

1. <u>REPORT DATE:</u>	July 16, 1992	2. <u>BUREAU AGENDA NO.</u>	AUG-92-T-726*
3. <u>BUREAU:</u>	Transportation	5. <u>PUBLIC MEETING DATE:</u>	August 6, 1992
4. <u>SECTION</u>	Technical Review		
6. <u>APPROVED BY:</u>			
Director:	Ernst 7-2154		
Supervisor:	Bigelow/Marzolf 3-5945		
7. <u>PERSON IN CHARGE:</u>	White 7-4387		
8. <u>DOCKET NO.:</u>	A-00105185, F. 2		
9. (a) <u>CAPTION</u> (abbreviate if more than 4 lines)			
(b) Short summary of history & facts, documents & briefs			
(c) Recommendation			



HLS

(a) Application of McHale's Delivery Service, Inc., a corporation of the Commonwealth of Pennsylvania, Reading, Berks County, for the right to begin to transport, as a common carrier by motor vehicle, office products, office equipment, printing equipment, clothing, non-bulk chemicals, paper and printed items, between points in that part of Pennsylvania lying on and east of U.S. Highway Route 220: WHICH IS TO BE IN LIEU OF its contract carrier permit at A-00105185, F. 1.

(b) The application was protested by 24 carriers. All of the protestants withdrew pursuant to the provisions of a restrictive amendment which has limited the service to transporting the named commodities for nine specifically named shippers. One of the specifically named shippers has elected not to support the application, and one shipper ships paint and paint ingredients which are not within the list of commodities proposed to be transported. We find that the applicant has shown that a public need for the service as proposed, amended and modified does exist, and that it is fit, ready, willing and able to render same. In order to avoid dual operations by a single carrier, we find it to be in the public interest to convert the applicant's existing contract carrier permit to a common carrier certificate of public convenience.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application as amended and modified, and that the contract carrier permit held by the applicant at A-00105185, F. 1, be cancelled by supplemental order.

RW:kmb

10. MOTION BY:	Commissioner Chm. Rolka	Commissioner Holland - Yes
SECONDED:	Commissioner Rhodes	Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

DOCKETED
NOV 13 1992

A-00105185, F1

HLS

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held August 6, 1992

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Wendell F. Holland, Commissioner

Application of McHale's Delivery Service, Inc., a corporation of the Commonwealth of Pennsylvania, for the right to begin to transport, as a common carrier by motor vehicle, office products, office equipment, printing equipment, clothing, non-bulk chemicals, and paper and printed items, between points in that part of Pennsylvania lying on and east of U.S. Highway Route 220 from the Maryland State Line to the New York State Line: WHICH IS TO BE IN LIEU OF its contract carrier permit at A-00105185, F. 1, which reads as follows: (1) duplicating machines and other machines used in the printing industry for AM International, Inc., from points in the borough of West Reading, Berks County, to points in Pennsylvania, and vice versa; and (2) copies, postage machines, postal scales, and other office products, for Pitney Bowes, Inc., from its facilities located in the city of Reading, Berks County, and the city of Harrisburg, Dauphin County, to points in Pennsylvania.

A-00105185
F. 2



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- DeLong, Dry, Cianci & Beltzner, by William F. Roberts for the applicant.
- Caldwell & Kearns, by James D. Campbell, Jr., for protestant, New Penn Motor Express, Inc.
- Edward L. Ciemniecki for protestant, Jamour, Inc., t/d/b/a Quick Courier Service.
- Rhoads & Sinon, by J. Bruce Walter for protestant, Way Services, Inc.
- Liederbach, Hahn, Foy & Petri, by Scott A. Petri for protestant, J. C. Services, Inc.
- Kenneth A. Olsen for protestants: A-P-A Transport Corp., SMP, Inc., Herzog Trucking Company, Inc. and GTS, Inc.
- John E. Fullerton for protestants: ASAP Courier Corporation, Central Air Freight Services, Inc., R. H. Crawford, Inc., DePen Line, Inc., Evans Delivery Co., Kinard Trucking Co., W. C. Kline, Inc., L & H Trucking Co., Penn's Best, Inc., Posten Taxi, Inc., Powers

Trucking Co., S & L Services, Inc., Transcontinental Refrigerated Lines, Inc., West Motor Freight Co. of Pa., and Yannuzzi Overland Unlimited, Inc.

