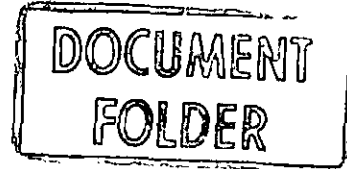


PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held April 2, 1992

Commissioners Present:

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



Pennsylvania Public Utility Commission

A-00105335C9201

v.

Jay Fulkroad & Sons, Inc.

ORDER TO SHOW CAUSE

BY THE COMMISSION:

This Commission, upon its own motion, as the duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate motor carriers within the Commonwealth, institutes an Order to Show Cause against Jay Fulkroad & Sons, Inc., and represents as follows:

1. That Jay Fulkroad & Sons, Inc., respondent, maintains its principal place of business at R.D. 2, McAlisterville, Juniata County, Pennsylvania 17049.
2. That respondent was issued a certificate of public convenience by this Commission on March 8, 1985 at Application Docket No. A-00105335.
3. That, pursuant to a motor vehicle equipment lease dated August 28, 1990, Matthew S. Sieber, t/d/b/a Sieber Trucking (Sieber) leased equipment to respondent. Respondent failed to inspect the leased equipment. Sieber exercised sole control and management over the leased equipment.
4. That Sieber solicited all transportation and directly billed the shippers. The shippers had no contact with respondent. They bypassed respondent and dealt directly with Sieber for the arrangement and payment of respective transportation requirements. Respondent did not exercise control over the rates charged by Sieber. Sieber charged its own rates to the shippers rather than as per respondent's tariff.
5. That respondent, on August 28, 1990, leased its authority to Sieber and surrendered control of its operation.
6. That respondent had no knowledge whether or not Sieber was operating within respondent's certificated authority.
7. That respondent, by failing to carry out a lease so that possession, control and use of the equipment was the complete and exclusive responsibility of the lessee, violated 52 Pa. Code §31.32(c)(2)(iv)(A).

8. That respondent, by failing to inspect leased equipment, violated 52 Pa. Code §31.33(c)(4).

9. That respondent, by leasing its authority, violated 66 Pa. C.S. §1102(a)(3).

THEREFORE, IT IS ORDERED:

1. That Jay Fulkroad & Sons, Inc. show cause why its certificate of public convenience at Application Docket No. A-00105335 should not be revoked or suspended or why other appropriate action should not be ordered as authorized by the Public Utility Code, 66 Pa. C.S. §§101, et seq.

2. That respondent has twenty (20) days from the date on which this order is served to file with the Secretary of the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, an answer, in writing, under oath, which, as required by the Rules of Administrative Practice and Procedure, 52 Pa. Code §5.61, either affirms or specifically denies the allegations in this order.

3. That, if respondent fails to file an answer or other responsive pleading within twenty (20) days, respondent will be deemed to have admitted all the allegations in this order in accordance with the Rules of Administrative Practice and Procedure, 52 Pa. Code §5.61. In that event, this Commission may, without hearing, enter an order which either revokes or suspends any certificate held by respondent, or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. §§101, et seq.

4. That, if respondent files an answer which admits the allegations in this order or which fails to specifically deny the allegations in this order, this Commission will enter an order which either revokes or suspends any certificate held by respondent, or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. §§101 et seq.

5. That, if respondent files a timely answer which specifically denies the allegations in this order or which raises material questions of law or fact, this matter shall be referred to an Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, the respondent is found to have committed any of the alleged violations, the Administrative Law Judge may render a decision which either revokes or suspends any certificate held by respondent, or which imposes a fine or other

appropriate penalty or remedy authorized by the Public Utility Code,
66 Pa. C.S. §§101, et seq.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: April 2, 1992

ORDER ENTERED: APR 13 1992