



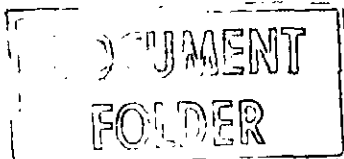
COMMONWEALTH OF PENNSYLVANIA  
 PENNSYLVANIA PUBLIC UTILITY COMMISSION  
 P. O. BOX 3265, HARRISBURG, Pa. 17120

August 9, 1984

IN REPLY PLEASE  
 REFER TO OUR FILE

A-00102306,  
 Folder 1,  
 Am-E

John A. Pillar, Esquire  
 1500 Bank Tower  
 307 Fourth Avenue  
 Pittsburgh, PA 15222



Application of Klapac Trucking Company, a corporation of the  
 Commonwealth of Pennsylvania

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative  
 Law Judge John K. Clements.

If you do not agree with any part of this Decision, you may  
 send written comments (called Exceptions) to the Commission. Specifically,  
 an original and nine (9) copies of your exceptions MUST BE RECEIVED BY THE  
 SECRETARY OF THE COMMISSION IN ROOM B-18, NORTH OFFICE BUILDING, NORTH  
 STREET AND COMMONWEALTH AVENUE, HARRISBURG, PENNSYLVANIA 17120, within  
fifteen (15) days of the date of this letter because the time period is  
 set by law (66 Pa. C.S. 332(h)). If your exceptions are sent by mail,  
 please use the address shown at the top of this letter. A copy of your  
 exceptions must be sent to each party of record and to the Administrative  
 Law Judge whose address is Pennsylvania Public Utility Commission,  
 Pittsburgh State Office Building, Room 1103, 300 Liberty Avenue,  
 Pittsburgh, Pennsylvania 15222.

If you receive exceptions from other parties, you may submit  
 written replies to those exceptions in a manner similar to that stated  
 above within twenty (20) days of the date of this letter.

Exceptions and reply exceptions shall obey 1 Pa. Code 35.212,  
 particularly the 50 page limit.

Exceptions should clearly be labeled as "EXCEPTIONS OF (Name of  
 Party) - (protestant, complainant, staff, etc.)". Do not label exceptions  
 as a "Brief" or "Brief on Exceptions".

If no exceptions are received within fifteen (15) days, the  
 decision of the Administrative Law Judge will become final without further  
 Commission action. You will receive written notification if this occurs.  
 cc: ALJ Clements/Office of ALJ/Bureau of Non-Rail Transportation/

Very truly yours, Law Bureau/Mr. Bramson/OSA/  
 Chairman/Commissioners

*Wm H. Smith*

William H. Smith  
 Chief Administrative Law Judge

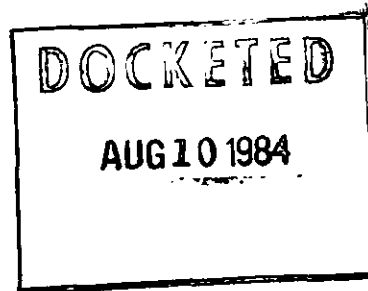
fao  
 Encls.  
 Certified Mail  
 Receipt Requested

Similar letters to: Refer to Computer list attached.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Klapec Trucking Company, :  
a corporation of the Commonwealth of :  
Pennsylvania, for amendment to its :  
common carrier certificate, which :  
grants the right, inter alia, to :  
transport, by motor vehicle, scrap :  
steel, in bulk, in dump vehicles, :  
from the facilities of Universal- :  
Cyclops Specialty Steel and Division, :  
located in the city of Titusville, :  
Crawford County, to points in the :  
borough of Greenville, Mercer County, :  
and vice versa: SO AS TO PERMIT the :  
transportation of property (excluding :  
household goods in use, commodities :  
requiring dump vehicles and shipments :  
weighing less than 10,000 pounds from :  
one consignor to one consignee) (1) :  
between points in the county of :  
Venango, and from points in the said :  
county, to points in Pennsylvania and :  
vice versa; and (2) between points in :  
the city of Titusville, Crawford County :  
and from points in said city to points :  
in Pennsylvania and vice versa. :

