service, you don't want to switch, is that what you're saying?

3 A Not unless someone could offer me a lot more than
4 what I'm getting now.

5 MR. GRAF: All right. Fine. That's all I have.

6 JUDGE PORTERFIELD: Thank you, Mr. Spitler.

7 FURTHER REDIRECT EXAMINATION

8 BY MR. LAVELLE:

9 Q Can I ask him whether or not he knows where Ward and
10 McQuaide have terminals which would be used to service your
11 company's facilities?

12 MR. GRAF: I'd have to object to that. That's not
13 germane to either the cross or the recross.

14 MR. LAVELLE: It has to do with the service aspect of
15 what he just got into.

16 JUDGE PORTERFIELD: I'm going to overrule the objection
17 because you were suggesting, I think, Mr. Graf, on recross, or
18 whatever it was, that McQuaide and Ward were situated in such
19 a way as to provide service to the witness, and I think
20 because of the timeliness of delivery, I think the location of
21 the terminals is relevant.

22 THE WITNESS: To my knowledge, McQuaide operates out of
23 Johnstown. That's the only facility I know they have. I
24 don't know where Ward is.

25 BY MR. LAVELLE:

1 Q You don't know where Ward is?

2 A No.

3 Q Okay. If your assumption is right as to McQuaide,
4 and shipments going to the northern panhandle of West Virginia
5 for delivery, or the eastern Ohio counties that you serve,
6 shipments were taken back to Johnstown after pickup and then
7 delivered, if they offer the service into those areas, is that
8 a satisfactory service, in your opinion?

9 MR. GRAF: Object. There is no evidence as yet that it
10 would be necessary for them to do any such thing. That's
11 totally hypothetical.

12 MR. LAVELLE: Well then, he can answer the hypothetical
13 question and the witness on the protestant's side will be able
14 to clear this up.

15 MR. GRAF: I think that is totally wrong. It has no
16 relation to the cross at all, none.

17 JUDGE PORTERFIELD: That's true. It's outside the
18 scope, I think, Mr. Graf, but I'm going to permit the question
19 so we can go on. Go ahead and answer the question if you can,
20 Mr. Spindler.

21 THE WITNESS: I suppose no one likes their -- everyone
22 has pride in their product and no one wants it handled more
23 times than necessary, or to take longer than necessary to get
24 to the customer. I had a bad experience with McQuaide in that
25 they did damage freight and they didn't settle up with me

1 promptly. It was a big hassle. Yes, that would bother me, if
2 they had to transfer it all over town.

3 JUDGE PORTERFIELD: Is that all, Mr. Gray (sic)?

4 MR. LAVELLE: I have nothing else.

5 JUDGE PORTERFIELD: I'm sorry. Mr. Lavelle.

6 MR. GRAF: I have a question.

7 FURTHER RECROSS EXAMINATION

8 BY MR. GRAF:

9 Q You have no assurance, however, that they are going
10 to do what was suggested in that question, is that a fair
11 statement?

12 A I don't know what they're going to do.

13 MR. GRAF: All right. Fine. Thank you.

14 MR. LAVELLE: I have nothing else of Mr. Spindler.

15 JUDGE PORTERFIELD: Thank you, sir.

16 DANIEL BURDA, having been duly sworn, was examined and
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. LAVELLE:

20 Q What is your name, sir?

21 A My name is Daniel Burda, B-u-r-d-a.

22 Q What company are you employed by?

23 A I work for the Pitt Penn Oil Company, located at
24 Route 28 North, Creighton, PA.

25 MR. GRAF: May I have the name of the company? Pitt

1 Penn what?

2 THE WITNESS: Pitt Penn Oil, O-i-1.

3 MR. GRAF: Oil.

4 JUDGE PORTERFIELD: They manufacture antifreeze and --

5 THE WITNESS: Exactly.

6 MR. GRAF: The reason I asked, the list that was sent me
7 has it as Pitt Penn Air --

8 MR. LAVELLE: You're right.

9 MR. GRAF: -- and I would like to get it correct for my
10 records. I'm not trying to be a smarty.

11 JUDGE PORTERFIELD: No, no. I understand.

12 BY MR. LAVELLE:

13 Q In what county is Creighton located?

14 A Allegheny.

15 Q What is your position with the company?

16 A I am both plant manager and traffic manager.

17 Q What commodities does your company deal in?

18 A Petroleum products. Anything that is automotive that
19 a car or a truck would need in the form of a lubricant, we
20 would manufacture it.

