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PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u>	: December 13, 1993	2. <u>BUREAU AGENDA NO.</u>	:
3. <u>BUREAU:</u>	: LAW	DEC-93-L-928*	:
4. <u>SECTION(S):</u>	: Motor Carrier	5. <u>PUBLIC MEETING DATE:</u>	:
6. <u>APPROVED BY:</u>	:		:
Director:	Povilaitis 7-5000		:
Supervisor:	House 3-3713 <i>H.K.H.</i>		:
7. <u>MONITOR:</u>	:	December 15, 1993	:
8. <u>PERSON IN CHARGE:</u>	: Steve Gorka 3-3713		:
9. <u>DOCKET NO:</u>	: A-00105185, F.2		:
10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines)			
(b) Short summary of history & facts, documents & briefs			
(c) Recommendation			

- (a) Petition of McHale's Delivery Service, Inc.; Petition for Reinstatement.
- (b) By Order entered November 19, 1993, the Commission cancelled the certificate of public convenience held by McHale's Delivery Service, Inc. at Docket No. A-00105185, F.2 for failure to file its 1992 Assessment Report. By Petition dated December 3, 1993, McHale's Delivery Service, Inc. requests reinstatement of its certificate of public convenience. This Petition is now before the Commission for disposition.
- (c) The Law Bureau recommends that the Petition for Reinstatement be granted.

10. MOTION BY: Commissioner Chm. Rolka Commissioner Quain - Yes
 Commissioner Rhodes Commissioner Crutchfield-Yes
 SECONDED: Commissioner Rhodes Commissioner Hanger - Yes

CONTENT OF MOTION: Staff recommendation adopted.

DOCKETED
MAR 23 1994

DOCUMENT
FOLDER



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

December 27, 1993

IN REPLY PLEASE
REFER TO OUR FILE
A-00105185, F0002

MCHALE'S DELIVERY SERVICE INC
1500 NORTH SECOND STREET
PO BOX 8551
READING PA 19606

Petition of McHale's Delivery Service, Inc.
Petition for Reinstatement

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on December 15, 1993 in the above entitled proceeding.

A copy of this Order has been enclosed for your records.

Very truly yours,

John G. Alford, Secretary

DOCUMENT
FOLDER

JACKETED
JAN 24 1994

smk
Encls.
Cert.Mail

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held December 15, 1993

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice Chairman
John M. Quain
Lisa Crutchfield
John Hanger

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FOLDER

Petition of McHale's Delivery
Service, Inc.

Docket No.
A-00105185, F.2

Petition for Reinstatement.

O R D E R

DOCKETED
JAN 24 1994

BY THE COMMISSION:

By Order entered November 19, 1993, the Commission cancelled the certificate of public convenience held by McHale's Delivery Service, Inc. ("McHale") at Docket No. A-00105185, F.2 for failure to file a 1992 Assessment Report. By Petition filed December 3, 1993, McHale requests reinstatement of its certificate of public convenience. This Petition is now before the Commission for consideration.

Decisions whether to grant petitions for reinstatement are left to the Commission's discretion and will be reversed on appeal only if that discretion is abused. Hoskins Taxi Service v. Pa. Public Utility Commission, 87 Pa. Commonwealth Ct. 30, 486 A.2d 1030 (1985). In ruling upon a petition to reinstate, the Commission will examine all relevant factors to reach an equitable result. Re Medical Transportation, Inc., 57 Pa. P.U.C. 79 (1983).

In reviewing a reinstatement petition, the Commission considers: (1) the amount of time which elapsed between the cancellation of the certificate and the filing of the petition to reinstate; (2) the petitioner's record of compliance with the Public Utility Code and the orders and regulations of the Commission; and (3) the reasonableness of the excuse given for the violation which caused the cancellation of the certificate.

Re Bishop, 58 Pa. P.U.C. 519 (1984).

As to the first factor, we note that McHale filed this Petition two weeks after its certificate cancellation. This factor supports reinstatement of this certificate.

Upon examination of the second factor, the Commission approved McHale's application for a certificate of public convenience at Docket No. A-00105185, F.2 by Order entered September 19, 1992. However, McHale did not file its 1992 Assessment Report in a timely manner. McHale failed to respond to the Commission's subsequent Show Cause Order, and the Commission cancelled McHale's certificate of public convenience by Order entered November 19, 1993. This Order is the subject of the present Petition for Reinstatement.

In reviewing Petitioner's performance history before the Commission, we find that McHale has no history of safety or tariff violations. A Show Cause Order was entered against McHale for failure to file its 1992 Annual Report, but McHale timely complied with this reporting requirement. In addition, McHale has evidence of valid liability insurance currently on file with the Commission. Under the circumstances, Petitioner's record does not compel a denial of reinstatement at this time.

We now consider McHale's excuse for the violation which led to the certificate cancellation. McHale asserts that it received the Commission's two Show Cause Orders and forwarded these documents to its accountant. McHale's accountant mistakenly believed that the separate Show Cause Orders were duplicates of the Show Cause Order regarding the 1992 Annual Report. Therefore, Petitioner filed its Annual Report while mistakenly ignoring its 1992 Assessment Report requirement. McHale has now supplied the Commission with its 1992 Assessment Report.

In light of the foregoing, we believe that reinstatement of McHale's certificate of public convenience is consistent with the public interest. THEREFORE,

IT IS ORDERED:

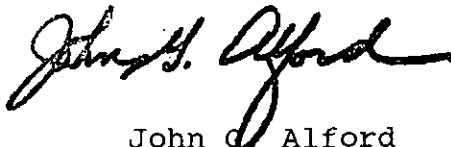
1. That the Petition of McHale's Delivery Service, Inc. for Reinstatement filed at Docket No. A-00105185, F.2 is hereby granted.

2. That the certificate of public convenience at Docket No. A-00105185, F.2 is hereby reinstated, subject to compliance with the condition described herein.

3. That reinstatement is conditioned upon McHale's Delivery Service, Inc. maintaining appropriate evidence of insurance with the Commission.

4. That the failure to timely comply with the above condition will result in denial of the Petition to Reinstate without further Commission action.

BY THE COMMISSION,

A handwritten signature in cursive script, appearing to read "John C. Alford".

John C. Alford
Secretary

(SEAL)

ORDER ADOPTED: December 15, 1993

ORDER ENTERED: **DEC 27 1993**

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

A-00/05185, F.2

4a. Article Number

04A282

4b. Service Type

- Registered Insured
- Certified COD
- Express Mail Return Receipt for Merchandise

7. Date of Delivery

1/4/94

5. Signature (Addressee)

6. Signature (Agent)

Kathy Ouellet

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811 December 1991

U.S. GPO: 1992-323-402

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.