

GRAF, ANDREWS & RADCLIFF, P. C.
ATTORNEYS AT LAW
407 NORTH FRONT STREET
HARRISBURG, PENNSYLVANIA 17101

CHRISTIAN V. GRAF
FREDERICK W. ANDREWS
DAVID H. RADCLIFF
GREGORY R. LYONS

OF COUNSEL
JOHN E. FULLERTON
TELEPHONE: A. C. 717-236-9318

January 15, 1991
File: 322-171

RE: TRI-COUNTY TRANSPORTATION & LEASING, INC., A. 107235, F.1, Am. Auto
Protest of Fullington Auto Bus Company

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120

RECEIVED
JAN 16 1991
SECRETARY'S OFFICE
Public Utility Commission

Dear Mr. Rich:

On behalf of Fullington Auto Bus Company, I enclose the original and one copy of a protest to the above-captioned application. Copies are being forwarded to Applicant, Applicant's attorney and to Protestant.

Very truly yours,

Christian V. Graf
Christian V. Graf

CVG:tcr
Enclosure

cc: Tri-County Transportation & Leasing, Inc.
404 Nineteenth Street
Box 13
Barnesboro, PA 15714

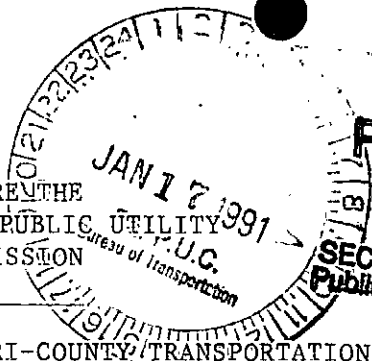
Lawrence L. Davis, Esquire
103 South Center Street
Ebensburg, PA 15931

J. Richard Fullington, President
Fullington Auto Bus Company
316 Cherry Street
P.O. Box 211
Clearfield, PA 16830

David H. Radcliff, Esquire

DOCUMENT
FOLDER

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY
COMMISSION



RECEIVED

JAN 6 1991

SECRETARY'S OFFICE
Public Utility Commission

In Re: A-00107235, Folder 1, Am-A. TRI-COUNTY TRANSPORTATION & LEASING, INC. (404 Nineteenth Street, Box 13, Barnesboro, Cambria County, Pa. 15714), a corporation of the Commonwealth of Pennsylvania-groups and parties of persons from the borough of Cherry Tree, Indiana County, and the borough of Barnesboro, Cambria County, to points in Pennsylvania: SO AS TO PERMIT the transportation of persons, in group and party service, from points in that part of the county of Cambria lying on and north of U.S. Highway Route 22, to points in Pennsylvania.

Applicant's attorney: Lawrence L. Davis, Esquire
103 South Center Street
Ebensburg, PA 15931

Pennsylvania Bulletin reference: December 29, 1990, page 6443

PROTEST OF
FULLINGTON AUTO BUS COMPANY
A. 9329

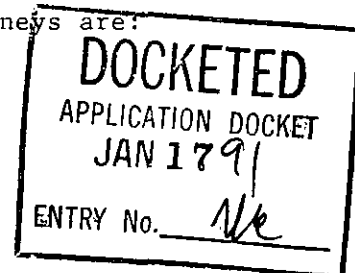
FILE

1. The name, address and telephone number of Protestant are:

FULLINGTON AUTO BUS COMPANY
316 Cherry Street
P.O. Box 211
Clearfield, PA 16830
Telephone: A.C. 765-7871

2. The names, address and telephone number of Protestant's attorneys are:

GRAF, ANDREWS & RADCLIFF, P.C.
Christian V. Graf, Esquire
David H. Radcliff, Esquire
407 North Front Street
Harrisburg, PA 17101
Telephone: A.C. 717, 236-9318



3. Protestant possesses authority at A. 9329, Folder 19, Am-R which authorizes transportation of groups and parties and persons on special excursions and tours or sightseeing trips from all points in the county of Cambria to all points in Pennsylvania, a copy of which is attached as Exhibit A.

a. Protestant fears the diversion of traffic from points in that part of Cambria County lying on and north of U.S. Hwy. Route 22. However, absent knowledge as to who, if anyone, supports this application, a meaningful traffic exhibit cannot be submitted.



4. Protestant requests the applicant or its attorney to forward to Protestant's attorney, pursuant to Sec. 333(c) of the Public Utility Code, a list showing the names and addresses of all witnesses to be called. This is a continuing request.

5. Applicant knows of no amendment which will satisfy its interest but is willing to discuss the matter with Applicant's attorney.

WHEREFORE, Protestant prays the application may be dismissed.

AND IT WILL EVER PRAY.

FULLINGTON AUTO BUS COMPANY

By: Christian V. Graf
Christian V. Graf, Esquire
Its Attorney

January 15, 1991

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held June 22, 1984

Commissioners Present:

Linda C. Taliaferro, Chairman
Michael Johnson
James H. Cawley
Frank Fischl
Bill Shane

Application of Fullington Auto Bus Company, a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport groups and parties of persons and persons on special excursions and tours or sight-seeing trips from points in the townships of White and Reade, Cambria County, to points in Pennsylvania, excluding Prince Gallitzin State Park in White Township as a point of origin: SO AS TO PERMIT the transportation of groups and parties of persons and persons on special excursions and tours or sight-seeing trips, from points in the county of Cambria and the county of Blair (except the city of Altoona, the borough of Bellwood and the townships of Logan, Antis, Snyder and Tyrone) to points in Pennsylvania.

A-00009329
F. 19
Am-R

Christian V. Graf for the applicant.
Herbert R. Nurick for Blue & White Lines, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed April 25, 1983. Public notice of the application appeared in the Pennsylvania Bulletin of June 25, 1983. Additional public notice was advertised in the June 28, 1983 edition of the Altoona Mirror, a newspaper of general circulation published in Altoona, Blair County; and in the June 29, 1983 publication of the Tribune-Democrat, a newspaper of general circulation in the city of Johnstown, Cambria County.

One protest was timely filed on behalf of Blue & White Lines, Inc., by Herbert R. Nurick, on July 13, 1983, and was subsequently withdrawn on March 2, 1984. The application is now unopposed and the record is certified to the Commission for its decision without an oral hearing.

The record consist of a verified statement of the applicant, 31 statements of group witnesses and 42 individual statements supporting the applicant.

J. Richard Fullington, president of Fullington Auto Bus Company (Fullington or applicant) of Clearfield, PA, sets forth in his verified statement that he is familiar with all aspects of his company's operations and is authorized to provide the following information. Although the applicant is not affiliated with other carriers, it is a member of the Trailways System, which allows it to offer through service for Trailways members in interstate transportation. In the instant application, Fullington seeks to amend its authority at Folder 19, to enable it to provide group and party service from Blair and Cambria Counties to points in Pennsylvania, excluding various points in Blair County. The applicant has extensive intrastate authority, primarily for scheduled route and group and party service, and currently serves portions of Cambria and Blair Counties. Fullington also has various interstate authority and operates charter service in Cambria and Blair Counties under MC-2796.

The main terminal and headquarters of Fullington, located in Clearfield, PA, consist of general offices, repair and parking facilities. Two other terminals are located at State College and DuBois. The DuBois terminal serves as an exchange point for Fullington's Pittsburgh-DuBois-Buffalo-State College-DuBois route. The applicant has the privilege of utilizing additional terminals at Altoona, Bradford and Pittsburgh, which are not company owned. All terminals have ticket agencies for Fullington, and in addition, Fullington has numerous ticket outlets throughout Pennsylvania. The proposed transportation can be adequately served using the applicant's present terminal network.

Fullington has 28 charter coaches in its operating fleet and anticipates early delivery of five new coaches. These vehicles are air-conditioned, with reclining seats and are equipped with restrooms, radios and public address systems. The applicant intends to use these coaches in the proposed service, but will also offer school buses or suburban coaches upon request.

Fullington maintains insurance coverage which exceeds Commission requirements. All vehicles are periodically inspected and safety checked before use. Defects noted on drivers' logs are corrected. All drivers are familiar with safety regulations.

The service proposed by Fullington will originate at any point within the scope of the application. Trips will be for one day or extended, at the option of the group. Tours will include meals, hotel

reservations and admission to points of interest. Local tour guides and guides employed by Fullington will also be available when required.

The unaudited financial statement for 1983 submitted by the applicant reflects a cash position of \$109,479 with total tangible assets of \$739,290. Total current liabilities are \$635,339 and exceed the total current assets of \$369,200. The applicant explains that \$197,728 of the total current liabilities represent notes payable within one year and that \$132,837 is outstanding on advance ticket purchases.. The applicant's income statement shows operating revenues of \$3,066,722 and net income of \$17,977 after taxes. The applicant's present terminal facilities, ticket agencies, equipment and personnel will enable it to readily provide the additional service with no capital expenditure or operational change.

Statements of support of the instant application have been submitted by a total of 31 group witnesses. These are diverse groups such as travel agencies, businesses, schools and colleges, churches and civic organizations located throughout Blair and Cambria Counties, as follows: Hobar Travel Agency, Citizens Concerned for Human Life, Inc., and Senior Activities Center, Inc. all of Johnstown; Northern Cambria Elementary Middle School and Hope Fire Co. both of Barnesboro; Cambria Heights Highlander Marching Band of Patton; Bishop Carroll High School and Senior Citizen Center both of Ebensburg; Carrolltown Senior Citizens of Carrolltown; Ramblers Club Chapter 8 of Fallentimber; Senior Center in Spangler; St. Francis College of Loretto; Fireman's Club and Senior Citizens of Hastings; Cove Shoe Company and Morrison's Cove Memorial Park Association of Martinsburg; IGA and Great American Vacations in Williamsburg; Blair County Christian School, Golden Age Club, Small Tube Co. and VFW all of Duncansville; Appleton Papers, Inc. of Roaring Spring; Spade and Travel Garden Club, Blair County Extension Service and Holidaysburg Area Band, all of Holidaysburg; Church of Brethren in Curryville; Claysburg-Kimmel High School Band of Claysburg; and Sky Bros. employees, no address given. All statements express a need for group and party service from said counties to various destinations in Pennsylvania with frequency averaging approximately one trip per month.

