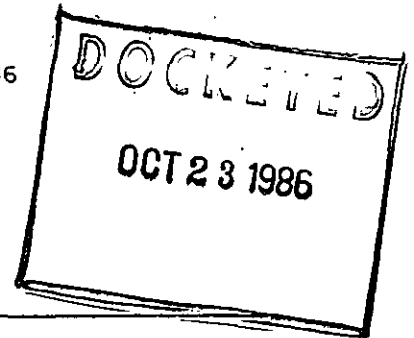


PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

| | | | | |
|--|---|---|--------------------------------|--|
| 1. <u>REPORT DATE:</u> | September 25, 1986 | : | 2. <u>BUREAU AGENDA NO.</u> | |
| 3. <u>BUREAU:</u> | Law | : | OCT-86-L-171* | |
| 4. <u>SECTION(S):</u> | Motor Carrier | : | 5. <u>PUBLIC MEETING DATE:</u> | |
| 6. <u>APPROVED BY:</u> | Acting Director: Alford 3-5331 Supervisor: Schnierle 3-3713 | : | October 16, 1986 | |
| 7. <u>MONITOR:</u> | | : | | |
| 8. <u>PERSON IN CHARGE:</u> | Waggoner 3-2840 | : | | |
| 9. <u>DOCKET NO:</u> | A-00105101 | : | | |
| 10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines) | | | | |
| (b) Short summary of history & facts, documents & briefs | | | | |
| (c) Recommendation | | | | |



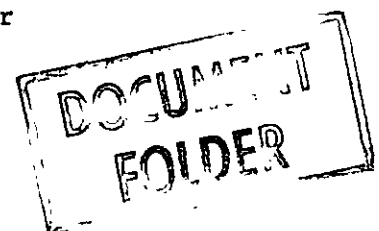
(a) J.F. Lomma, Inc., South Kearny, NJ; Petition for Reinstatement of Operating Authority.

(b) On October 8, 1985, the Commission entered an Order at A-105101, approving the application of J.F. Lomma, Inc. for a certificate of public convenience. The Order was conditioned on the filing of an acceptable tariff and evidence of insurance within sixty (60) days. On December 18, 1985, the Commission notified Lomma that its tariff and evidence of insurance had not been filed. On February 27, 1986, the Commission notified Lomma that evidence of insurance was still needed. On June 27, 1986, the Commission notified Lomma that its application had been dismissed for failure to file evidence of bodily injury and property damage insurance and cargo insurance. On September 2, 1986, Lomma filed a Petition to Reinstate the October 8, 1985 Order approving its application.

(c) For the reasons discussed herein, the Law Bureau recommends that the Commission grant Lomma's Petition for reinstatement.

11. MOTION BY: CommissionerChm. Taliaferro Commissioner Fischl - Yes
Commissioner
SECONDED: CommissionerShane Commissioner

CONTENT OF MOTION: Staff recommendation adopted.



October 23, 1986

A-00105101

James W. Patterson, Esquire
1800 Penn Mutual Tower
Philadelphia, PA 19106

J. F. Lomma, Inc. South Kearny, N.J.;
Petition for Reinstatement of Operating Authority

To Whom It May Concern:

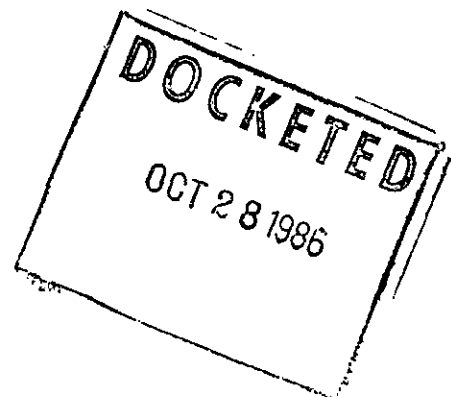
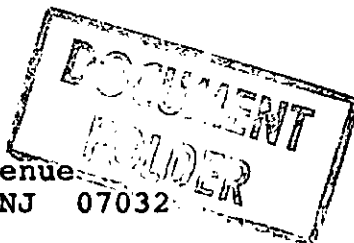
This is to advise you that an Order has been adopted by the Commission in Public Meeting held October 16, 1986 in the above entitled proceeding.