Rex W. McQuaide for protestant, W. C. McQuaide, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on May 17, 1991, and published in the Pennsylvania Bulletin of July 13, 1991. A total of 24 carriers protested the application. A prehearing conference was held on October 30, 1991 in Harrisburg, with ALJ Louis Cocheres presiding. A restrictive amendment was submitted by the applicant which resulted in the withdrawal of two of the protestants. The possibility of additional amendments was discussed, at which time the prehearing conference was adjourned.

After the prehearing conference, additional restrictive amendments were submitted which resulted in the withdrawal of all of the remaining protestants, and no further hearings were held. Although the commodities to be transported have not been changed, the service has been limited to transporting the commodities for nine specifically named shippers.

The unopposed application is now certified to the Commission for its decision without oral hearing. Verified statements were submitted by the applicant and eight supporting shippers.

Kevin R. McHale, president of McHale's Delivery Service, Inc. (or applicant), sets forth in his verified statement that the applicant operates from a terminal located at 1100 North Ninth Street in the city of Reading, Berks County, where it conducts business with two 24-foot trucks equipped with hydraulic lift gates, and a 1985 Isuzu Trooper truck. The applicant holds a contract carrier permit from this Commission and a common carrier certificate from the I.C.C. It is not affiliated with any other carriers.

An unaudited balance sheet indicates that as of June 30, 1991, the applicant had current assets of \$22,295, total assets of \$62,626, with current liabilities of \$62,205 and total liabilities of \$142,057, leaving a deficit in stockholders' equity of \$79,431. For the applicant's year ended June 30, 1991, it had a net operating loss of \$31,053 from revenues of \$206,970.

John Marren is service manager for Pitney Bowes, Inc., Wyomissing, Berks County, and supports the applicant stating that it has need for the applicant's services from its facilities in the city of Reading, Berks County, and the city of Harrisburg, Dauphin County, to all points in Pennsylvania lying on and east of U.S. Highway Route 220. The applicant is now providing the service in the capacity of a contract carrier. The company has no objection to the applicant converting to a common carrier.

Edward P. Duda, vice president - technical services for E. N. Dunlap, Inc., located in Harrisburg, Dauphin County, supports the applicant. The company has facilities located in Harrisburg, Allentown and Lancaster from which it ships printing equipment to various Pennsylvania customers located on and east of U.S. Highway Route 220. The company has been using its own truck and personnel to make deliveries, but it prefers to use a carrier for hire since the equipment is becoming too heavy for the company truck to handle. The applicant will be used if the proposed service becomes available.

Thomas M. Pych, operations manager for Commercial Design and Furnishings located in the city of Reading, Berks County, supports the applicant. As a shipper of office equipment and office products, a carrier is needed which can provide same-day service without damage to the merchandise. It is not now getting such service and will give the applicant a try. Shipments are made from the Reading facility to points throughout the proposed territory.

Brian L. Faust is vice president of operations for Bulk Chemicals, Inc., located in Mohrsville, Perry Township, Berks County, and supports the applicant. The company produces non-hazardous chemical products used in the treatment of metals. The product is shipped in drums from Perry Township, Berks County, to points throughout the area of Pennsylvania on and east of U.S. Highway Route 220. The applicant will be used in order to obtain same-day delivery service which the company is not now receiving from other carriers.

Frank Brennan, president of Generic Clothing, Inc., located in the city of Reading, Berks County, supports the applicant and attests to the need for the applicant's service to transport slacks which are flat packed in cartons. His son had been making deliveries as an employee of the company, but he has accepted a position with another company and is no longer available to transport the material. The company customers are located within the proposed area of service, and the applicant will be used regularly.

James P. Pierce is service manager for William A. Fraser, Inc., t/d/b/a Fraser Business Equipment and supports the applicant. The company ships office equipment to customers in Pennsylvania on and east of U.S. Highway Route 220 and receives traded-in equipment back at its facilities located in the city of Reading, Berks County. It is now using its own company trucks but prefers to use other carriers. The applicant has the proper type of trucks which are equipped for delivering the equipment involved.

Michael W. Knoll is traffic manager for United Computer Supplies located in the city of Reading, Berks County. He states that the company produces paper forms which very frequently are time sensitive and require same-day delivery. Shipments are made in less-than-truckload quantity from Reading to points in Pennsylvania located on and east of U.S. Highway Route 220. The applicant will be used.

Barbara Gockley, materials manager for Morton International, states that the company ships paint and paint ingredients from a facility in Reading,

Berks County, to points within the application territory. The company has been experiencing delivery delays and damaged goods while using the existing carriers. The applicant will be used if the service becomes available.