In addition, statements of support were entered by 42 individuals residing in Blair and Cambria Counties, all attesting to the need for charter service from points in said counties to cultural, athletic, political, recreational and other activities throughout the Commonwealth. The names and addresses of these witnesses are as follows: Dorothy Grigg and William Kolar of South Fork; Nancy E. Coleman of Portage; Betty A. Eckenrode of Cresson; Ellen Curry of Glasgow; Joan Kuhn of Patton; Madeline Goss, Irma B. Shea, Victoria S. Montonaro, Ann E. Kertis, Michael Novak, and Cynthia Chernisky all of Barnesboro; Theresa Morealli of St. Benedict; Nancy Sassano of Ebensburg; Dolores Huether, Mike Jubie, Marie Miller and Betty Smolko all of Spangler; Helen Zeglin and Ceil Bire of Hastings; M. Jo Wagner of Flinton; Kathleen McCreary, Dwella Roger, Vernon J. Miller, Charlotte Davidson, Vivian Mansfield and Doretta Kane all of Johnstown; Brother Stephen Sorach of Loretto; Glenn Wenzel of Imler; Kenneth Shultz of Martinsburg; John B. Rizzo of

Altoona; Frank P. Gazzara of Claysburg; Ethel Mae Smith, Arlene Delozier, Mildred Marlin, Isabel Nori, Harold A. Wilt, and Robert Smith all of Hollidaysburg; Tessa A. Mayhew Corbin, Russell L. Crownover and Grace Schultz, all of Williamsburg; and Linda Wolford of Newry. Some expressed dissatisfaction with present service in the area, inconvenient points of pickup and discharge, poor selection of tours or high costs. Many cited having used the applicant in interstate travel with good results.

DISCUSSION AND FINDINGS

Fullington Auto Bus Company seeks to amend its group and party authority at Folder 19 to encompass service from Blair and Cambria Counties, excluding named points in Blair County currently served by the applicant. The sole protestant, Blue & White Lines, Inc., withdrew its protest upon reconsideration, without restrictive amendment. This withdrawal is predicated upon restriction of service in the instant application from points in the city of Altoona, borough of Bellwood and Logan, Antis, Snyder and Tyrone Townships, Blair County. Fullington's present authority at Folder 19, Am-A, authorizes group or party service from said points and also excludes the transportation from any point in Altoona and Logan Township to any point in Altoona and Logan Township. The protestant desires to preserve this exclusion in the application before us.

The applicant currently provides intrastate scheduled route and group and party service to various points in Blair and Cambria Counties and also serves said counties in interstate charter operations.

The applicant's financial data shows that Fullington's total current liabilities exceed its total current assets of \$369,200, but when short term notes payable of \$197,728 and advance ticket COD's of \$132,837 are deducted from total current liabilities, the applicant's financial position appears sound. For the year ending 1983, the applicant showed a net profit of \$17,977 after taxes.

Fullington has amassed the support of 31 group and 42 individual witnesses from Blair and Cambria Counties attesting to the need for service in the area. Many of these witnesses have used the applicant interstate service and found it satisfactory. From the public support demonstrated, it appears that a need exists for additional service in Blair and Cambria Counties. Fullington has long experience in the transportation of persons and already has the necessary terminal facilities, personnel and equipment in place to enable this expansion of service with no capital expenditure.

We find:

1. That the applicant is fit, willing and able to provide the proposed transportation.
2. That the applicant has shown a public need for the service.

3. That approval of the application is an accommodation and convenience to the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved and that the certificate issued on March 12, 1935 be and is hereby amended to include the following right:

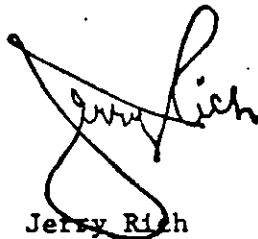
To transport, as a common carrier, groups and parties of persons and persons on special excursions and tours or sight-seeing trips, from points in the counties of Cambria and Blair (except the city of Altoona, the borough of Bellwood and the townships of Logan, Antis, Snyder and Tyrone) to points in Pennsylvania.

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

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 relating to the filing and acceptance of a tariff establishing just and reasonable rates.

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

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: June 22, 1984

ORDER ENTERED: JUN 28 1984

PENNSYLVANIA PUBLIC UTILITY COMMISSION



RECEIPT

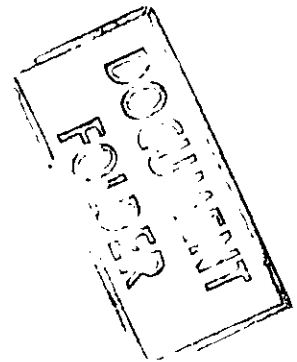
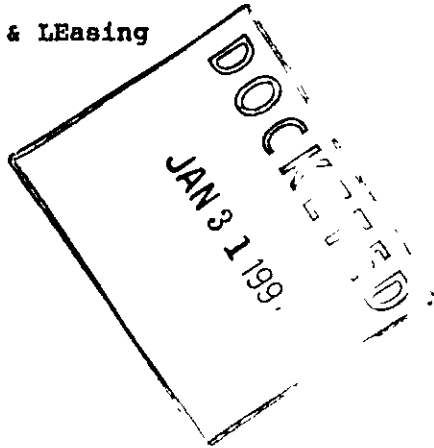
The addressee named hereunder has paid Pennsylvania Public Utility Commission for the following bill, subject to final collection of check or money order rendered for such payment.

BTL

Tri County Transportation & LEasing
404 19th St., P.O. Box 13
Barnesboro, PA 15714

Date January 29, 1991

CR 143820 A



In re application of Tri-County Transportation
& Leasing, Inc.
A.107235, F.1, Am-A.....\$350.00

Revenue account 001780-017601-102 (ck)

ck 1967 Checks \$350.00 Currency _____

Utility account 50:26

C. Joseph Meisigner
For Department of Revenue



VETERANS OF FOREIGN WARS OF THE U.S.
JOHN WHITE VFW POST NO. 779
400 Magee Avenue
Patton, Pennsylvania 16668

FEBRUARY 11, 1991

Public Utility Commission
District Office
1101 Green Avenue
Altoona, Pennsylvania 16603

RECEIVED
PENNA. PUBLIC UTILITY COMM.

FEB 12 1991

DISTRICT OFFICE
ALTOONA, PA. 16601

Dear Ms. or Mr. PUC:

Our Post supports Tri-County Transportation Company in its efforts to be able to pickup passengers in both Patton and Hastings Boroughs. It is only a matter of permission since their buses have to pass through the afore mentioned boroughs.

In the past Blue and White had stops in Patton.

We have many citizens who can no longer drive nor have the means of getting to Altoona, or for that matter Pittsburgh and other destinations.

Please consider this at your earliest.

Respectfully yours,

Paul J. Short, Adjutant
VFW POST 779

PJS/scm

DOCUMENT
FOLDER

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
FEB 19
ENTRY No. MS

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
March 6, 1991

BTL

In Re: A-00107235, F001, Am-A

(See attached list)

Application of Tri-County Transportation & Leasing, Inc.
Amendment so as to permit the transportation of persons, in group and party service, from points in that part of the county of Cambria lying on and north of U.S. Highway Route 22 to points in Pennsylvania.

NOTICE

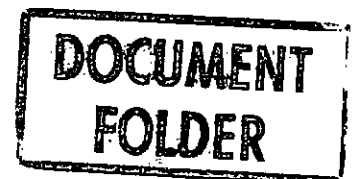
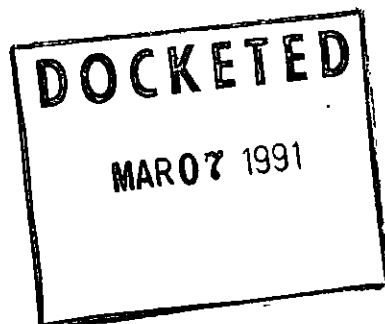
The Public Utility Code directs that hearings shall be commenced in this case by the Administrative Law Judge within 90 days after the proceeding is initiated.

In compliance with this directive, an initial hearing is hereby scheduled for Wednesday, April 17, 1991, at 10:00 a.m., in the 11th Floor Hearing Room, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

The presiding officer in this proceeding is Administrative Law Judge Ky Nguyen. Judge Nguyen can be contacted at 1103 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222; telephone (412) 565-3550.

If you intend to file exhibits, please be advised that two copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

cc: Judge Nguyen
Mr. Bramson
Mrs. Kelly
Mrs. Howell
Docket Room



A-00107235, F001, Am-A Parties of Record

Lawrence L. Davis, Esquire
103 South Center Street
Ebensburg, PA 15931

Tri-County Transportation & Leasing, Inc.
404 19th Street
Box 13
Barnesboro, PA 15714

Christian V. Graf, Esquire
David H. Radcliff, Esquire
Graf, Andrews & Radcliff, P.C.
407 North Front Street
Harrisburg, PA 17101

KJR

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
March 26, 1991

In Re: A-00107235, F001, Am-A

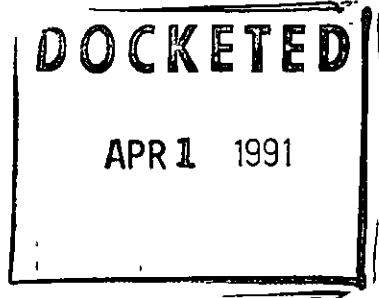
(See letter of 3/6/91)

Application of Tri-County Transportation & Leasing, Inc.
Amendment so as to permit the transportation of persons, in group and party service, from points in that part of the county of Cambria lying on and north of U.S. Highway Route 22 to points in Pennsylvania.