21 Q So you actually do the manufacturing at Creighton?

22 A Yes.

23 Q Do you ship those out in a bulk form or packaged
24 form?

25 A We ship them in both bulk and packaged form.

1 Q What part of it goes out in the packaged form, if you
2 know?

3 A Packaged form would be approximately 75 percent.

4 Q Where do you ship these commodities to, insofar as
5 this application is concerned? Do you have --

6 A We do ship into the six or seven counties that we're
7 talking about, yes.

8 Q What kind of customers do you have there?

9 A Most of our customers are automotive distributors,
10 small automotive stores and wholesalers.

11 Q Do your outbound shipments move in full truckload
12 lots, or are they small LTL shipments?

13 A They move in both truckload and LTL.

14 Q What part of them would be the less than truckload
15 category?

16 A Twenty to 25 percent.

17 Q So you do have a number of volume shipments to
18 customers?

19 A Right, exactly.

20 Q Looking at the application territory, those six
21 counties, can you indicate for us where in those counties you
22 do have customers?

23 A Clearfield, Blair, Bedford, Somerset and Huntingdon.
24 All of them.

25 MR. GRAF: I didn't hear the last part. And what?

1 THE WITNESS: Huntingdon. All of them.

2 MR. GRAF: All of them.

3 BY MR. LAVELLE:

4 Q In other words, you have customers in all counties?

5 A Exactly.

6 Q Within Bedford County, can you be more specific as to
7 the town?

8 A The town itself?

9 Q Right.

10 A Everett, Bedford itself, Claysburg.

11 MR. GRAF: That's --

12 THE WITNESS: Is that too high?

13 MR. GRAF: I think that's in Blair County. I don't
14 think that's in Bedford County, is it? I thought Claysburg
15 was in Blair.

16 THE WITNESS: It looks like it's right on the
17 borderline. All right. Woodbury is one.

18 BY MR. LAVELLE:

19 Q Woodbury, okay. Now, how frequently would you ship
20 to customers in Bedford, Everett, Woodbury? Does it vary
21 much?

22 A It varies depending on weather conditions and product
23 availability and the customers' needs itself, depending on how
24 fast they sell the merchandise.

25 Q Do you have any way of indicating for us how

1 frequently you ship to Everett?

2 A Well, for instance -- well, let's take Woodbury in
3 particular. A little bigger customer. He buys antifreeze off
4 of us and windshield washer solvent. Price of antifreeze was
5 very high this year. A lot of the automotive companies have
6 been using their last year's stock. With the high price right
7 now, they didn't want to buy. A lot of the consumers are
8 using the antifreeze they had in the radiator last year. The
9 shipments may be 12 pallets for the whole season, which runs
10 between the months of August and the end of March. Now, going
11 into next year, if it snows once every two weeks, the customer
12 may order seven trailer loads off of us. So it could vary.

13 Q Is that true with all your customers in this area,
14 they could fluctuate?

15 A Exactly, yes.

16 Q You mentioned also -- I think you said Blair. I
17 assume you meant county. Within Blair County, do you have
18 specific locations?

19 A Yeah. I have a big customer in Altoona.

20 Q That customer's needs are the same as the other one
21 you mentioned in Woodbury?

22 A Yes. That customer is a big supermarket chain in
23 Altoona; that once we take the merchandise up there, he
24 disperses it and probably 90 percent of it comes right back to
25 Pittsburgh on his own trucks, but we take the bulk shipments

1 out there. So you're probably looking at -- oh, just for
2 instance, this season we probably had 50 truckloads that went
3 out inbetween the months of August and yesterday.