A-00102306, F. 1, Am-E



INITIAL DECISION



Before  
John K. Clements  
Administrative Law Judge

By its application at Docket A. 102306, received February 21, 1984, Klapac Trucking Company seeks authority to transport as a common carrier, by motor vehicle:

Property (excluding household goods in use, commodities requiring dump vehicles and shipments weighing less than 10,000 pounds from one consignor to one consignee) (1) between points in the County of Venango, and from points in the said County to points in Pennsylvania and vice versa; and (2) between points in the City of Titusville, Crawford County, and from points in said city to points in Pennsylvania and vice versa.

Timely protests were submitted to the application from five carriers and a letter which could be interpreted as a protest was received from Knold Transfer, Inc. The letter contained no appearance by counsel.

Said letter is attached hereto as Attachment A.

On May 15, 1984 the Commission docketed a Motion to Dismiss the Knold "protest" submitted on behalf of Applicant. The motion argued that:

- "3. The letter does not comply with the Commission's rules and regulations regarding the form of protests and is deficient in several areas:
  - a. The letter does not state the interest of Knold in this application;
  - b. The letter does not state or attach the operating authority of Knold, if any, that conflicts with this application;
  - c. The letter attempts to raise a question regarding the present operating authority of Klapac that is not a proper issue in this proceeding;
  - d. The letter raises a question of "judicial" intervention that is not a matter before this Commission and is not a proper issue for the Commission's disposition, and

- e. The letter protest is so vague and ambiguous as to be unintelligible.
4. Knold's letter protest is frivolous, not in compliance with the Commission's rules and regulations, and has been filed for apparent reasons that are beyond the issues involved in the instant application. Further, Klapec reasonably expects to obtain the withdrawal of the remaining protests by amendment."

Applicant's Motion to Dismiss, p. 2

By letter received May 14, 1984, D. J. Schullek of Knold Transfer, Inc. wrote and advised the Commission that he would respond to Applicant's motion by May 21, 1984. A review of Commission records indicates, however, that no such response was ever submitted.

Applicant has now advised that all other protests are withdrawn as a result of a restrictive amendment, and requested the hearing scheduled for July 24, 1984 be postponed until a ruling is made upon its Motion to Dismiss.

Discussion

This case involves an application which could be referred to the Bureau of Non-Rail Transportation for modified procedure were it not for the outstanding letter of protest submitted by Knold Transfer. As argued by Applicant, this letter protest does not comply with Commission regulations with regard to the form of protests in that it presents no description of Knold's conflicting authority or a statement of the type of restrictive amendment which would satisfy its interests.<sup>1</sup>

---

<sup>1</sup> 52 Pa. Code §3.381(c).

Normally, I would consider providing Protestant with an opportunity to cure the defects in its pleadings. However, this is not appropriate here because Protestant has had such an opportunity since receipt of Applicant's motion, in May, but has not done so. Although Protestant advised the Commission it would file a late response, none was ever filed. In my view, regulated carriers have the advantage of the right to attempt to limit competition. However, a carrier who attempts to so limit without compliance with Commission regulations is abusing its semi-monopoly status and should not be in a position to delay the processing of an application, once all properly filed Protestants have withdrawn. Therefore, the Motion to Strike must be granted.

ORDER

1. Applicant's Motion to Strike the protest of Knold Transfer, Inc. is hereby granted.
2. The above matter is referred to the Bureau of Non-Rail Transportation for further proceedings.

July 26, 1984

  
JOHN K. CLEMENTS  
Administrative Law Judge

Phone: 221-6131

Over 60 Years of Dependable Service

APR 23 1984

490 Hickman Street  
Bridgeville, Pa. 15017

RECEIVED

KNOLD TRANSFER INC.