NOTICE

This is to inform you that at the request of the Administrative Law Judge Ky Nguyen, the initial hearing now scheduled to be held on Wednesday, April 17, 1991, in the subject proceeding has been postponed to Thursday, April 25, 1991, at 10:00 a.m., in Pittsburgh.

cc: Judge Nguyen
Mr. Bramson
Mrs. Kelly
Mrs. Howell
Docket Room



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
April 9, 1991

In Re: A-00107235, F001, Am-A

(See letter of 3/26/91)

BTL

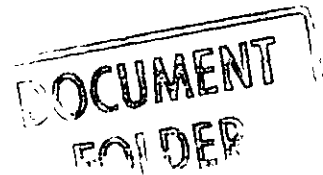
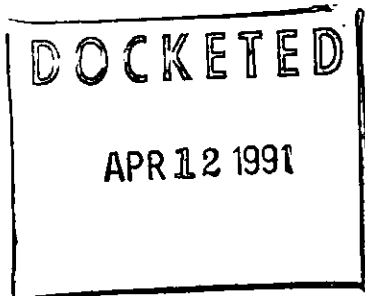
Application of Tri-County Transportation & Leasing, Inc.

Amendment so as to permit the transportation of persons, in group and party service, from points in that part of the county of Cambria lying on and north of U.S. Highway Route 22 to points in Pennsylvania.

NOTICE

This is to inform you that the initial hearing now scheduled to be held on Thursday, April 25, 1991, in Pittsburgh, in the subject proceeding has been changed to Tuesday, May 21, 1991, in the 11th Floor Hearing Room, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania..

cc: Judge Nguyen
Mr. Bramson
Mrs. Kelly
Mrs. Howell
Docket Room



APPEARANCE SHEET

ALJ HEARING REPORT

KJR

DOCKET NO. A-00107235, F001, Am-A

CASE NAME Tri-County Transportation & Leasing, Inc.

HEARING LOCATION Pittsburgh, PA.

HEARING DATE May 21, 1991

ALJ Nguyen

CHECK THOSE BLOCKS WHICH APPLY:

Hearing held YES NO

Testimony taken YES NO

Hearing concluded YES NO

Further hearing needed YES NO

Estimated add'l days _____

RECORD CLOSED YES NO

Date _____

Briefs to be filed YES NO

Date _____

BENCH DECISION YES NO

REMARKS: Parties will submit briefs.

RECEIVED
MAY 22 1991
Office of A. L. J.
Public Utility Commission

DOCKETED
MAY 28 1991

DOCUMENT FOLDER

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD
PLEASE PRINT CLEARLY
INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS	APPEARING FOR			
<i>Michael L. Davis</i>	<i>1035 Center St</i>	<i>Applicant</i>			
Telephone No. <i>84472974</i>	<table border="1"> <tr> <td>City <i>Doubsburg</i></td> <td>State <i>PA</i></td> <td>Zip <i>15531</i></td> </tr> </table>	City <i>Doubsburg</i>	State <i>PA</i>	Zip <i>15531</i>	
City <i>Doubsburg</i>	State <i>PA</i>	Zip <i>15531</i>			
<i>GRAF, ANDREWS & RADCLIFF</i>	<i>407 NORTH FRONT ST.</i>	<i>FULLINGTON AUTO BUS CO.</i>			
By: <i>CHRISTIAN V. GRAF</i>	<table border="1"> <tr> <td>City <i>HARRISBURG</i></td> <td>State <i>PA</i></td> <td>Zip <i>17101</i></td> </tr> </table>	City <i>HARRISBURG</i>	State <i>PA</i>	Zip <i>17101</i>	
City <i>HARRISBURG</i>	State <i>PA</i>	Zip <i>17101</i>			
Telephone No. <i>(717) 236-9318</i>					
Telephone No. ()	<table border="1"> <tr> <td>City</td> <td>State</td> <td>Zip</td> </tr> </table>	City	State	Zip	
City	State	Zip			

CHECK THIS BOX IF ADDITIONAL PARTIES OR COUNSEL OF RECORD APPEAR ON BACK.

Cathy R. Mullen
Reporter



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PITTSBURGH STATE OFFICE BUILDING
300 LIBERTY AVENUE
PITTSBURGH, PENNSYLVANIA 15222

June 18, 1991

IN REPLY PLEASE
REFER TO OUR FILE

TO ALL PARTIES OF RECORD

NVL

Application of Tri-County Transportation
& Leasing, Inc.
A-00107235, F.1, Am.A

In accordance with the Commission's Rules of Practice,
the parties' briefs shall be filed as follows:

Filing dates:

July 18, 1991 Main Brief
August 7, 1991 Reply Brief

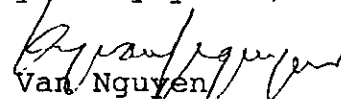
If the briefs are not received within the allotted time, they shall not be accepted for filing, except by special permission of the presiding Administrative Law Judge. The briefs should be concise and must comply with 52 Pa. Code §5.501.

An original and nine (9) copies of each main and reply brief must be filed with the Commission in accordance with 52 Pa. Code §1.4 and in care of the New Filing Section, Room B-18. Also, one copy must be served on the presiding Administrative Law Judge and two copies on each party of record.

RECEIVED

JUL 03 1991

Very truly yours,


Ky Van Nguyen
Administrative Law Judge

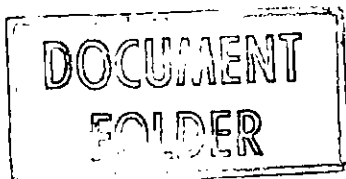
KVN:rjg

cc: Annette Shelley

Parties of Record

Lawrence L. Davis, Esq.
Davis & Davis
103 South Center Street
Ebensburg, PA 15931-0064

Christian V. Graf, Esq.
Graf, Andrews & Rodcliff
407 North Front Street
Harrisburg, PA 17101



KJR

LAW OFFICES
DAVIS AND DAVIS

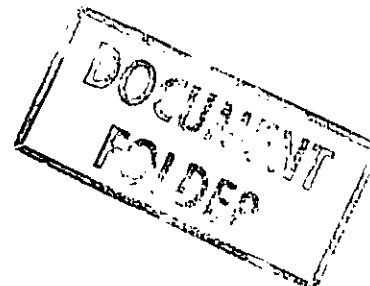
103 SOUTH CENTER STREET
EBENSBURG, PA.
15931-0064

CLARENCE E. DAVIS (1887-1973)
LAWRENCE L. DAVIS

TELEPHONE: (814) 472-9740
FAX: (814) 472-9750

July 15, 1991

ORIGINAL



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
New Filing Section, Room B-18
P.O. Box 3265
Harrisburg, Pennsylvania 17120

Re: Application of Tri-County Transportation
& Leasing, Inc.
A-00107235, F.1, Am.A

Gentlemen:

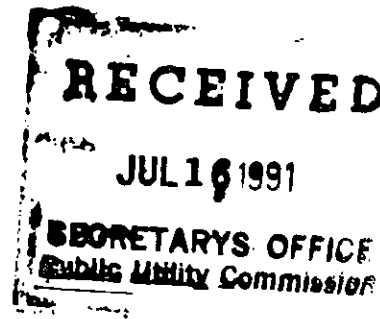
In accordance with the notice from Administrative Law Judge Nguyen, dated June 18, 1991,
enclosed are Briefs (original plus nine) of Applicant.

If anything further is required, please advise.

Very truly yours,

DAVIS AND DAVIS

Lawrence L. Davis



LLD/dw
Enclosures

CERTIFIED MAIL

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

----- X
Application of Tri-County Transportation:
& Leasing, Inc. Amendment so as to : Docket No.
permit the transportation of persons, : A-00107235
in group and party service, from points : F001, Am-A
in that part of the county of Cambria :
lying on and north of U.S. Highway :
Route 22 to points in Pennsylvania. :
Initial Hearing. :
----- X

DOCUMENT
FOLDER

DOCKETED
JUL 13 1991

BRIEF OF APPLICANT

RECEIVED
JUL 16 1991
SECRETARYS OFFICE
Public Utility Commission

COUNSEL OF RECORD FOR PARTY:

Lawrence L. Davis
103 South Center Street
Ebensburg, Pennsylvania 15931
Telephone: (814) 472-9740
Supreme Court I.D. No. 05978

STATEMENT OF THE CASE

The applicant is a Pennsylvania Corporation incorporated in the Commonwealth on July 26, 1982.

The applicant also holds Interstate Commerce Commission authority at Docket MC 232592.

The applicant, Tri-County Transportation Inc., now holds the following group and party service Authority:

"* * * furnishing of transportation, as a common carrier, by motor vehicle, of groups and parties of persons: from the Borough of Cherry Tree, Indiana County and the Borough of Barnesboro, Cambria County to points in Pennsylvania."

On November 8, 1990, an application for extension of this Authority was requested. The present application asks permission for the following:

"* * * furnishing of transportation as a common carrier, by motor vehicle, of groups and parties of persons: from any point in Cambria County, which may lie North of U. S. Route 22 to points in Pennsylvania."

(The emphasis shows the request as contrasted to the present rights.)

The present application was advertised in the Pennsylvania Bulletin issue of December 29, 1990, at page 6443.