4 MR. GRAF: Well now, if he says bulk, we're not involved
5 in bulk here.

6 THE WITNESS: Truckload I said.

7 BY MR. LAVELLE:

8 Q When you said bulk, are you saying about non-
9 packaged type material in a bulk form, liquid form?

10 A This was packaged.

11 Q When you used the term bulk, did you mean truckload?

12 A Truckload right.

13 Q You mentioned Claysburg as a destination, and it was
14 not in Bedford County. I think it's --

15 MR. GRAF: I think it's Blair, isn't it?

16 THE WITNESS: It looks like it's Cambria County.

17 MR. LAVELLE: Cambria County.

18 MR. GRAF: South of Altoona.

19 THE WITNESS: That's in Blair County.

20 MR. LAVELLE: Blair County.

21 VOICE FROM THE FLOOR: South of Altoona.

22 MR. GRAF: Yeah.

23 MR. LAVELLE: Okay. That's Blair County.

24 BY MR. LAVELLE:

25 Q Do you have customers in -- I think you said

1 Somerset.

2 A Yes, in Somerset. In fact, running along the
3 Turnpike, we have a lot of the automotive -- the gas stations
4 right there on the Turnpike that buy our antifreeze and
5 windshield washer solvent. We may have three locations that
6 we make up on a truckload.

7 Q How about going farther north into Clearfield County?
8 Do you have any customers up that far?

9 A I have one customer in Clearfield, yes.

10 Q And you didn't mention by name any in Huntingdon. Is
11 there any particular customer there?

12 A I have a particular customer there, yes.

13 Q Where is that, what city?

14 A Mt. Union.

15 Q Now, how are you shipping your less than truckload
16 shipments into the six county area today, what carrier?

17 A I used a company called Pitt Penn Distribution.

18 MR. GRAF: What?

19 THE WITNESS: Pitt Penn Distribution.

20 BY MR. LAVELLE:

21 Q That's the motor carrier that handles your less than
22 truckload?

23 A Right. Exactly, yeah.

24 Q And by what means are you shipping your truckloads?

25 A Pitt Penn Distribution. I've used PJAX on occasion.

1 MR. GRAF: On truckload? Did he say on truckload?

2 BY MR. LAVELLE:

3 Q Truckload?

4 A Um-hum.

5 Q What are the hours that you ship from Creighton?

6 A During our busy season we open up at 6:30 in the
7 morning and we're open till 11:00 p.m. at night. Normal
8 working hours are from 8:00 to 4:30.

9 Q When do you want carriers to arrive to make your
10 pickups, as a general rule?

11 A We like to get them in by at least 2:00 o'clock in
12 the afternoon, but like I said, during your busy season we can
13 take them up to 7:00, 8:00 o'clock at night.

14 Q In your distribution then to these customers, what
15 time of transit are you looking for?

16 A Overnight delivery.

17 Q On both LTL and truckload?

18 A Yes. It's more or less as business warrants. They
19 will call a shipment in at noon and he's got to have
20 windshield washer at 8:00 o'clock in the morning.

21 Q Is there any -- can a carrier just come in? You call
22 them for service, they just come in and you'll load them as
23 they arrive and send them on the way?

24 A Fifty percent of the time, yes. The other 50
25 percent, during our busy season, we don't have availability of

1 the product. We actually have to make it and it comes right
2 off the line, packaged, right into the truck.

3 Q Do you have any -- in that aspect of it, do you deal
4 with the carrier to spot equipment? Is that advisable to do
5 it?

6 A Exactly, spot a trailer. A customer may order on
7 Monday, wants a shipment at 8:00 o'clock Wednesday. We load
8 the trailer, depending whether it is a stop-off, solid load
9 call the carrier, he'll pick the trailer up and go with it.

10 Q Do you, in fact, have stop-off loads, as opposed --

11 A Oh, yes.

12 Q You do?

13 A Yes. We'll make up loads. For instance, maybe a
14 stop in Johnstown, one in Altoona and a final destination in
15 Harrisburg, or it could start as Altoona, Harrisburg,
16 Philadelphia.