OFFICE Certified Mail

GENERAL HAULING Public Utility Commission

No. P 468-819-352

Pa. Public Utility Commission

P.O. Box 3265

Harrisburg, Pa. 17120

Date April 19-84

Jerry Rich, Secretary

with Authority Application

00102306 F.1 Am-E

Klapac Trucking Co. Oil

City, Pa. 16301

Protests due April

14,

Reference Authority

A00102306 F.1-Am-C

Approved June 10-83

Klapac Trucking Co. 673 N.

Seneca St., Oil City, Pa. 16301

Venango County

BOCKETED

APPLICATION DOCKET

MAY 7 1984

ENTRY No. m.w

Commissioners,

Knold Transfer Inc. wishes to file a petition with the Commission concerning the above left application for new Authority, Amendment E, as inconsistent with the Public Utility Law in the area of duplicate Authority and potential subterfuge by circumventing the restrictive Amendments contained in the above right reference Authority Amendment C. The new Authority Application uses the words "Transportation of Property", which have the subterfuge potential of rendering useless and ineffective the restrictive Amendments contained in A00102306-F.1-Am-C. Therefore may the Commission examine A00102306 F.1-Am-C in relation to A00102306 F.1 Am E based on the above mentioned data and to hold the time of protest open for Knold Transfer Inc., until such a time as a judicial decision on the matter will have been rendered.

Respectfully

Knold Transfer Inc.

D. J. Schuller

DOCUMENT FOLDER

Klapac Trucking Co.

April 19-84

00102306 - Folder 1, AM - E Klarec  
usking Co. RD 1-673 Seneca Street, Oil Ci  
Shango County, Pa. 16301, a Corp. of  
ommonwealth of Pa. - inter Alia - scrap steel,  
in bulk, in dump vehicles, From the Facilities  
of Universal - Cyclops Specialty Steel and  
Division, Located in the City of Titusville,  
Crawford County, to points in the Borough  
of Greenville, Mercer County, and vice  
versa; So As To Permit the Transportation

of Property (excluding house hold Goods in  
use, Commodities requiring dump vehicles,  
and shipments weighing Less than 10,000  
pounds From one consignor To one  
consignee) (1) between points in the  
County of Venango, and from points  
in said county, To points in Pa. and  
vice versa; and (2) Between points  
in the City of Titusville, Crawford  
County, and From points in said  
City To points in Pa. and vice  
versa. Attorney: John A. Pillar,  
1500 Bank Tower, 307 Fourth Ave.  
Pgh., Pa. 15222

PS Form 3811, July 1982

● **SENDER:** Complete Items 1, 2, 3, and 4.  
Add your address in the "RETURN TO" space on reverse.

**(CONSULT POSTMASTER FOR FEES)**

1. The following service is requested (check one).

Show to whom and date delivered ..... \$

Show to whom, date, and address of delivery ... \$

**RESTRICTED DELIVERY** ..... \$  
*(The restricted delivery fee is charged in addition to the return receipt fee.)*

**TOTAL \$** \_\_\_\_\_

3. **ARTICLE ADDRESSED TO:**  
John A. Pillar, Esquire

4. <b>TYPE OF SERVICE:</b>	<b>ARTICLE NUMBER</b>
<input type="checkbox"/> REGISTERED <input type="checkbox"/> INSURED	<b>44645</b>
<input type="checkbox"/> CERTIFIED <input type="checkbox"/> COD	
<input type="checkbox"/> EXPRESS MAIL	

*(Always obtain signature of addressee or agent)*

I have received the article described above.

**SIGNATURE**     Addressee     Authorized agent

*M. L. ...*

5. **DATE OF DELIVERY**      **POSTMARK**  
*8-13-84*      *AUG 13 1984*  
*(may be on reverse side)*

6. **ADDRESSEE'S ADDRESS** *(Only if requested)*

7. **UNABLE TO DELIVER BECAUSE:**      **7a. EMPLOYEE'S INITIALS**

RETURN RECEIPT

PS Form 3811, July 1982

● **SENDER:** Complete Items 1, 2, 3, and 4.  
Add your address in the "RETURN TO" space on reverse.