On December 15, 1991, a protest to the granting of this application was filed for Fullington Auto Bus Company.

A hearing on this protest was held in Pittsburgh, Pennsylvania, before Administrative Law Judge Ky Nguyen, on Tuesday, May 21, 1991.

At the hearing applicant presented the testimony of twenty-five (25) witnesses (N.T. 4-115) and introduced exhibits about applicant's existing operations and the application for extension.

At the hearing protestant presented the testimony of John Richard Fullington (N.T. 124-135), who offered testimony and exhibits about protestant's existing operations.

SUMMARY OF ARGUMENT

The granting of this application is supported by the Declaration of policy stated at 66 Pa.C.S.A. §2501(a).

ARGUMENT

The evidence as presented by the applicant was principally directed toward the following Declaration of Policy as stated by the Legislature of the Commonwealth of Pennsylvania:

" (a) **Declaration of policy.**-It is hereby declared to be the policy of the General Assembly to regulate in this part the service of common carriers by motor vehicle and forwarders in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in such service, and among such carriers and forwarders in the public interest; to promote safe, adequate, economical, and efficient service by common carriers by motor vehicle and forwarders, and just and reasonable rates therefor, without unjust discrimination, and unfair or destructive practices; to improve the relations between, and coordinate the service and regulation of, common carriers by motor vehicle, forwarders, and other carriers; to develop and preserve a safe highway transportation system properly adapted to the needs of the commerce of this Commonwealth and insure

its availability between all points of production and markets of this Commonwealth. It is hereby found as a fact, after due investigation and deliberation, that the service of common carriers by motor vehicle, forwarders, contract carriers by motor vehicle, and brokers, including the procurement and provision of motor vehicles and other facilities for the safe transportation of passengers or property over the highways, are so closely interwoven and interdependent, and so directly affect each other, that in order effectively to regulate such common carriers by motor vehicle and forwarders, and to provide a proper and safe highway transportation system in the public interest, it is necessary to regulate the service of such contract carriers by motor vehicle and brokers, including the procurement and provision of motor vehicles and other facilities for the safe transportation of passengers or property over the highways, in the manner set forth in this chapter. [66 Pa.C.S.A. §2501(a)] (Emphasis Supplied)

The witnesses of the applicant showed that the granting of the requested Authority would be very convenient for them as residents of the area affected. In addition many witnesses spoke of the late night traveling on bad highways back to their places of residence following a trip. This and the additional burden of being on the highways in going to the pickup places, should be considered a safety factor. While no witnesses addressed the cost of their transportation from their residences to the applicants present pickup Authority, the President of the applicant stated that there would be no increase in prices when the Authority was granted. This would impact on the cost to the public.

William M. Tibbott, President of applicant, (N.T.7) through Exhibit A1, introduced a map showing the present pickup sites in red and the asked for sites in yellow. This showed a broad expanse of potential service to residents of Northern Cambria County. With Exhibit A2 (N.T.8), he showed three typical trips and indicated on

the map the various towns from which the public traveled to the pickup sites. With Exhibit A3 (N.T.9) he listed the members of the public, with home addresses, that had been served with his present rights. Most of these individuals live within the requested area. He stated (N.T.11) that most of his "clientele" were senior citizens with many not being able to drive but rather had others transport them to the pickup site. He stated that applicant receives up to twenty calls a day from outside the authorized area (N.T.17). Mr. Tibbott confirmed that no pickup charges would be made; that no minimum number of persons would have to be in a location in order to make it a pickup stop and that there would be no deadhead charges (N.T.119). He also stated that the same fares on group charters would prevail throughout the pickup area (N.T.120-121).

Frank Cammarata, the publisher of a newspaper located within the requested area - Patton, testified that other than the applicant there has been no tour bus promotion in the area (N.T.21). He stated that travel from his home in Patton to Barnesboro was a great inconvenience of 9 to 12 miles (N.T.22). He testified that there were only secondary roads leading into Barnesboro (N.T.23). He testified that travel promotion was "nonexistent" with his newspaper (N.T.23). He stated that the protestant here did advertise 4 to 7 years ago and that Blue and White Bus Company has not advertised at all in recent years (N.T.24).

Jerry Brant testified as President and Chief Operating Officer of Northern Cambria Community Development Corporation. He stated that the grant of this application could help employment and other services in the area, i.e. advertising, etc. (N.T.30). He also stated that he felt mass transit helps save on gas and to conserve the environment (N.T.30). He testified that there was no pickup by the protestant in Cambria County (N.T.34). [At this point in the testimony the stenographer begins (N.T.32) using the word "Cresent" for the word "Cresson" - a Borough in Cambria County]

The following summarizes the testimony of the various witnesses and their reasons for supporting this application.

Eleanor Lantzy testified that she was involved with the Allegheny Highland Regional Theater (N.T.35). She stated that "deadhead" charges made it too expensive for the use of public transportation. She stated that there was definitely a need for the granting of the application, due to the age of the residents in the area and night driving (N.T.37). She stated that they had used the applicant in the past and that it had been "absolutely" satisfactory. She also commented on the "considerable duplication of transportation" that was involved with applicant's customers having to drive back and forth to Barnesboro (N.T.38).

Ann Barber stated that she lived in Ebensburg (within the requested area) and that the 20 mile drive to Barnesboro would be a prohibitive distance. She stated that various clubs used these bus trips as fund raisers (N.T.45).

Bonita Adams testified that she lived near the area to be served and would not drive into Barnesboro because she was "night blind" (N.T.48).

Mary Bakajza testified that she lived in Hastings, approximately 5 miles from Barnesboro, but wouldn't like to leave her car in another town. She also objected to the additional expense of her traveling to and from Barnesboro and stated that she would not take the Pennsylvania trips "until it is easier" (N.T.51-52).

John Jubas testified regarding older people who don't drive and commented on the fact that there was no taxi service in the area (N.T.54). He also stated that parking meters in the Barnesboro area and the crowded parking lots made it inconvenient (N.T.55).

Thomas Buck, of Carrolltown, testified that he would have someone pick up his car in Barnesboro and then again pick him up when he returned. He stated that the roads in the area were "all crooked roads, very dangerous roads" (N.T.58-59).

Mary Buck, of Carrolltown, commented regarding the night driving and the lights bothering her husbands eyes. She objected to the problem of having to drive through Carrolltown on the way to Barnesboro on return trips (N.T.63-64).

Kathleen Quevy, of Patton, approximately 12 miles from Barnesboro, commented that she could not drive at night (N.T.66-68).

Eva Lechene, of Hastings, approximately 5 to 6 miles from Barnesboro, commented that she does not like to drive at night and especially on the "curvy" roads (N.T.69-70).

Frances Sgro, a regent of the Catholic Daughters of America and authorized to speak for them, stated that many of her membership (approximately 269) objected to traveling into Barnesboro from the surrounding areas, i.e. Patton, Hastings, Carrolltown, Nicktown and Spangler (N.T.73-74).

Joseph Rogal, of Hastings, approximately 6 miles from Barnesboro, complained that after a wedding reception it was necessary to have a designated driver because all of the guests "don't come back sober" (N.T.76-78).

Ruby Yeager, of Hastings, approximately 6 miles from Barnesboro, complained about the night traveling and the winter time traveling on the icy crooked roads (N.T.78-79). She also commented on the fact that the applicant made no extra charge for the pickups on out of state trips (N.T.80).

Elizabeth Conrad, of Patton, approximately 10 to 12 miles from Barnesboro, complained of the late night driving, especially in the winter time.

Eleanor Dubyak, of Patton, approximately 10 to 12 miles from Barnesboro, commented that she did not drive in winter time and appreciated the fact that there was no pickup charge proposed by applicant (N.T.84-86).

Vivian Ceschini, of Patton, approximately 10 to 12 miles from Barnesboro, complained of the terrible roads to drive on, the night

driving and the bad weather driving (N.T.87-88). She stated that other carriers required a certain number of people before pickups would be made and this was an objectionable (N.T.89).

Mary Ellen Cunningham, of Carrolltown, cited the convenience of having a pickup available in her home town (N.T. 90).

Mary Lou Gray, of Carrolltown, testified about the Girl Scouts and the younger girls being out late at night (N.T.94).

Ruby Holsopple complained about the night driving. She was a widow with no children to pick her up (N.T.98-100).

Laurie Abrams testified that she lived in Spangler, approximately 3 miles from Barnesboro and that the convenience from the granting of the application would be appreciated (N.T.103-104).

Verna Kapeluch, of Spangler, approximately 3 miles from Barnesboro, referred to the convenience and the difficulty of leaving her car in an open parking lot (N.T.105-108).

Mary Margaret Flannigan, of Spangler, testified regarding the rain and foggy weather at night time and the bad roads. She said she resented having to drive past her front door on return trips (N.T.108-111).

Helen Jones, of Spangler, stated that her health prevented her from walking and that she cannot drive. She commented relative to people with disabilities or inabilities having no options. She commented when the applicant sent a car to pick up her and a friend in order to make a trip (N.T.111-116).

John Richard Fullington, President of protestant, admitted that its service to the area would come at an increased cost to the public. Protestant now has no scheduled pickup sites in Cambria County and requires that a specific number of individuals sign up for its services before it will arrange pickup (N.T.135-137). He acknowledged that there would be "deadhead" charges (N.T.141). Protestant's tariffs at Section A, Rule 2, refer to "deadhead mileage". Section B again refers to such charges. Protestant offered no specifics about the basis for its protest, but rather a proclamation "* * * that we don't need any more transportation in this area." (N.T.133).