17 Q All right. So that --

18 A In fact, I have a lot of business like that.

19 Q When you ship volume loads or truckloads, it's not
20 necessarily all to a single consignee?

21 A Right, right.

22 Q Have you ever used Pitt-Ohio Express?

23 A I use them a lot.

24 Q Into what areas?

25 A Philadelphia, Maryland. I've used them into

1 Harrisburg.

2 Q What is your purpose in supporting Pitt-Ohio for this
3 operating authority?

4 A During my busy season, whenever I have the over
5 abundance of freight, I need a carrier that I can call
6 immediately at 2:00 o'clock in the afternoon and say, hey, I
7 need a truck up here in an hour. I have a two-stop load going
8 to Altoona. If I don't have the carrier come in, the customer
9 likely will cancel the order and order from somebody else.
10 Service is a big part of our business.

11 Q What makes you believe Pitt-Ohio would be able to
12 meet those kinds of service requests?

13 A Well, they've done it in the past with my shipments
14 going into Philadelphia and Maryland. I can pick up the phone
15 and call them and they're up there within an hour and a half.
16 They're only 15 miles down the road from me.

17 Q Do you build these multiple stop-off shipments to
18 points both in and outside Pennsylvania?

19 A Yes, we do. Right. In fact, we may have a shipment
20 going into maybe -- say, for instance, a drop in Somerset,
21 maybe a drop in Shiremanstown and a final in Baltimore.

22 Q Are you looking to Pitt-Ohio Express as a substitute
23 for the Pitt Penn terminal? Is that the right company?

24 A Yes.

25 Q Is that what you're intending to do by this?

1 A Right. In other words, I need help with our own
2 fleet to do this.

3 Q That's a private carriage operation, then, that
4 you're talking about?

5 A Right, um-hum.

6 Q So that Pitt-Ohio would be a backup to that private
7 carriage fleet?

8 A Exactly, right.

9 Q Have you ever had occasion to deal with McQuaide
10 Trucking?

11 A No.

12 Q Or Ward Trucking?

13 A Not Ward either, no.

14 Q How about Evans Delivery?

15 A Evans Delivery, about two years ago I used them into
16 Philadelphia.

17 Q Are you still using them?

18 A No, no.

19 Q Why not?

20 A Poor service.

21 Q Anything particular you can refer to?

22 A Well, usually, if I call them one day and I tell them
23 I need a truck 8:00 o'clock, 9:00 o'clock in the morning, with
24 three drops in the Philadelphia area, it's a coin flip whether
25 the truck is going to show up or not.

1 Q Have you had that kind of operation to Philadelphia
2 area with three drops and used Pitt-Ohio?

3 A Oh, yes, many times.

4 Q Have you -- has the equipment shown up when you
5 wanted it?

6 A Right, exactly.

7 Q Were the deliveries made?

8 A Promptly.

9 Q On a timely basis?

10 A Yeah. In fact, a lot of our customers -- we prepay
11 all our freight. We pay the freight. Once the freight gets
12 to the destination and a customer orders again, he'll say ship
13 it Pitt-Ohio, and a lot of times he really can't pick the
14 carrier, depending on what price is built into the freight
15 itself.

16 MR. LAVELLE: I have no further questions, sir.

17 CROSS EXAMINATION

18 BY MR. GRAF:

19 Q Sir, Pitt Penn Distribution, is that a company-owned
20 fleet?

21 A Right. That's a subsidiary of the Pitt Penn Oil
22 Company.

23 Q Is it a contract carrier?

24 A Contract.

25 Q It's a contract carrier with authority from this

1 Commission?

2 A Exactly.

3 Q And it's a subsidiary to your own operation?

4 A To the oil company, yes.

5 Q And at the present time, what percentage of the
6 outbound traffic is moving in your own vehicles to this --

7 A To this particular area?

8 Q Yeah.

9 A I try to make it 100 percent.

10 Q All right. And that is reasonable, I guess, to use
11 your subsidiary wherever you can.

12 A Exactly, yeah.

13 Q What is your peak season? You mentioned --

14 A Between the months of August and March.

15 Q August to March?

16 A Right.

17 Q How long have you had the contract carrier Pitt Penn
18 Distribution?

19 A Two years.

20 Q Do you happen to know the docket number that they
21 operate under?

22 A The MC -- or no, I don't. Not right offhand, no. I
23 don't think they're illegal, though.

24 Q I'm not questioning that. I believe you. I just
25 want to know the docket number. How long have you used PJAX,

1 that you mentioned earlier?