DISCUSSION AND FINDINGS

McHale's Delivery Service, Inc., has held a contract carrier permit from this Commission at A-00105185, F. 1 since November 7, 1984. By this application, it seeks to render service as a common carrier and, in order to comply with the provisions at 66 Pa. C.S. §2504 and thereby avoid dual operations by a single carrier, also seeks to convert the contract carrier permit to a common carrier certificate of public convenience and necessity.

The contract carrier permit authorizes the applicant to serve two shippers, i.e., AM International, Inc., and Pitney Bowes, Inc. The applicant no longer does business with AM International and it has not supported this application. On the other hand, Pitney Bowes has entered its support and has no objection to being served by the applicant in the capacity of a common carrier.

To the extent this application has been amended, the applicant seeks to provide the following service as an authorized common carrier:

- (1) To transport office equipment and office products for Pitney Bowes, Inc., from its facilities located in the city of Reading, Berks County and the city of Harrisburg, Dauphin County, to points in that part of Pennsylvania lying on and east of U.S. Highway Route 220 from the Maryland State Line to the New York State Line with the right to return traded-in office equipment to the point of origin.
- (2) To transport printing equipment for E. N. Dunlap, Inc., from its facilities located in the city of Lancaster, Lancaster County, the city of Allentown, Lehigh County and the city of Harrisburg, Dauphin County to points in Pennsylvania lying on and east of U.S. Highway Route 220, with the right to return traded-in printing equipment to the point of origin.
- (3) To transport office equipment and office products for Commercial Design and Furnishings, Inc., from its facilities located in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220.
- (4) To transport non-hazardous chemicals shipped in drums for Bulk Chemicals, Inc., from its facilities located in Mohrsville, Perry Township, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220, with the right to return empty drums to the point of origin.

- (5) To transport paint for Reading Body Works, Inc., between points in the city of Reading, Berks County.
- (6) To transport clothing for Generic Clothing, Inc., from its facilities located in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220.
- (7) To transport office equipment for Fraser Business Equipment, Inc., from its facilities located in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220, with the right to return traded-in office equipment to the point of origin.
- (8) To transport paper forms for United Computer Supplies, Inc., from its facilities in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220.
- (9) To transport paint and paint ingredients for Morton International, Inc., from its facilities in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220, and vice versa;

subject to the following conditions:

- (A) That all transportation must be performed by vehicles other than tractor-trailer units.
- (B) That Right No. (1) be restricted against providing service to points in the counties of Philadelphia, Montgomery, Bucks and Delaware.
- (C) That Right No. (6) is further subject to the condition that no right, power or privilege is granted to transport garments and wearing apparel on hangers.

We find it necessary to expound on Right Nos. (5) and (9). Counsel for the applicant advised by letter of May 1, 1992, that Reading Body Works, Inc., the shipper named in Right (5), has adopted a policy against signing shipper support statements and that no support would be forthcoming. We therefore remove the service proposed in Right (5) from further consideration.

In Right (9), the applicant proposes to transport paint and paint ingredients for Morton International, Inc. The commodities initially proposed by the applicant are office products, office equipment, printing equipment, clothing, non-bulk chemicals, paper and printed items. Paint and paint ingredients are not included in this list of commodities. To include them by amendment would have the effect of enlarging upon the service as initially

proposed. Therefore, the service proposed in Right (9) will also be removed from further consideration.

All of the shippers named in Right Nos. (1), (2), (3), (4), (6), (7) and (8) have supported the applicant for service from their respective places of business to points in that part of Pennsylvania located on and east of U.S. Highway Route 220. The proposed service is further restricted so that the applicant must use vehicles other than tractor-trailer units. The applicant operates with 24-foot straight trucks equipped with hydraulic tail gates, and which are ideal for handling each of the shippers' products. We believe the proposed service will serve a useful purpose and that the applicant is fit, willing and able to provide the service adequately. We also find the proposed authority to serve seven individual shippers to be indicative of a holding out to serve the general public.

We find:

1. That the applicant currently holds a contract carrier permit at A-00105185, P. 1.

2. That, to the extent the application has been amended, the applicant seeks to provide service for nine specifically named shippers as a common carrier.

3. That, in order to comply with the provisions at 66 Pa. C.S. §2504 and avoid dual operations, the applicant seeks to convert the contract carrier permit to a common carrier certificate of public convenience and necessity.