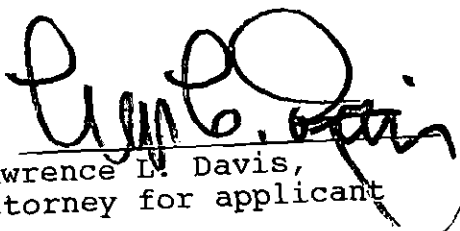
CONCLUSION

The granting of this application would promote safe, adequate, economical, and efficient service in the area requested. The applicant would be providing just and reasonable rates without unjust discrimination in the area requested. The granting of this application would insure the availability of safe highway transportation between the various points in the area as requested. These conclusions of Law are fully supported by the declaration of policy stated at 66 Pa.C.S.A. §2501(a).

The principal concern in considering the granting of this application should be for the public and if some other concerns are to be addressed the Commission should have adequate documentation of these concerns.

It is therefore submitted that the application for Authority
as requested should be granted.

Respectfully Submitted,
DAVIS AND DAVIS

By 
Lawrence E. Davis,
Attorney for applicant

Date: July 15, 1991

KJR

ORIGINAL

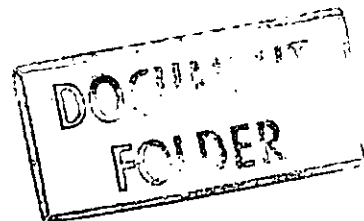
CHRISTIAN V. GRAF, P.C.
ATTORNEY AT LAW
407 NORTH FRONT STREET
HARRISBURG, PENNSYLVANIA 17101

TELEPHONE
AREA CODE 717
236-9318

July 16, 1991
File: 322.171

RE: TRI-COUNTY TRANSPORTATION & LEASING, INC., A. 107235, Folder 1, Am-A-
Protest of Fullington Auto Bus Company

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120



Dear Mr. Rich:

Pursuant to Administrative Law Judge Ky Van Nguyen's letter dated June 18, 1991 setting briefing dates we enclose herewith the original and 9 copies of "Brief on Behalf of Fullington Auto Bus Company, Protestant" to the above-captioned matter.

As stated on the Certificate of Service, two copies have been mailed to applicant's attorney; one copy to the Judge and one copy to Fullington Auto Bus Company. The copy to the Judge is being sent by Federal Express.

Very truly yours,

Christian V. Graf
Christian V. Graf

CVG:tcr
Enclosures

cc: Ky Van Nguyen,
Administrative Law Judge
Pennsylvania Public Utility Commission
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222 (Via Federal Express)

Lawrence L. Davis, Esquire
Davis & Davis
103 South Center Street
Ebensburg, PA 15931-0064

J. Richard Fullington, President
Fullington Auto Bus Company
316 Cherry Street, P.O. Box 211
Clearfield, PA 16830

RECEIVED

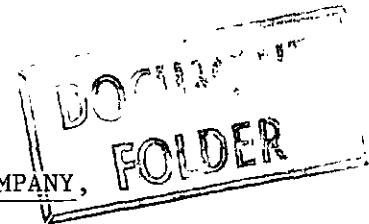
JUL 16 1991

SECRETARYS OFFICE
Public Utility Commission

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY
COMMISSION

In Re: TRI-COUNTY TRANSPORTATION & LEASING, INC.,
A. 00107235, Folder 1, Am-A

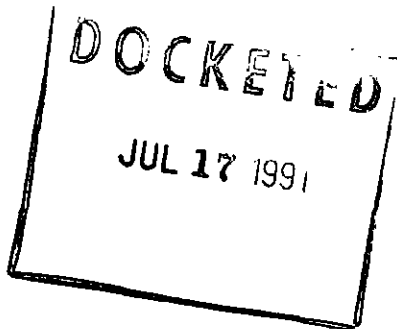
BRIEF ON BEHALF OF FULLINGTON AUTO BUS COMPANY,
Protestant



RECEIVED

JUL 16 1991

SECRETARYS OFFICE
Public Utility Commission



CHRISTIAN V. GRAF, ESQUIRE
407 North Front Street
Harrisburg, Pennsylvania 17101

Telephone: A.C. 717, 236-9318

DUE DATE: July 18, 1991

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY
COMMISSION

In Re: TRI-COUNTY TRANSPORTATION & LEASING, INC.,
A. 00107235, Folder 1, Am-A

BRIEF ON BEHALF OF FULLINGTON AUTO BUS COMPANY,
Protestant

I.

STATEMENT OF THE CASE

By this application Tri-County Transportation & Leasing, Inc. seeks to expand its group and party service from the borough of Barnesboro, Cambria County, to points in Pennsylvania:

SO AS TO PERMIT the transportation of persons in group and party service from points in that part of the county of Cambria lying on and north of U.S. Highway Route 22 to points in Pennsylvania.

A timely protest was filed by Fullington Auto Bus Company and, pursuant thereto, hearing was held at Pittsburgh on May 21, 1991 before Administrative Law Judge Ky Van Nguyen, at which time the applicant testified, identifying five (5) exhibits and calling his public witnesses, followed by protestant's testimony and three (3) exhibits.

II.

ABSTRACT OF TESTIMONY

A. APPLICANT'S CASE

William L. Tibbot, President of Applicant, testified that his company has interstate operating authority involving all 48 states (N.T. 6). He introduced 2 maps as Exhibits 1 and 2, and a list of witnesses as Exhibit 3 (N.T. 7, 8, 9) and stated that the purpose of the application was to enable passengers to board his buses in their own community (N.T. 11) and to afford them the same pickup rights as they have in interstate commerce (N.T. 11). His present authority permits origination only in Barnesboro, Cambria County; and Cherry Tree, Indiana County (N.T. 5).

He operates one 1980 Eagle coach and 3 school buses (N.T. 15). His interstate trips for the most part go to Atlantic City from Barnesboro and he makes stopoffs for pickups enroute (N.T. 16).

Frank Cammarata of Patton (N.T. 19) owns a weekly newspaper circulated in Patton, Cambria County, and has as an advertiser the applicant (N.T. 19). He introduced Exhibits 4 and 5 showing tours advertised by the applicant (N.T. 20). He is a member of several tour councils and trade associations (N.T. 20) and supports the application because if he were going on a trip he would want to be picked up in his home town (N.T. 22) rather than travel 12 miles to Barnesboro (N.T. 22). He also supports from a business standpoint since the advertising helps his business (N.T. 22, 23). On cross-examination he admitted that many of the trips were interstate in nature (N.T. 24-27). He has not taken any group trips by bus in the past (N.T. 27) and has not gone on any individually-ticketed tours (N.T. 27), though years ago he went with Blue & White to Pittsburgh (N.T. 28).

Gerry Brandt of Barnesboro appears for the Northern Cambria County Development Corporation (N.T. 29). He testified that approval would be of benefit to the local economy (N.T. 29) and making people travel in order to use mass transportation defeats the purpose of mass transportation. On cross-examination it was evident he did not understand what mass transportation is (N.T. 30). His only past trip by bus on a group basis was 6 years ago when he used McIlwain (N.T. 31) and has gone on no individually-ticketed tours (N.T. 32) except on a free basis and those went from points beyond the scope of this application (N.T. 32).

Eleanor Lantzy of Spangler, one mile from Barnesboro, is a volunteer for the Allegheny Highlands Restaurant Theater which makes trips to such points occasionally as Jennerstown, Penn State and Indiana, most of which were by car (N.T. 36), but on out-of-state trips they did use a bus. She wants to be picked up at Spangler or Nicktown rather than go to Barnesboro which is one mile distant (N.T. 37, 38). On cross-examination she said the Jennerstown and State College trips and Indiana trips were all taken by car. The only bus trip was under applicant's existing authority from Barnesboro to Ebensburg (N.T. 39, 40).

Anne Barber of Ebensburg (N.T. 43) is a member of Catholic Daughters of America and the VFW Auxiliary (N.T. 43), but was not speaking for those organizations (N.T. 45). She testified as an individual that she would not drive 20 miles to Barnesboro to be picked up on one of his trips (N.T. 45). She has never called Blue & White or McIlwain for service or even called the applicant (N.T. 46, 47). Her only Pennsylvania trip was to Strasburg 4 times with Blue & White (N.T. 47).

Anita Adams of Mineral Point testified that she would not go to Barnesboro to get service (N.T. 48). She would like to go to Ebensburg. She can't drive at night (N.T. 49). She has not taken any bus trips in the past (N.T. 49).

Mary Bakajza of Hastings, 5 miles from Barnesboro (N.T. 50) would like to go on some trips. All her past trips left from Ebensburg or Altoona and she was taken to those origin points for all trips which went beyond points in Pennsylvania (N.T. 53). She has not taken any group trips to Pennsylvania points in the past (N.T. 52).

John Jubas of Spangler, Chairman of the Senior Activities Center of Northern Cambria Activities Center, does not arrange any trips but the people would like to go and do not want to go to Barnesboro to get service because of difficulty in parking (N.T. 54, 55). He has traveled to Reading 3 times and to shopping center at Morgantown using Blue & White and was picked up at Barnesboro except one time when the pickup point was Ebensburg (N.T. 56). A planned trip which leaves from Barnesboro which is the only trip planned.

Thomas Buck of Carrolltown wants to be picked up in town because he would have to drive 6 miles to Barnesboro (N.T. 58, 59). He has gone on Pennsylvania trips which were preplanned (N.T. 59) using Blue & White, Happy Time from Barnesboro, with Blue & White making a pickup at Hastings, Carrolltown and Ebensburg (N.T. 60) and one trip to Lancaster by Blue & White, which was picked up at Carrolltown (N.T. 61).

Mary Buck, also of Carrolltown, the wife of the previous witness (N.T. 62) testified she, too, wanted picked up at Carrolltown instead of having to drive to Barnesboro to get applicant's service (N.T. 63). She was inconvenienced on a trip to Christmas Village (N.T. 63).

