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490 Hickman Street  
Bridgeville, Pa. 15017

# KNOLD TRANSFER INC.

GENERAL HAULING

# ORIGINAL

A. 102306  
F.1 Am. E

Commonwealth of Pa., P.U.C. Commission

**DOCKETED**  
**SEP 13 1984**

Box 7265  
Harrisburg, Pa. 17120

Date **RECEIVED** Sept. 5-1984

"Exceptions" SEP 10 1984

Please see NOTATIONS on enclosed <sup>SECRETARY'S OFFICE</sup> Letters From <sup>Public Utility Commission</sup> Administrative Law Judges William H. Smith and John K. Clements. Also see now a 2nd Letter of Petition To P.U.C. and Above Administrative Law Judges. This 2nd Letter of Petition again requests a Judicial Decision concerning the Klapec Application A-00102306 F.1, Am. E where by there is a confliction of the Restrictions of A-00102306, F.1, Am. C

Simply stated:

**DOCUMENT FOLDER**

Does Amendment E grant <sup>Authority</sup> For Klapec to Transport Property For Cyclops Corp. From its Plant in Titusville, Pa. Crawford County To other Cyclops Plants in Pa. Located at Pittsburgh & Collier Township, Allegheny County and West Aliquippa, Beaver County and vice versa which Transportation is expressly prohibited in the Restrictions of A-00102306, F.1, Am. C ?

Continued on Page Two

**KNOLD TRANSFER INC.**

GENERAL HAULING

Commonwealth of Pa., P. U. C.P.O. Box 3265Harrisburg, Pa. 17120Date Sept. 5-84"Exceptions"

Knold Transfer Awaits a Judicial Answer To the Petitioned Question which it has not received as of the writing of this 2<sup>nd</sup> Petition Letter To the Afore mentioned Administrative Law Judges.

Under A-00102306, Folder 1, Am. E, If Klapec cannot transport property between the stated Cyclops plants then no formal protest will have been necessary.

The Klapec Application can not move forward, lawfully, until a judicial decision will have been provided to the question put forth by the petition of Knold Transfer.

Knold Transfer has not received any information as to why a judicial decision was not forthcoming by May of 1984.

Knold Transfer Inc.  
D. J. Schullik

**KNOLD TRANSFER INC.**

GENERAL HAULING

P. U. C. - Commonwealth of Pa.P. O. Box 3265Harrisburg, Pa.17120Date SEPT 5-84"EXCEPTIONS"

Attachment # one

By Law a Motion can not strike

A Petition, only a Hearing, or the  
equivalent can do that. The Hearing

was canceled BUT the Petition

of Knold Transfer remains un-  
answered since April of 1984.Knold has no Lawfull obligation  
to Reply to a Motion, especiallyone that is Frivolous, Specious,  
with out merit or Foundation,

plus one Filled with evident

Contradiction. Motions are not mentioned

in our Constitutions BUT petitions are

AT the Level of inalienable Rights, that  
cannot be Taken Away By Any Power.



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

August 9, 1984

Received By Certified Mail on Aug. 16  
 1984 at 10 AM - - Answer Due Sept. 7  
 1984 which is 15 Business Days From

D. J. Schullek  
 490 Hickman Street  
 Bridgeville, PA 16017

Aug. 16 - 19 84

D. J. Schullek  
 Xerox Transfer Inc.

IN REPLY PLEASE  
 REFER TO OUR FILE

A-00102306,  
 Folder 1,  
 Am-E

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.

fao  
 Encls.  
 Certified Mail  
 Receipt Requested

Very truly yours,

*Wm H. Smith*

William H. Smith  
 Chief Administrative Law Judge

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, Klapec 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; *in contradiction with "e" Motion Letter*

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 Klapec that is not a proper issue in this proceeding; *Again in contradiction with "e" Motion Letter*

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 *Again in contradiction with "e" of Motion Letter*

*Violation of 1st Amend.  
U.S. Constitution  
Freedom of Speech  
Violation of  
Process & Due  
Equal Protection  
Clause of  
XIV  
Amendment*

*NOT APPLICABLE  
UNTILL AFTER A  
JUDICIAL DECISION  
IS MADE IN  
ANSWER TO THE  
2 LETTERS OF  
PETITION TO THE  
P.U.C. AM. LAW JUDGE  
MAKES HIS DECISION*

To Dismiss A  
Petition From a  
Person (limited) in  
The United States  
By a Motion  
Letter is in Total  
Violation of All  
Laws under The  
U.S. Constitution

e. The letter protest is so vague and ambiguous as to be unintelligible.