2 A How long have I used PJAX?

3 Q Yeah.

4 A Going back about two years ago I used to use them a
5 lot, up until I ran into some problems with them. One of my
6 big problems with carriers are we're on a pallet exchange
7 program. Once the carrier picks up my freight on 20 pallets,
8 I have to get my 20 pallets back.

9 Q That's understandable.

10 A They're approximately \$8.00 apiece. I didn't get the
11 pallets back.

12 Q With your Pitt Penn Distribution, you have a way of
13 enforcing that, don't you?

14 A Oh, sure, yeah.

15 MR. GRAF: Thank you. That's all I have.

16 JUDGE PORTERFIELD: Mr. Lavelle?

17 MR. LAVELLE: Yes. Just a follow-up with that.

18 REDIRECT EXAMINATION

19 BY MR. LAVELLE:

20 Q Have you had any problems getting your pallets back
21 by way of Pitt-Ohio Express?

22 A Pitt-Ohio? I think I owe them pallets.

23 MR. LAVELLE: I have nothing else.

24 JUDGE PORTERFIELD: Let's take a real short stretch.

25 (A brief recess was taken.)

1 PATRICK J. GALLAGHER, having been duly sworn, was
2 examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. LAVELLE:

5 Q What is your name, sir?

6 A Patrick J. Gallagher, G-a-l-l-a-g-h-e-r.

7 Q What is your business address, sir?

8 A 630 Alpha Drive, Pittsburgh, 15238. It's in Blawnox.

9 Q Is that in Allegheny County?

10 A Yes.

11 Q Is that in or near the industrial park area?

12 A It's in the industrial park in Blawnox.

13 Q What position do you hold with Steel City?

14 A I'm warehouse and traffic manager.

15 Q How long have you had that position?

16 A Twenty-seven years, 26.

17 Q Do you personally, or with some assistance, but do
18 you control the freight movements of your company?

19 A Yes.

20 Q What exactly is the business of Steel City Products?

21 A We're a national wholesale distributor of automotive
22 accessories.

23 Q Do you produce anything at Blawnox?

24 A No, we don't.

25 Q You warehouse it there?

1 A Yes.

2 Q How large is that warehouse operation?

3 A 80,000 square feet.

4 Q Approximately how many different commodities do you
5 inventory?

6 A Commodities?

7 Q Different items.

8 A Items, about 6,000.

9 Q And they all fall into this one automotive accessory
10 type general, generic category?

11 A Yes. We service automotive after-market.

12 Q What are some of the specific commodities that you
13 sell?

14 A Floor mats, seat covers, auto waxes, polishes,
15 chemicals, engine additives, mirrors, antennas.

16 Q Everything but the car itself?

17 A Right.

18 Q And you market these products to what types of
19 customers?

20 A Discount stores, mass merchandisers, wholesaler
21 distributors like ourselves, mom and pop stores, independently
22 owned stores, jobbers. That's about it.

23 Q How wide is your particular market area?

24 A We serve the eastern seaboard. We go west as far as
25 Indiana, south as far as Florida, up in the New England

1 states.

2 Q So you cover the entire State of Pennsylvania?

3 A Yes.

4 Q That's within your area?

5 A Yes.

6 Q Are you using Pitt-Ohio Express today with respect to
7 any of your transportation needs?

8 A Yes.

9 Q In Pennsylvania?

10 A Yes.

11 Q And in any other states?

12 A Yes.

13 Q How have you found the service you've been getting up
14 to this point?

15 A Excellent.

16 Q Does all of the traffic about which you're going to
17 testify originate in Blawnox?

18 A Yes.

19 Q So that the area of your support is that six county
20 Central Pennsylvania territory?

21 A Yes.

22 Q Do you have customers of your products within that
23 region?

24 A Yes, we do.

25 Q Have you reviewed your records and made any study of

1 the traffic going into that territory during a particular
2 period of time?

