

A. 106830
F. 1
BTL

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held October 24, 1990

Commissioners Present:

- William H. Smith, Chairman
- Frank Fischl
- David W. Rolka
- Joseph Rhodes, Jr.

DOCUMENT
FOLDER

Application of Carlisle Carrier Corp.,
a corporation of the Commonwealth of
Pennsylvania, for the transfer to it of
all of the rights authorized under the
certificate issued at A-00106830, F. 1,
to Clouse Trucking, Inc., a corporation
of the Commonwealth of Pennsylvania,
subject to the same limitations and
conditions.

A-00109478

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Graf, Andrews & Radcliff, by David H. Radcliff for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on
July 24, 1990, and published in the Pennsylvania Bulletin of September 22,
1990. There are no protests and the record is now certified to the Commission
for its decision without oral hearing.

Carlisle Carrier Corp. (transferee or applicant) is a close corpora-
tion formed under the laws of Pennsylvania on September 18, 1989, with its
principal place of business located at 401 East Louthier Street, Suite 408,
Carlisle, Cumberland County. David L. Metzler is a director, president and
holds 80% of the stock; J. Edward Clouse is a director and holds 10% of the
stock; Thomas R. Carbonaro is a director, vice-president and holds 5% of the
stock; Donald K. Stroble is a director, treasurer and holds 5% of the stock;
Loretta C. Metzler is secretary.

The applicant is affiliated with Clouse Trucking, Inc. (or transferor)
to the extent that J. Edward Clouse is a director and holds 10% of the stock
of the applicant and is also president and principal stockholder of Clouse

Trucking, Inc. The applicant has another affiliation with Genie Trucking Lines, Inc., to the extent that David L. Metzler, president, director and 80% stockholder of the applicant, is also a stockholder of Genie which holds no authority from this Commission.

Although the applicant does not now hold other operating authority from this Commission, it does hold authority from the I.C.C. at MC-223588. An equipment list shows that the applicant owns 26 tractors and 40 trailers, and operates eight other tractors under lease from owner-operators. There is no transfer or purchase of equipment involved in this transaction.

An unaudited balance sheet indicates that as of April 30, 1990, the applicant had total assets of \$415,487, with total liabilities of \$412,793, leaving shareholders' equity of \$2,694. An unaudited income statement for the four months ended April 30, 1990, discloses that the applicant realized a net income of \$10,904 from I.C.C. revenues of \$837,759.

In addition to the Folder 1 authority being transferred herein, Clouse Trucking, Inc., also holds authority at Folder 2. In order to avoid a duplication of authority between the rights being transferred here and the rights being retained by the transferor, those rights being retained will be conditioned so that no service is to be provided for Dauphin Distribution Services Co., and The Dial Corporation.

The total consideration for the rights is \$1,000. No tangible assets are involved. The sales agreement requires the consideration to be paid upon notification of approval of this application.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. That the applicant is fit, willing and able to provide the service proposed.
2. That the transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the transfer application be and is hereby approved and that a certificate be issued granting the applicant the following rights:

1. To transport, as a Class D carrier, such merchandise as is dealt in by wholesale, retail and chain groceries, food business houses, drug stores and drug houses, and by hospitals and nursing homes, for Dauphin Distribution Services Co., between the facilities owned, leased or used by Dauphin Distribution Services Co., and from said facilities to points in Pennsylvania;

subject to the following condition:

That no right, power or privilege is granted to transport petroleum and petroleum products, in bulk, in tank-type vehicles.

2. To transport, as a Class D carrier, property, for The Dial Corporation, between the facilities owned, leased or utilized by said company, and from said facilities, to points in Pennsylvania, and vice versa;

subject to the following condition:

That no right, power or privilege is granted to transport commodities in bulk.

with all of the above subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$1,000, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.

4. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 Pa. C.S.A. §1102(3).

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and 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 upon compliance with this order, the rights granted the transferor, Clouse Trucking, Inc., at A-00106830, Folder 1, be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", is written over a circular stamp or seal that is mostly obscured.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: October 24, 1990

ORDER ENTERED: OCT 30 1990