**(CONSULT POSTMASTER FOR FEES)**

1. The following service is requested (check one).

Show to whom and date delivered ..... \$

Show to whom, date, and address of delivery ... \$

**RESTRICTED DELIVERY** ..... \$  
*(The restricted delivery fee is charged in addition to the return receipt fee.)*

**TOTAL \$** \_\_\_\_\_

3. **ARTICLE ADDRESSED TO:**  
D. J. Schullek

4. <b>TYPE OF SERVICE:</b>	<b>ARTICLE NUMBER</b>
<input type="checkbox"/> REGISTERED <input type="checkbox"/> INSURED	<b>44646</b>
<input type="checkbox"/> CERTIFIED <input type="checkbox"/> COD	
<input type="checkbox"/> EXPRESS MAIL	

*(Always obtain signature of addressee or agent)*

I have received the article described above.

**SIGNATURE**     Addressee     Authorized agent

*D. J. Schullek*

5. **DATE OF DELIVERY**      **POSTMARK**  
*8-13-84*      *AUG 13 1984*  
*(may be on reverse side)*

6. **ADDRESSEE'S ADDRESS** *(Only if requested)*

7. **UNABLE TO DELIVER BECAUSE:**      **7a. EMPLOYEE'S INITIALS**

RETURN RECEIPT

**RECEIVED**  
Office of the  
Public Utility  
JUL 30 1984

A.102306,F.1, Am-E Initial dec.

PS Form 3811, July 1982

● **SENDER:** Complete items 1, 2, 3, and 4.  
Add your address in the "RETURN TO" space on reverse.

**(CONSULT POSTMASTER FOR FEES)**

1. The following service is requested (check one).  
 Show to whom and date delivered .....  
 Show to whom, date, and address of delivery ..  
 **RESTRICTED DELIVERY** .....  
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL \$ \_\_\_\_\_

3. **ARTICLE ADDRESSED TO:**  
Ronald W. Malin, Esquire

4. <b>TYPE OF SERVICE:</b> <input type="checkbox"/> REGISTERED <input type="checkbox"/> INSURED <input type="checkbox"/> CERTIFIED <input type="checkbox"/> COD <input type="checkbox"/> EXPRESS MAIL	<b>ARTICLE NUMBER</b> <b>44648</b>
--	---------------------------------------

(Always obtain signature of addressee or agent)

I have received the article described above.  
**SIGNATURE**     Addressee     Authorized agent  
*Deborah Malin*

5. **DATE OF DELIVERY**      **POSTMARK**  
*8/13/84*      *JAMAISTOWN, NY*  
(may be on reverse)

6. **ADDRESSEE'S ADDRESS** (Only if requested)

7. <b>UNABLE TO DELIVER BECAUSE:</b>	7a. <b>EMPLOYEE'S INITIALS</b>
--------------------------------------	--------------------------------

RETURN RECEIPT

★ GPO: 1982-379-593

A.102306,F.1, Am-E Initial dec.

PS Form 3811, July 1982

● **SENDER:** Complete items 1, 2, 3, and 4.  
Add your address in the "RETURN TO" space on reverse.

**(CONSULT POSTMASTER FOR FEES)**

1. The following service is requested (check one).  
 Show to whom and date delivered .....  
 Show to whom, date, and address of delivery ..  
 **RESTRICTED DELIVERY** .....  
(The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL \$ \_\_\_\_\_

3. **ARTICLE ADDRESSED TO:**  
John E. Fullerton, Esquire

4. <b>TYPE OF SERVICE:</b> <input type="checkbox"/> REGISTERED <input type="checkbox"/> INSURED <input type="checkbox"/> CERTIFIED <input type="checkbox"/> COD <input type="checkbox"/> EXPRESS MAIL	<b>ARTICLE NUMBER</b> <b>44647</b>
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(Always obtain signature of addressee or agent)