Kathleen Quevy of Patton was active with the Senior Citizens and testified that she does not like to drive to Barnesboro to get service (N.T. 66). She admitted that she did take some trips by Blue & White and was picked up at Patton, but she couldn't remember where it went (N.T. 67).

Eva Lechene, a housewife from Hastings, testified it would be easier to be picked up at Hastings instead of driving to Barnesboro (N.T. 69). She was picked up at Hastings on an Atlantic City trip, with the pickup being Blue & White (N.T. 70).

Frances Sgro, a retired person who lives in Barnesboro, and is involved with the Catholic Daughters (N.T. 72), testified that she personally can walk to get the bus but some of her members complained because they have to drive from Spangler or Patton or Hastings to get service to Altoona and Johnstown (N.T. 73). This organization takes one trip per year to Altoona or Johnstown (N.T. 74).

Joseph Ragal of Hastings testified that approval would permit him to be picked up at Hastings rather than having to travel to Barnesboro (N.T. 76). He personally booked a bus to a wedding and on the trip half the people were from Hastings and they had to travel to Barnesboro and since it was for a Polish wedding the witness said that when someone attends such a wedding they don't come back sober (N.T. 76). The wedding was in New Castle (N.T. 77) and was the only trip arranged by the witness (N.T. 77).

Ruby Yeager of Hastings (N.T. 78) objected to driving to Barnesboro to get the applicant's service which involved a 6-mile drive. On interstate trips she gets picked up at Hastings by the applicant (N.T. 79) and has used the applicant twice to Atlantic City and once to Strasburg and once to Pittsburgh (N.T. 80).

Elizabeth Conrad of Patton, stated she would sign up to go on more trips if she did not have to go to Barnesboro since she lives 12 miles from Barnesboro. She has gone with the applicant to Pittsburgh from Barnesboro and has signed up for a trip to Lancaster and has also gone to the Ice Capades at Johnstown with the applicant (N.T. 82, 83). These trips left from Barnesboro and were individually-ticketed tours.

Eleanor Dubyak of Patton testified that it was convenient for her to be picked up at Patton rather than having to travel to Barnesboro, a 12-mile distance (N.T. 84, 85). She has gone by applicant and left from Barnesboro in the past to such points as Johnstown, Pittsburgh and Lancaster (N.T. 85, 86).

Vivian Cezchini of Patton testified she would get to go on more trips if she didn't have to drive to Barnesboro to get applicant's service (N.T. 87). Her past trips have gone to Lancaster and Harrisburg and Johnstown (N.T. 88) and she drove to Barnesboro to get the service. She has used Blue & White in the past but has not called them recently (N.T. 89).

Mary Ellen Cunningham at Carrolltown, stated it would be more convenient if she would not have to drive to Barnesboro to go with the applicant (N.T. 90), though on cross-examination she had not taken any trips with the applicant but went with Blue & White which did pick her up at Carrolltown and on several occasions she went to Johnstown and Ebensburg to get service (N.T. 92), with Johnstown being 17 to 20 miles from Carrolltown and Ebensburg 9 miles, the same distance as it is to Barnesboro. She went to Reading a few times with Fullington and was picked up at Carrolltown but complained that on one trip in the winter a window was stuck open, which was inconvenient (N.T. 92, 93).

Mary Lou Gray of Carrolltown represented the Girl Scouts which used the applicant for trips to Kennywood and the trips left from Barnesboro requiring the chaperones to pick up the children, take them to Barnesboro and take them home after the trip ended. She has also gone to Story Book Forest and to Tyrone and finds it inconvenient to go to Barnesboro for pickup, stating it would be more convenient if they could pick her up at Carrolltown (N.T. 95). Past trips by Blue & White to such points as Philadelphia and Gettysburg involved pickups in Carrolltown (N.T. 96).

Ruby Holtzapple of Mineral Point would be interested in being picked up at Jamesway Plaza rather than having to drive to Barnesboro (N.T. 100). She has not used the applicant as yet (N.T. 100, 101) and on interstate trips she used Blue & White, McIlwain and Schraders (N.T. 101).

Laurie Abrams of Spangler testified that a granting of the application would benefit her because she could go and stay with her son and then walk for the bus for pickup in Spangler (N.T. 103). She lives 3 miles from Barnesboro and has used the applicant's service in the past without any problems.

Verna Kapeluch of Spangler testified that if the pickup were in Spangler she could save a 3-mile drive to Barnesboro and she has used applicant to go to Cresson Lake Playhouse and to Ebensburg (N.T. 106). She has not used anyone else because she believes in using someone from her home town (N.T. 107).

Mary Margaret Flanagan of Spangler objected to having to drive to Barnesboro because of difficulty with the weather and the late hour and it would be more convenient for her to be picked up in Spangler rather than drive the 2½ miles to Barnesboro (N.T. 109, 110). She has not used any other bus company or called any other bus company (N.T. 111).

Helen Jones of Spangler, a retired schoolteacher, cannot drive to get to Barnesboro and feels like a prisoner in her own house since she can't be picked up at Spangler (N.T. 113, 114). She has been picked up at Spangler by Blue & White on trips to Altoona, for example (N.T. 115). She has used Fullington for a trip to Canada (N.T. 117).

The applicant was recalled and stated that he did not charge deadhead mileage (N.T. 121).

B. PROTESTANT'S EVIDENCE

J. Richard Fullington, President of Fullington Auto Bus Company, identified his authority at A. 9329, Folder 19, Am-R, as being pertinent to this case as Exhibit P-1. Under that authority Fullington may serve all the points in Cambria County to all points in Pennsylvania (N.T. 125, 126). The company maintains terminals at Marian Center, DuBois, Clearfield, Philipsburg and State College, with Clearfield being the home terminal and the one which, with DuBois, would be the one to serve Cambria County. The company has 75 drivers; some 50 of which are available for group and party work (N.T. 126) and 29 charter buses as listed on Exhibit P-2, all of which are airconditioned, have under-bus storage, lavatories and 9 have VCR's with all of them having two-way radios and interior speakers which are used to point out points of interest on trips (N.T. 127, 128). All of the buses have reclining seats. The company also operates limousine service and on scheduled routes which traverse Cambria County and operates in interstate commerce in both charter and special operations (N.T. 128). It carries \$5 million public liability insurance; has paid its general assessment and has tariffs on file (N.T. 129). He confirmed that Witness Jones had taken the Fullington bus to Canada as she testified and

Witness Cunningham who testified that on 4 trips to Reading by Fullington one had a window stuck (N.T. 129, 130). All of the witnesses could be serviced and picked up at Carrolltown, Spangler, Patton, Barnesboro, Ebensburg, Hastings and Mineral Point. On tours they could be picked up if there were 10 passengers from any of these origins (N.T. 130). The service is advertised by a brochure admitted as Protestant's Exhibit 3, which lists the individually-ticketed tours throughout the year (N.T. 131). The application was opposed because Fullington does not need more competition and because it would affect the line service. Competition would take further revenue away which would hurt the line service which needs to be subsidized by the group and party service (N.T. 134).

III.

STATEMENT OF QUESTIONS INVOLVED

- A. DOES THE TESTIMONY TAKEN AS A WHOLE PROVE A NEED FOR THE PROPOSED SERVICE?

Answered in the negative.

- B. IS SERVICE AVAILABLE THROUGH PROTESTANT WHICH HAS NOT EVEN BEEN USED?

Answered in the affirmative.

- C. ON BALANCE, SHOULD THE APPLICATION BE DENIED?

Answered in the affirmative.

- D. CONCLUSION.

IV.

ARGUMENT

A. DOES THE TESTIMONY TAKEN AS A WHOLE
PROVE A NEED FOR THE PROPOSED SERVICE?

Witness Cammarata has taken only one trip years ago by Blue Bird to Pittsburgh (N.T. 28) and other than that single trip has taken no group trips or tours (N.T. 27).

Witness Brandt's only past trip by bus on a group basis was 6 years years ago when he used McIlwain (N.T. 31) and he has gone on no individually-ticketed tours.

Witness Lantzy's trips in the past to Jennerstown, Penn State and Indiana were all by motor vehicle and none of them by bus. The only bus trip she took was under applicant's existing authority from Barnesboro to Ebensburg (N.T. 39, 40).

Witness Barber's only past Pennsylvania trip was to Strasburg 4 times with Blue & White (N.T. 47).

Witness Adams has taken no bus trips in the past (N.T. 49).

Witness Bakajza has not taken any group trips to Pennsylvania points in the past and although she wanted to be picked up at Hastings all of her past trips beyond Pennsylvania left from either Ebensburg or Altoona (N.T. 53).

Witness Jubas does not arrange trips for the Senior Activities Center but his only trips in the past have been to Reading 3 times and to the shopping center at Morgantown using Blue & White (N.T. 56). The only trip which is planned is one which leaves from Barnesboro where applicant can already serve (N.T. 56).

Witness Buck has gone on preplanned tours using Blue & White; the applicant from Barnesboro; with Blue & White picking up at Hastings, Carrolltown and Ebensburg; and one trip to Lancaster which was picked up at Carrolltown (N.T. 61).

Mary Buck, the wife of Thomas Buck, wanted to be picked up at Carrolltown because she didn't like to drive to Barnesboro to get applicant's service which inconvenienced her on a trip to Christmas Village (N.T. 63).

Witness Quevy took some past trips and was picked up at Patton by Blue & White but could not remember the destination (N.T. 67).

Witness Lechene was picked up at Hastings on an Atlantic City trip, with the pickup being by Blue & White (N.T. 70).