4. That one of the shippers, Reading Body Works, Inc., has elected not to support the application.

5. That the applicant proposed to transport paint and paint ingredients which is not a commodity initially included in the proposed service.

6. That a public need for the proposed service as amended and hereinafter modified does exist.

7. That the applicant is fit, ready, willing and able to render the proposed service as amended and modified.

8. That approval of the application, as amended and modified, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved as amended and modified, and that a certificate be issued granting the applicant the right to operate as follows:

- (1) To transport, as a Class D carrier, office equipment and office products for Pitney Bowes, Inc., from its facilities located in the city of Reading, Berks County

and the city of Harrisburg, Dauphin County, to points in that part of Pennsylvania lying on and east of U.S. Highway Route 220;

with the above right subject to the following condition:

That no right, power or privilege is granted to provide service to points in the counties of Philadelphia, Montgomery, Bucks and Delaware.

- (2) To transport, as a Class D carrier, printing equipment for E. N. Dunlap, Inc., from its facilities located in the city of Lancaster, Lancaster County, the city of Allentown, Lehigh County and the city of Harrisburg, Dauphin County to points in Pennsylvania lying on and east of U.S. Highway Route 220, with the right to return traded-in printing equipment to the point of origin.
- (3) To transport, as a Class D carrier, office equipment and office products for Commercial Design and Furnishings, Inc., from its facilities located in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220.
- (4) To transport, as a Class D carrier, non-hazardous chemicals shipped in drums, for Bulk Chemicals, Inc., from its facilities located in Mohrsville, Perry Township, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220, with the right to return empty drums to the point of origin.
- (5) To transport, as a Class D carrier, clothing for Generic Clothing, Inc., from its facilities located in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220;

with Right No. (5) subject to the following condition:

That no right, power or privilege is granted to transport garments and wearing apparel on hangers.

- (6) To transport, as a Class D carrier, office equipment for William A. Fraser, Inc., t/d/b/a Fraser Business Equipment from its facilities located in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220, with the right to return traded-in office equipment to the

point of origin.

- (7) To transport, as a Class D carrier, paper forms for United Computer Supplies, Inc., from its facilities in the city of Reading, Berks County, to points in Pennsylvania lying on and east of U.S. Highway Route 220;

with all of the above rights subject to the following condition:

That all service under the authority granted herein must be provided in vehicles other than tractor-trailer units.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of the Commission relative to the filing and acceptance of a tariff establishing just and reasonable rates.

IT IS FURTHER ORDERED: That upon compliance with the requirements as set forth, a certificate issue evidencing the Commission's approval of the right to operate as above-determined.

IT IS FURTHER ORDERED: That in the event the applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

IT IS FURTHER ORDERED: That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

IT IS FURTHER ORDERED: That the application in all other respects be and is hereby denied for lack of proof of necessity.

IT IS FURTHER ORDERED: That the contract carrier permit issued to McHale's Delivery Service, Inc., at A-00105185, F. 1, be cancelled by supplemental order.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: August 6, 1992

ORDER ENTERED: AUG 12 1992

A-00109492

Booth & Sons Scrapyard, Inc.

125 Railroad Street
Moosic, PA 15010**A-00109589**

Marushock Trucking, Incorporated

721 Kossuth Street
Throop, PA 18512**A-00109947**

Hunsberga, Ila F.

R.D. #1, Box 137
Emlenton, PA 16373**A-00108861**Weikert, Howard L.
T/A Livestock Hauling
Box 298
Fairfield, PA 17320**A-00108936**RLB Trucking Corporation **150 A**P.O. Box 5
New Oxford, PA 17350**A-00109107**

Umsteads Trucking, Inc.

R.D. #1, Box 539
Unityville, Pa 17774**A-00105185**McHale's Delivery Service, Inc.
P.O. Box 4072
1500 N. 9th Street
Reading, PA 19606**A-00110119**Courson, Timothy R.
T/A Courson, T.R., Hauling
Star Route
Knox, PA 16232**A-00110137**

Lars Trucking Corporation

1921 S. 25th Street
Philadelphia, PA 19145**A-00110191**Bowes, Brett S. & Shannon M., Copts
T/A Terra View Farms
RR 4, Box 108
Jersey Shore, PA 17740**A-00107672**P.A. & S. Small Company
P.O. Box 589
1100 North Sherman Street
York, PA 17405**A-00101049**Adobe International, Inc.
402 Old Route 8
Grove City, PA 16127**DOCUMENT
FOLDER****DOCKETED**
MAR 15 1994