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

Very truly yours,

Jerry Rich, Secretary

fao
Encls.
Cert. Mail
cc: Applicant
286 Central Avenue
South Kearny, NJ 07032



PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

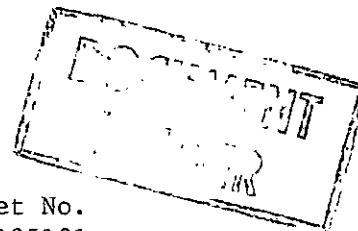
Public Meeting held October 16, 1986

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

J. F. Lomma, Inc.
South Kearny, N.J.;
Petition for Reinstatement
of Operating Authority

Docket No.
A-00105101



O R D E R

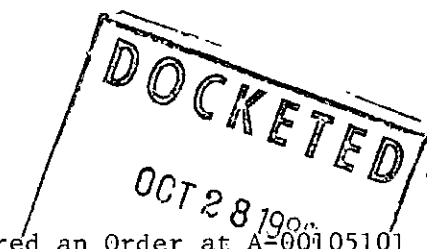
BY THE COMMISSION:

On October 8, 1985, the Commission entered an Order at A-00105101 approving the application of J. F. Lomma, Inc. (Lomma) for a Certificate of Public Convenience. The Order was conditioned on the filing of an acceptable tariff and evidence of insurance within sixty (60) days. By telephone conversation on November 26, 1985, Lomma was granted an extension of time until December 31, 1985 to file a tariff and evidence of insurance.

On December 18, 1985, the Commission sent a warning letter to Lomma indicating that it had not complied with the Commission's tariff and insurance requirements and must do so immediately or its application would be dismissed. On January 14, 1986, Lomma was granted another extension of time until January 30, 1986 to file evidence of insurance. On February 27, 1986, the Commission sent another warning letter to Lomma indicating that it had not complied with the Commission's insurance requirement.

By Secretarial Letter dated June 27, 1986, the Commission notified Lomma that its application had been dismissed for failure to file evidence of bodily injury and property damage insurance and cargo insurance. On September 2, 1986, the Commission received a Petition to Reinstate the October 8, 1985 order approving its application. In its Petition, Lomma argues that it was unaware that evidence of insurance was not filed due to its insurance carrier continually insisting that all necessary filings had been made.

Decisions whether to grant petitions to reinstate are left to the discretion of the Commission, and will be reversed only if that discretion is abused. Hoskins Taxi Service, Inc. v. Pennsylvania 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 in order to reach an equitable result. Re Medical Transportation, Inc., 57 Pa. P.U.C. 79 (1983).

Specifically, the Commission has identified three factors which are particularly relevant to determination of a petition to reinstate. The three factors are: (1) the amount of time elapsed between cancellation of the authority or the dismissal of the compliance order and the filing of the petition to reinstate; Re Falcone Cab Co., A-95400 (January 22, 1982); (2) the petitioner's compliance record with the Public Utility Code and the rules and regulations of the Commission, Re Radio Cab Co., A-94012 (January 14, 1982); and (3) the reasonableness of the excuse given for the violation which caused the authority to be cancelled, Re Radio Cab Co., supra.

Lomma's Petition was filed approximately two months after notification that the application had been dismissed. Such a short period of time favors reinstatement of the order. Because Lomma held no prior authority with the Commission, there is no past record to review for purposes of this Petition. Lomma's excuse that it was unaware that evidence of insurance was not filed due to its insurance carrier continually insisting that all necessary filings had been made is not reasonable. Lomma, as the certificate holder, is responsible for compliance with Commission regulations. However, the fact that it is now in compliance weighs in favor of reinstatement. Overall, Lomma's Petition appears to have merit and should be granted; THEREFORE,

IT IS ORDERED:

1. That the Petition to Reinstate Order filed by J. F. Lomma, Inc. on September 2, 1986 at A-00105101 is hereby granted.
2. That this Commission's letter, dated June 27, 1986, dismissing Lomma's application, is hereby rescinded.
3. That the October 8, 1985 Order at A-00105101 approving Lomma's application for a certificate of public convenience is hereby reinstated.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: October 16, 1986

ORDER ENTERED: OCT 23 1986