I have received the article described above.  
**SIGNATURE**     Addressee     Authorized agent  
*T Reid*

5. **DATE OF DELIVERY**      **POSTMARK**  
*8-10-84*      (may be on reverse side)

6. **ADDRESSEE'S ADDRESS** (Only if requested)

7. <b>UNABLE TO DELIVER BECAUSE:</b>	7a. <b>EMPLOYEE'S INITIALS</b>
--------------------------------------	--------------------------------

RETURN RECEIPT

★ GPO: 1982-379-593

ACT 294

Case Identification: A-00102306, F.1, Am-E; Application of  
Klapec Trucking Company, Corporation of  
the Commonwealth of Pennsylvania

Initial Decision by: ALJ John K. Clements

Date Issued for Exceptions: August 9, 1984

ALJ Recommendation: That the Applicant's motion to strike the  
protest of Knold Transfer, Inc. is hereby  
granted and the subject application referred  
to the Bureau of Non-Rail Transportation  
for further proceedings.

\* \* \* \*

I want full Commission review of this decision.

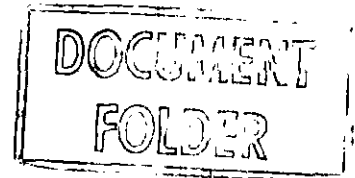
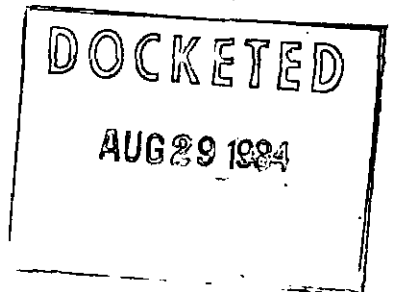
\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
DATE

I do not want full Commission review of this decision.

*James J. Cawley*  
\_\_\_\_\_  
Commissioner

*8/15/84*  
\_\_\_\_\_  
DATE



ACT 294

Case Identification: A-00102306, F.1, Am-E; Application of  
Klapec Trucking Company, Corporation of  
the Commonwealth of Pennsylvania

Initial Decision by: ALJ John K. Clements

Date Issued for Exceptions: August 9, 1984

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for further proceedings.

\* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
DATE

I do not want full Commission review of this decision.

*Linda P. Salofens*  
\_\_\_\_\_  
Commissioner

*8-20-84*  
\_\_\_\_\_  
DATE

8-23-84

ACT 294

Case Identification: A-00102306, F.1, Am-E; Application of  
Klapec Trucking Company, Corporation of  
the Commonwealth of Pennsylvania

Initial Decision by: ALJ John K. Clements

RECEIVED

AUG 15 1984

Date Issued for Exceptions: August 9, 1984

PA. PUBLIC UTILITY COMMISSION  
COMMISSIONER JOHNSON

ALJ Recommendation: That the Applicant's motion to strike the  
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for further proceedings.


\* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
DATE

I do not want full Commission review of this decision.

X   
\_\_\_\_\_  
Commissioner

8-20-84  
DATE

ACT 294

Case Identification: A-00102306, F.1, Am-E; Application of  
Klapek Trucking Company, Corporation of  
the Commonwealth of Pennsylvania

Initial Decision by: ALJ John K. Clements

Date Issued for Exceptions: August 9, 1984

ALJ Recommendation: That the Applicant's motion to strike the  
protest of Knold Transfer, Inc. is hereby  
granted and the subject application referred  
to the Bureau of Non-Rail Transportation  
for further proceedings.


\* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
DATE

I do not want full Commission review of this decision.

  
\_\_\_\_\_  
Commissioner

8/23/84  
DATE

8/23

ACT 294

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for further proceedings.

RECEIVED

AUG 15 1984

COMMONWEALTH OF PENNSYLVANIA

\* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
DATE

I do not want full Commission review of this decision.

Bill Shane  
Commissioner

8/23/84  
DATE