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.

*Petition*  
Knold sent A Letter To P.U.C. Asking For a Judicial Decision concerning Application Authority in Conflict with Restrictions contained in Present Authority viz: Amendment E vs. Am: C, F. I

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>

Knold Transfers Formal Protest or no Protest AT All, will be based on The

<sup>1</sup> 52 Pa. Code §3.381(c).

Judicial Decision of The Adm. Law

Judge's, John K. Clements, in Answer To Knold Transfers Petition Dated April 19-1984 - As yet unanswered.

In Total Contradiction with a-c-d on foregoing page As notated

The entire Motion Letter is in Contradiction with itself.

See Exception Attachment # one

should Read Petition

should Read Petition

Knold Transfer never received Any Notice of Defects in its Petition For a Judicial Decision Concerning Klapec Am. C, FL.1 & Am. E  
Normally, I would consider providing Protestant with an oppor- F. 1

tunity 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.

As of Sept. 6 - 1984 - John K. Clements Has Made no Response to the 1st Petition Letter of Knold Transfer Inc. Dated April 19, 1984

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  
JOHN K. CLEMENTS  
Administrative Law Judge

To Strike a Lawfull Petition To An agent of Government, By a Person (Limited) with out a hearing or its Lawfull equivalent is unLawfull under the Constitution of Penna. & The United States, Such an Act based on a contradictory Motion by the Applicant is with out any Lawfull basis. Failure to recognize The Contradictions of the Motion Letter violates equall Justice under Law.

RECEIVED

**KNOLD TRANSFER INC.**

GENERAL HAULING

OFFICE: Certified Mail

Public Utility Commission

No. P 468-819-35

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

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. mw

PROTESTS DUE APRIL 19, 1984

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.

**DOCUMENT FOLDER**

Respectfully  
Knold Transfer Inc.  
D. J. Schuller

Copy to Klapac Trucking Co.  
April 19-84

00102306 - Folder 1, AM - E Klare  
usking Co. RD 1-673 Seneca Street, Oil Ci  
Venango County, Pa. 16301, a Corp. of  
Commonwealth 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

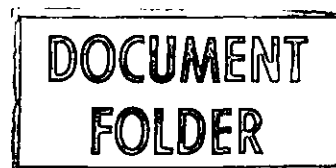
September 11, 1984

A-00102306,

Folder 1, Am-E

Application of Klapac Grucking Company

D. J. Schullek  
Knold Transfer, Inc.  
490 Hickman Street  
Bridgeville, Pennsylvania 15017



Dear Sir:

Receipt is acknowledged of the original and nine copies of your late-filed Exceptions to Judge Clements proposed initial decision issued in connection with the above docketed proceeding, together with a separate hand-written note that you have served copies of said Exceptions upon all other parties of record.

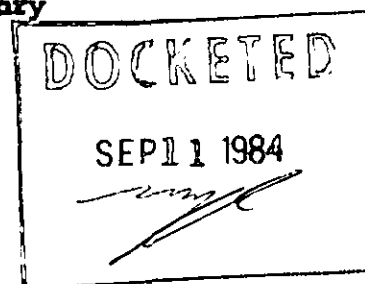
In connection with said Exceptions, we wish to advise that it will be necessary for you to file FORMAL proof of service of copies of your Exceptions upon all other parties to this case, as well as upon Judge Clements, in the form outlined in 1 Pa. Code 33.35 and 33.36, photocopies thereof enclosed, for your reference.

Your late-filed Exceptions will receive the attention of the Commission and you will be advised with respect thereto.

Very truly yours,

for JERRY RICH  
Secretary

cc: Janet Long  
HHH:mpk



the requisite number of copies to each participant as provided in § 33.37 (relating to number of copies).

#### Cross References

This section cited in 1 Pa. Code § 35.31 (relating to notice and action on petitions to intervene); 34 Pa. Code § 33.32 (relating to filing, service, and number of copies); 37 Pa. Code § 171.25 (relating to service); 37 Pa. Code § 197.5 (relating to service on other parties); 37 Pa. Code § 197.34 (relating to notice of appeal); 52 Pa. Code § 3.61 (relating to instructions for service and notice); 52 Pa. Code § 3.62 (relating to service); and 52 Pa. Code § 3.311 (relating to notice of taking appeal).