Witness Sgro lives in Barnesboro and can personally walk to get applicant's service but some of the members of the Catholic Daughters complained because they had to drive from Spangler, Patton or Hastings to get service to Altoona and Johnstown for the organization which takes one trip per year to either Johnstown or Altoona (N.T. 73, 74).

Witness Ragal has scheduled one trip for a Polish wedding at New Castle which left from Barnesboro via the applicant and half the people were from Hastings who had to travel to Barnesboro (N.T. 76).

Witness Yeager of Hastings, also objected to driving to Barnesboro to get applicant's service which she has used twice to Atlantic City, where she was picked up at Hastings (N.T. 79) and once to Strasburg and once to Pittsburgh (N.T. 80).

Witness Conrad went on individually-ticketed tours by the applicant to Pittsburgh, Lancaster and Johnstown, which trip left from Barnesboro (N.T. 82, 83).

Witness Dubyak also traveled from Barnesboro to Johnstown, Pittsburgh and Lancaster via applicant and wishes to be picked up at Patton to save a drive of 12 miles to Barnesboro.

Witness Cezchini of Patton would take more trips if she didn't have to drive from Patton to Barnesboro to get applicant's service (N.T. 87). Her past trips went to Lancaster, Harrisburg and Johnstown (N.T. 88).

Witness Mary Ellen Cunningham of Carrolltown said it would be more convenient if she did not have to drive to Barnesboro to go with the applicant (N.T. 90) though on cross-examination she admitted she has not taken any trips with the applicant but went with Blue & White which did pick her up at Carrolltown and on several occasions at Johnstown and Ebensburg (N.T. 92). She went on 4 trips to Reading with Fullington and on one trip in the winter the window was stuck open which she complained about (N.T. 92, 93).

Witness Mary Lou Gray of Carrolltown objected to the chaperones having to pick up the children at Carrolltown and take them to Barnesboro and after the trip was over pick them up at Barnesboro and take them to Carrolltown (N.T. 95). Past trips by Blue & White with pickup in Carrolltown went to such points as Philadelphia and Gettysburg (N.T. 96).

Witness Ruby Holtzapple of Mineral Point objected to traveling to Barnesboro but has not used the applicant as yet either to Pennsylvania points or on interstate trips where she used Blue & White, McIlwain and Schradars (N.T. 100, 101).

Witness Laurie Abrams of Spangler, 3 miles from Barnesboro, favored being picked up at Spangler because she could stay with her son. She did take trips in the past via applicant from Barnesboro without any problems (N.T. 103, 104).

Witness Verna Kapeluch of Spangler testified that if she could be picked up at Spangler it would save a 3-mile drive to Barnesboro and she has used applicant from Barnesboro to Cresson Lake Playhouse and to Ebensburg (N.T. 106). She has not used anyone else because she believes in using someone from her home town (N.T. 107).

Witness Mary Margaret Flanagan objected to a 2½ mile drive from Spangler to Barnesboro during inclement weather or late-hour arrival (N.T. 109, 110). Despite her objections she has not used any other bus company or called any other bus company (N.T. 111).

The final witness, Helen Jones of Spangler, cannot drive to get to Barnesboro and can't be picked up by the applicant at Spangler (N.T. 113, 114). She has been picked up at Spangler by Blue & White trips to Altoona (N.T. 115) and has used Fullington for a trip to Canada (N.T. 117).

This is applicant's complete case. As we have pointed out some of the witnesses had not even used applicant from Barnesboro under its present authority. Some of the witnesses were picked up in their home towns by Blue & White and only 2 of the witnesses ever used Fullington: Witness Jones to Canada and Witness Mary Ellen Cunningham who was picked up at Carrolltown by Fullington for 4 trips to Reading. Her complaint was that during the winter months on one of the trips a window was stuck open, which was inconvenient (N.T. 92, 93).

While points were named they were for the most part Pittsburgh, Lancaster, Reading, Johnstown, Altoona, Cresson and Philadelphia. To the extent the applicant was used, they have all originated at Barnesboro. To the extent other carriers have been used they have originated at the witnesses' home town or the witnesses have driven to Ebensburg or Altoona to get service. If they can drive to Ebensburg or Altoona to get service they can easily drive to Barnesboro which is closer.

Under Blue Bird Coach Lines, Inc., A. 88807, Folder 2, Am-K, there is a serious doubt whether the evidence is credible, substantial, competent and relevant to support the need from the upper portion of Cambria County to all points in Pennsylvania. Some of the witnesses have not used the applicant. Some of them used the applicant in interstate commerce; some have used other carriers and were picked up where they wanted to be picked up; some of them have used the other carriers and have traveled to Ebensburg or Altoona to get service; some have taken no Pennsylvania trips in the past and others have no trips planned. We submit that under the Blue Bird case a case for necessity has not been presented.

B. IS SERVICE AVAILABLE THROUGH PROTESTANT
WHICH HAS NOT EVEN BEEN USED?

The evidence makes it clear that Fullington Auto Bus Company possesses authority at A. 9329, Folder 19, Am-R, which permits it to serve the points here sought to all points in Pennsylvania (Exhibit P-1; N.T. 125, 126). Fullington operates 29 charter buses, all of which are airconditioned, have under bus storage, lavatories, 2-way radios, reclining seats; and 9 of them have VCR's (Exhibit P-2; N.T. 127, 128). This contrasts sharply with applicant's single charter bus, a 1980 Eagle, and 3 school buses.

Fullington carries \$5 million public liability insurance; has 50 drivers available for group and party work (N.T. 125, 129) and could service all of the witnesses who desire to be picked up at Carrolltown, Spangler, Patton, Barnesboro, Ebensburg, Hastings and Mineral Point. On tour and sightseeing trips they could be picked up at any of this points provided there were 10 passengers from any of these origins (N.T. 130).

From protestant's Exhibit 3 it is apparent that indivually-ticketed tours and sightseeing trips are published to the following Pennsylvania points:

Blue Mountain and Reading Railroad
Falling Water and Westmoreland Museum of Art
The Gateway Clipper at Pittsburgh
Gettysburg
Hiawatha Cruise and Pennsylvania Grand Canyon
Horseshoe Curve
Indiana County Amish Country
Lancaster County and Pennsylvania Dutch Country
Pocono Mountains
Allenberry Playhouse
Broadway shows at Pittsburgh
The Charles Dickens Christmas Pageant in Mount Hope
The Dutch Apple Dinner Theater at Lancaster
The Icecapades at Pittsburgh
The Mummer's String Band of Shows at Philadelphia
The ballet at Pittsburgh
Sawmill Theater in Cook Forest State Park
Sound of Music at Warren
Stars of Lawrence Welk Show at Pittsburgh
The Farm Show at Harrisburg
The Recreational Vehicle Show and Boat Show, both at Pittsburgh
Pittsburgh Auto Show
Pittsburg Spring Home and Garden Show
Kutztown Folk Festival
Autumn Festival at Seven Springs
The Harvest Festival and Pennsylvania Farm Museum in Lancaster County
Pittsburgh Flower Show and the Philadelphia Flower Show
Shopping trips to Vanity Fair in Reading, Franklin Mills, Georgian Place at Somerset; Century III Mall at Pittsburgh
The Lancaster Quilt Show and the Lancaster outlets, both at Lancaster
The Warren Mall
The Christmas Show at the Farm Show Building in Harrisburg
Shopping trips to York

We have cited a few examples.

Yet, with all of these people wanting tour trips, one witness went to Canada with Fullington; one went 4 times to Reading shopping; and the only complaint was that on one of the 4 trips a window was stuck open.

Fullington opposes the application because it does not need more competition and because the group and party service subsidizes its line service which serves Cambria County points (N.T. 134).

On balance, Fullington has everything the public needs in the way of tours and sightseeing trips and can pick up any group at any point in Cambria County to any points in Pennsylvania, using one or more of its 29 charter buses.

In contrast to Fullington's 29 buses and 50 drivers, the applicant has one bus and 2 drivers.

On balance, Fullington should be protected against this applicant whose entire case appears to be predicated upon driving times and distances to reach applicant's present service even though some of the witnesses have used it even from Barnesboro.

D. CONCLUSION

We have detailed the public witnesses' testimony and explained that some of the witnesses have taken no trips to Pennsylvania points from anywhere in the area of this application; some of them have taken them by Blue & White and McIlwain from the points from which they say they want service; some of them have used the applicant from Barnesboro and some have used the applicant on interstate trips and were picked up at their home community. Two of the witnesses used Fullington; one to Canada and one 4 times to Reading and some of the witnesses have never called on anyone else for service.

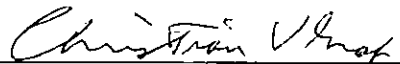
Of equal significance is the fact that it is hard to tell from the testimony of these witnesses whether they want to go on applicant's prearranged tours or whether they seek group and party service. Most of them did not explain which they supported.

In contrast Fullington has an abundance of tours available to points the witnesses named and has not been used for those tours. It has 29 buses as against one by the applicant. It has 50 drivers as distinguished from two by the applicant. It has available group service from the entire origin area of this application to the entire state of Pennsylvania. Its buses are equipped with all the amenities.

On balance, Fullington deserves to be protected in view of the weak case presented by applicant.

The application should be denied.

Respectfully submitted,

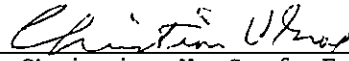


Christian V. Graf, Esquire

CERTIFICATE OF SERVICE

I hereby certify that I have, this date, forwarded copies of the foregoing "Brief on Behalf of Fullington Auto Bus Company, Protestant" to those listed below by U.S. First Class Mail, postage prepaid and to Judge Ky Van Nguyen by Federal Express, postage prepaid.

Dated July 16, 1991, at Harrisburg, Pennsylvania.