3 A Yes. For the purpose of this hearing, I did a survey
4 originally of 14 customers, some of which couldn't be used
5 because they're outside the application area. The survey ran
6 from March 1st to June 30th, and the --

7 Q Of what year?

8 A 1988.

9 MR. GRAF: '88?

10 THE WITNESS: '88, yes.

11 BY MR. LAVELLE:

12 Q And are you in a position, based on that study of
13 those 14 customers, to provide us with some information
14 concerning those that are within this pertinent territory?

15 A Yes.

16 Q And give us some information about the volume of your
17 shipments and the number of shipments to each customer during
18 that period?

19 A Yes.

20 Q Okay. If you would begin that. Do it somewhat
21 slowly so Mr. Graf can take down the information.

22 A We have -- I did them -- I have numbers as Customer 1
23 through 14. Okay. I'll skip over some numbers because
24 they're not applicable. Customer 1 is in Altoona and we
25 shipped 3500, in 35 cartons, 48,010 pounds.

1 MR. GRAF: 48,000 --

2 THE WITNESS: Yes.

3 MR. GRAF: --10 pounds?

4 THE WITNESS: That was in 22 shipments in that period of
5 time. Customer 4 is also in Altoona. It was 233 cartons,
6 3,315 pounds. That was three shipments.

7 MR. GRAF: 3,315?

8 THE WITNESS: Yes.

9 MR. GRAF: And three shipments?

10 THE WITNESS: Yes.

11 MR. GRAF: Okay. It's hard to catch it when you go --

12 THE WITNESS: Okay. I'm sorry. I'll slow down a little
13 bit for you. Customer 6 was in Huntingdon. It was 179
14 cartons, 2595 pounds, three shipments. Customer 7 was in
15 Altoona, 253 cartons, 3645 pounds, three shipments. Customer
16 8 was in Clearfield, 68 cartons, 950 pounds, one shipment.
17 Customer 10 was in DuBois, was 48 cartons, 675 pounds, one
18 shipment. Customer 11 was in DuBois, 753 cartons, 10,100
19 pounds, five shipments. Customer 12 was in DuBois, 84
20 cartons, 1,080 pounds, three shipments.

21 BY MR. LAVELLE:

22 Q Now, from this information and your review of these
23 records, would you indicate -- say that this is a fairly
24 typical volume of traffic to these particular customers over a
25 three month period? Well, that's a four month period

1 actually.

2 A Yes.

3 Q Do you have additional customers in -- over and above
4 these in that six county area?

5 A Yes.

6 Q Do you have an estimate as to the total number of
7 customers?

8 A No.

9 Q Looking at this information, is it a fair statement
10 to say that the vast majority, if not all, of your traffic
11 moves out in less than truckload commodities?

12 A About 95 percent of our traffic.

13 Q What service are you looking to receive from a motor
14 carrier that serves this area of Pennsylvania?

15 A Overnight service on a regular basis.

16 Q Is that what you need, or what you request from the
17 carrier? I mean, is there a difference, or is that a critical
18 requirement, the overnight service factor?

19 A It's not a critical requirement. It's an acceptable
20 condition. If you fail to do that once, we won't dismiss you
21 as a carrier. We're reasonably realistic. If our customers
22 are satisfied, so are we.

23 Q But that is a service standard that will keep a
24 carrier in close stead?

25 A Yes.

1 Q If there's a lot of deviation from that, what's the
2 result? Is that satisfactory?

3 A It's unsatisfactory, and relative to the complaint
4 from the customer, how serious an affect it will have on the
5 carrier as a company, the carrier.