### §33.33. Effect of service upon an attorney.

When any participant has appeared by attorney, service upon such attorney shall be deemed service upon the participant as provided in § 31.24(b) (relating to notice of appearance) and separate service on the party may be omitted as provided in § 31.26 (relating to service on attorneys).

#### Cross References

This section cited in 7 Pa. Code § 131.13 (relating to service); 37 Pa. Code § 171.25 (relating to service); and 52 Pa. Code § 3.62 (relating to service).

### §33.34. Date of service.

The date of service shall be the day when the document served is deposited in the United States mail, or is delivered in person, as the case may be.

#### Cross References

This section cited in 25 Pa. Code § 21.33 (relating to date of service); 34 Pa. Code § 131.3 (relating to definitions); 37 Pa. Code § 171.25 (relating to service); and 61 Pa. Code § 851.3 (relating to form and filing of claims).

### §33.35. Proof of service.

There shall accompany and be attached to the original of each pleading, submission, or other document filed with an agency when service is required to be made by the parties, a certificate of service in the form prescribed by § 33.36

(relating to form of certificate of service). All other copies filed shall be fully conformed thereto.

#### Cross References

This section cited in 25 Pa. Code § 21.34 (relating to proof of service); 37 Pa. Code § 171.25 (relating to service); 37 Pa. Code § 197.5 (relating to service on other parties); and 37 Pa. Code § 197.34 (relating to notice of appeal).

### §33.36. Form of certificate of service.

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 1 Pa. Code § 33.32 (relating to service by a participant).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Of counsel for  
\_\_\_\_\_

#### Cross References

This section cited in 1 Pa. Code § 31.3 (relating to definitions); 1 Pa. Code § 33.35 (relating to proof of service); and 37 Pa. Code § 197.6 (relating to form of certificate of service).

### §33.37. Number of copies:

The following number of copies of documents shall be served on each other participant in a proceeding:

- (1) Briefs — three copies.
- (2) All other documents — one copy.

#### Cross References

This section cited in 1 Pa. Code § 33.32 (relating to service by a participant); and 34 Pa. Code § 131.41 (relating to filing, service, and number of copies).

**ORIGINAL**

**PILLAR AND MULROY, P.C.**

ATTORNEYS-AT-LAW  
1500 BANK TOWER  
307 FOURTH AVENUE  
PITTSBURGH, PA. 15222

TELEPHONE (412) 471-3300

September 11, 1984

**RECEIVED**

SEP 14 1984

**SECRETARY'S OFFICE**  
**Public Utility Commission**

JOHN A. PILLAR  
THOMAS M. MULROY  
SALLY A. DAVOREN  
KEVIN W. WALSH

Jerry Rich, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17120

RE: Application of Klapec Trucking Company  
Docket No. A-00102306, F.1, Am-E  
File No. 689-2

Dear Sir:

We represent the applicant in the above-docketed proceeding. We received today (September 10, 1984) a handwritten document from Knold Transfer, Inc. entitled "Exceptions" which are dated September 5, 1984. This handwritten pleading is apparently directed to the initial decision of Administrative Law Judge Clements dated July 26, 1984, which granted applicant's Motion to Strike the protest of Knold Transfer, Inc. The initial decision of Judge Clements was transmitted to the parties by letter dated August 9, 1984.

If the pleading of Knold Transfer, Inc. is deemed to be exceptions to the initial decision of Judge Clements, the pleading is clearly late filed and should be rejected. The Commission's letter of August 9, 1984, clearly states that exceptions must be received by the Secretary of the Commission within fifteen (15) days of the date of the Commission's letter (August 9, 1984), because the time period is set by law (66 Pa.C.S. 332(h)).

The exceptions of Knold Transfer, Inc. should clearly be rejected by the Commission since they are late filed. In addition, the exceptions are unintelligible and are in a form that, even considering the fact that they were not prepared by counsel, they are an insult to the Commission's procedures. The applicant respectfully requests that the exceptions be

**DOCUMENT  
FOLDER**

**DOCKETED**  
SEP 17 1984

Jerry Rich, Secretary  
September 11, 1984  
Page 2

rejected forthwith and that the matter be assigned to the  
Technical Review Staff for disposition.

Very truly yours,

  
JOHN A. PILLAR

jhm

cc: Honorable John Clements,  
Administrative Law Judge  
Knold Transfer, Inc.  
Klapec Trucking Company