Christian V. Graf, Esquire

Ky Van Nguyen,
Administrative Law Judge
Pennsylvania Public Utility Commission
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania 15222

Larence L. Davis, Esquire
Davis & Davis
103 South Center Street
Ebensburg, Pennsylvania 15931-0064

Fullington Auto Bus Company
316 Cherry Street, P.O. Box 211
Clearfield, PA 16830

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA. 17120
AUGUST 19, 1991

IN REPLY PLEASE
REFER TO OUR FILE

A-00107235

TRI-COUNTY TRANSP & LEASING INC
404 19TH STREET, BOX 13
BARNESBORO PA 15714

POCKETED
AUG 23 1991

NOTICE OF SUSPENSION OF PUC OPERATING RIGHTS

EFFECTIVE AUGUST 21, 1991

FOR EXPIRATION OR CANCELLATION OF

PUBLIC INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE

This is to notify you that as of the above effective date, the authority granted to you by the Pennsylvania Public Utility Commission is hereby suspended as is thoroughly described in the attached sheet.

Please be advised that you may not operate until we have received evidence of your liability coverage.

By the filing of a duplicate of the required certificate of insurance, you will be notified in writing notification that the suspension is lifted and that you may resume operations.

Very truly yours,

Jerry Rich
Secretary



NVL

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: A-00107235 TRI-COUNTY TRANSP. & LSG., INC.	4. Article Number 044176
5. Signature - Addressee X	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail ✓ <input type="checkbox"/> Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED.
6. Signature - Agent X <i>[Signature]</i>	8. Addressee's Address (ONLY if requested and fee paid)
7. Date of Delivery <i>8-21-91</i>	

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA. 17120
AUGUST 23, 1991

IN REPLY PLEASE
REFER TO OUR FILE

A-00107235

THE COUNTY TRANSP & LEASING INC
404 19TH STREET, BOX 13
BARNESBORO PA 15714

BTL

NOTICE TO LIFT SUSPENSION

This is to notify you that we have received proof of insurance coverage. Therefore, you may disregard the Notice of Suspension previously issued.

Very truly yours,

James J. McCarthy

Insurance Section
(717) 787-1327

cc: Enforcement Division

DOCUMENT
FOLDER

DOCKETED
AUG 29 1991

KJR

LAW OFFICES
DAVIS AND DAVIS
103 SOUTH CENTER STREET
EBENSBURG, PA
15931 - 0064

CLARENCE E. DAVIS (1887-1973)
LAWRENCE L. DAVIS

TELEPHONE: (814) 472-9740
FAX: (814) 472-9750

October 31, 1991

RECEIVED

OCT 31 1991

SECRETARY'S OFFICE
Public Utility Commission

Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
New Filing Section, Room B-18
P.O. Box 3265
Harrisburg, Pennsylvania 17120

Re: Application of Tri-County Transportation
& Leasing, Inc.
A-00107235, F.1, Am.A

Ladies/Gentlemen:

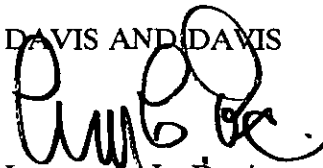
A hearing on this Application for Extension was held before Administrative Law Judge
Nguyen on May 21, 1991. Briefs were submitted on July 15, 1991.

We have heard nothing further. Any information you might give us regarding the present
status of this matter would be most sincerely appreciated.

If anything further is required, please advise.

Very truly yours,

DAVIS AND DAVIS



Lawrence L. Davis

EXHIBIT
FOLDER

LLD/dw

pc: Tri-County Transportation

DOCKETED
NOV 7 1991

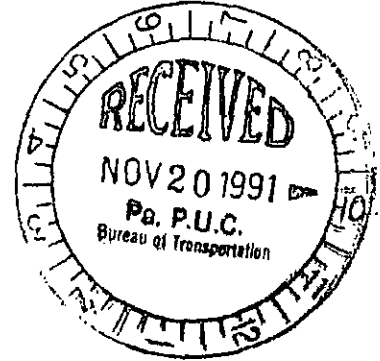
LAW OFFICES
DAVIS AND DAVIS

103 SOUTH CENTER STREET
EBENSBURG, PA.
15931-0064

TELEPHONE: (814) 472-9740
FAX: (814) 472-9750

CLARENCE E. DAVIS (1887-1973)
LAWRENCE L. DAVIS

November 18, 1991



PA Public Utilities Commission,
Application Section
P. O. Box 3265
Harrisburg, Pennsylvania 17120

Attention: Mr. David Earhart

Re: Tri-County Transportation, Inc.
PUC No. A - 00107235

Dear Mr. Earhart:

Pursuant to our telephone conversation of this date, I am enclosing a copy of the Certificate of Amendment showing the name change of Tri-County **Transportation & Leasing, Inc.** to Tri-County **Transportation, Inc.**, dated April 17, 1987.

If anything further is required, please advise.

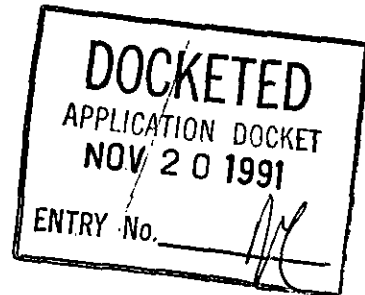
Very truly yours,

DAVIS AND DAVIS

Lawrence L. Davis
Lawrence L. Davis

LLD/dw

Enclosure



Commonwealth of Pennsylvania



Department of State

COPY

To All to Whom These Presents Shall Come, Greeting:

Whereas, In and by Article VIII of the Business Corporation Law, approved the fifth day of May, Anno Domini one thousand nine hundred and thirty-three, P. L. 364, as amended, the Department of State is authorized and required to issue a

CERTIFICATE OF AMENDMENT

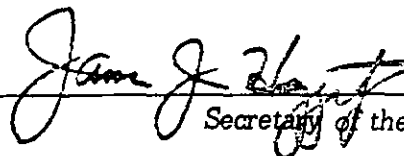
evidencing the amendment of the Articles of Incorporation of a business corporation organized under or subject to the provisions of that Law, and

Whereas, The stipulations and conditions of that Law pertaining to the amendment of Articles of Incorporation have been fully complied with by

TRI-COUNTY TRANSPORTATION & LEASING, INC. (a close corporation)
name changed to
TRI-COUNTY TRANSPORTATION, INC. (a close corporation)

Therefore, Know Ye, That subject to the Constitution of this Commonwealth and under the authority of the Business Corporation Law, I do by these presents, which I have caused to be sealed with the Great Seal of the Commonwealth, extend the rights and powers of the corporation named above, in accordance with the terms and provisions of the Articles of Amendment presented by it to the Department of State, with full power and authority to use and enjoy such rights and powers, subject to all the provisions and restrictions of the Business Corporation Law and all other applicable laws of this Commonwealth.

Given under my Hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this 17th day of April in the year of our Lord one thousand nine hundred and eighty-seven and of the Commonwealth the two hundred eleventh.


Secretary of the Commonwealth

CORPORATION BUREAU
DEPARTMENT OF STATE
308 NORTH OFFICE BUILDING
HARRISBURG, PENNSYLVANIA 17120

FILING FEE: Corporation \$40.00
Individual \$25.00
 Check Enclosed
 Charge Account # _____

in accordance with the requirements of Section 311 of Act 1982-295 (54 Pa. C.S. §311), this undersigned entity(ies) desires to register or conduct a business in this Commonwealth under an assumed or fictitious name, style or designation, does it? Justify that:

Fictitious Name: Happy Times Charter

Address of the principal place of business: (including street and number)
404 - 19th Street, Box 13, Barnesboro, Pennsylvania 15714

Brief statement of the character or nature of the business:

Transportation

4. Individual or individuals interested in the business: (name and address)

(NAME)	(NUMBER)	(STREET)	(CITY)	(STATE)	(ZIP CODE)

5. Entity other than an individual interested in the business:

(NAME)	(FORM OF ENTITY)	ORGANIZING JURISDICTION	ADDRESS IN JURIS.	REGISTERED OFFICE (if any)
<u>Tri-County Transportation, Inc.</u>	<u>Corporation</u>	<u>PA</u>	<u>404-19th St., Barnesboro, PA</u>	<u>15714</u>

6. I am familiar with the provisions of Section 332 of the Fictitious Names Act and understand that filing under the Act does not create an exclusive or other right to the fictitious name.

7. Agent, if any, authorized to execute amendments, withdrawals, or cancellations.

IN TESTIMONY WHEREOF, the undersigned have caused this registration to be executed this 26th day of March, 1990

Individual

Individual

Individual

Individual

Corporate Seal

TRI-COUNTY TRANSPORTATION, INC.

Name of Corporation

Ann D. Harwell
~~Secretary or Assistant Secretary~~

X By William M. Zebko
President or Vice President

Corporate Seal

Name of Corporation

President or Vice President

Secretary or Assistant Secretary

- FOR OFFICE USE ONLY -

030 FILED

MAR 28 1990

002 CODE	003 REV BOX	SEQUENTIAL NO.	100 MICROFILM NUMBER 9015 638	
VIEWED BY <i>W</i>	004 SIC	AMOUNT	001 CORPORATION NUMBER 1559058	
DATE APPROVED		\$		
DATE REJECTED	CERTIFY TO <input type="checkbox"/> REV. <input type="checkbox"/> L & I <input type="checkbox"/> OTHER	INPUT BY	LOG IN	LOG IN (REFILE)
MAILED BY DATE		VERIFIED BY	LOG OUT	LOG OUT (REFILE)

Christopher A. Lewis

Secretary of the Commonwealth
Department of State
Commonwealth of Pennsylvania

to law, direct