6 Q Are any of these commodities that you deal in
7 susceptible to freezing in cold weather?

8 A Yes, they are.

9 Q And as a result, do you require any particular
10 service in that regard from a motor carrier?

11 A If the service standard is maintained as overnight,
12 the likelihood of it freezing is very remote.

13 Q What if it's not handled on an overnight basis?

14 A If it would be permitted to set for two or three
15 days, it could separate, relative to the mix of product. Most
16 of your automotive chemicals have that ability to separate and
17 not remix itself.

18 Q Are you able to obtain overnight service in your
19 business from all carriers?

20 A Yes.

21 Q In respect to this freezing, what happens if you ship
22 on the weekend -- not on a weekend, but say a Friday, are you
23 able to do that with all carriers?

24 A Into the marketing area, I would think that we could.

25 Q For Monday -- well, when would the shipment be

1 normally delivered, then?

2 A Monday.

3 Q If you're talking about the winter months now, you've
4 got an over --

5 A If we ship on a weekend, we are very careful as to
6 the mix of goods on a particular truck, as far as shipping it
7 on a Friday. We will hold the shipment till Monday if need
8 be, relative to what the mix of the product is. All of our
9 shipments do not have the freezable merchandise on it.

10 Q Do most shipments contain a mixture of different
11 commodities, as opposed to just one item?

12 A Yes.

13 Q Okay. Would there be any advantage to you to be able
14 to ship commodities that have this susceptibility in cold
15 weather to separating and freezing, to be able to do that five
16 days a week without having to hold any shipments back?

17 A Yes.

18 Q Have you had occasion to use Pitt-Ohio Express?

19 A Yes.

20 Q Have you shipped with them during the winter months?

21 A Yes.

22 Q And these types of commodities?

23 A Yes.

24 Q Are you aware of any ability on their part to handle
25 these commodities, even though they may be tendered on a

1 Friday to them?

2 A Their reasonable care, the in-truck heaters, yes.

3 Q So --

4 A We haven't had winters in recent years that this has
5 been a problem, so I don't know if --

6 Q Even the last several days here in Pittsburgh?

7 A Right. It wasn't adequate. It would have to be
8 subzero for the product, in and of itself, to dissipate its
9 own heat. It's in a -- it's a wrapped pallet, so it's
10 condensed and it takes a considerable amount of time.

11 Q As the -- strike that. Have you ever had occasion to
12 use W.C. McQuaide's service?

13 A Yes.

14 Q Have they -- are you still using them?

15 A Well, a couple of our customers ship in by them. We
16 have no objection. We have one customer who has requested
17 that we ship outbound by them, which caused us to solicit a
18 rate in keeping with our normal carriers, and we do -- we have
19 shipped -- in this time frame we shipped two shipments by them
20 to a customer in Altoona.

21 Q At the customer's request?

22 A Yes.

23 Q And those are the only two shipments you're -- at
24 least with this 14 shipper study, that they handled?

25 A Outbound, yes.

1 Q How about Ward Trucking? Are they one of the
2 carriers you use?

3 A No.

4 Q Any particular reason why not?

5 A We've had some old difficulties with them and we
6 haven't used them since, nor do they solicit our business.

7 Q What about Evans Delivery Company?

8 A If Evans Delivery and Evans Century is the same
9 company, yes, sir.

10 MR. GRAF: I didn't --

11 THE WITNESS: Is Evans Delivery and Evans Century the
12 same company?

13 MR. GRAF: No, they're not.

14 THE WITNESS: Okay. Then, no.

15 BY MR. LAVELLE:

16 Q Are you using Pitt-Ohio both within the State of
17 Pennsylvania and to other states?

18 A Yes.

19 Q How frequently is that company into your place of
20 business, to either pick up or deliver freight?

21 A At least once a day.

22 Q If they were able to pick up freight going to the
23 entire State of Pennsylvania, as well as your interstate
24 freight, would that be of any advantage to you?

25 A Yes.

1 Q Why?

2 A We have a congestion factor. Since we were purchased
3 in 1969, we grew from a \$4 million company to a \$30 million
4 company. We moved into this new facility, which we had to
5 expand four years after we moved into it, 82 percent of the
6 original building, and the congestion continues, so having
7 that flexibility is certainly a service value to us.

8 Q Has Pitt-Ohio been able to meet most your
9 transportation requirements that you've placed on them?

10 A Yes. We hold them as the number one carrier who
11 services us.

12 Q If this application is approved by the Commission,
13 would you use them on the traffic going into the central
14 region of the state?

15 A Well, to be fair, we would use them if their service
16 is commensurate to what we've experienced in all the other
17 areas. I have no reason to believe it not to be, but we
18 haven't experienced it, so I would reserve it to that
19 position.

20 Q But if the application is granted, would you at least
21 tender freight to them and test them in that area?

22 A Absolutely.

23 Q If it turned out they could meet the same service
24 standards they have in other areas which you need, would they
25 continue to be tendered the freight?

1 A Absolutely.

2 MR. LAVELLE: Thank you. I have no other questions.

3 CROSS EXAMINATION

4 BY MR. GRAF:

5 Q Sir, on the survey you made, who handled the first of
6 the Altoona customers that you named? Who handled that
7 traffic in that period from March to June?

8 A Customer No. 1, PJAX, for the most part. Allegheny-
9 Bedford, one instance.

10 Q And the second Altoona customer?

11 A PJAX.

12 Q The Huntingdon customer?

13 A PJAX.

14 Q Were they the ones who generally handled this traffic
15 to all of the points, PJAX?

16 A Yes.

17 Q Over what period of time have you used PJAX?

18 A I don't have a starting or ending date for them.

19 Q Would you have an idea how many years you've used
20 them?

21 A I'm going to guess three. I don't have any reason to
22 recall that.

23 Q And one shipment, I understood, went to Altoona by
24 McQuaide?

25 A Yes.

1 Q The freezables, as I understood it, are basically the
2 antifreeze?

3 A They're automotive chemicals that are subject to
4 separation if they would freeze. Particular polishes, some
5 don't -- aren't oil based products, so they have that ability
6 to separate. They're synthetic chemicals.

7 Q The liquid polishes?

8 A Yes, or a mild paste, a soft paste wax can do that,
9 some of them.

10 Q Okay. Have you had any instances of that actually
11 freezing and separating on you anywhere in Pennsylvania in the
12 last two years?

13 A No. That's what I was saying, that we've had mild
14 winters.

15 Q I didn't understand your answer. I'm sorry. Do you
16 honor customer routings wherever they are made?

17 A We do, unless we have reason not to. Okay. If the
18 rate is competitive, we do honor them to a degree, that it
19 makes for a better customer, simple as that.

20 Q If the customer is happy and they're not giving you
21 any problems, then you'd honor it?

22 A We would call the customer if we have any objection
23 to the routing, such as dock congestion problems and that. We
24 will call them and explain our position and see if they would
25 consider permitting us to make the choice.

1 Q I see.

2 A Even though it is our right, and they understand
3 that.

4 Q What is your warehouse size?

5 A 80,000 square feet.

6 Q How many docks do you have there?

7 A We have eight, four receiving and four shipping.

8 MR. GRAF: That's all I have. Thank you very much, sir.

9 THE WITNESS: You're welcome.

10 MR. LAVELLE: I have no redirect of Mr. Gallagher.

11 JUDGE PORTERFIELD: Thank you, Mr. Gallagher.

12 MR. LAVELLE: That concludes the presentation of shipper
13 witnesses today, and we had talked earlier about having
14 another day or two of hearings scheduled.

15 JUDGE PORTERFIELD: On the appearance sheet I've asked
16 the schedulers to schedule one day of hearing in Harrisburg
17 and another one in Pittsburgh, and to contact counsel
18 regarding availability.

19 MR. LAVELLE: Thank you.

20

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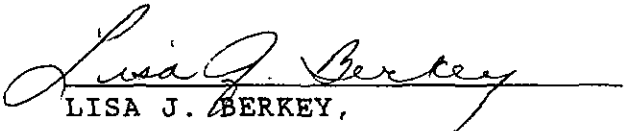
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23 (The hearing adjourned at 4:00 o'clock p.m.)

24

25

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

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