

ORIGINAL

RHOADS & SINON

ATTORNEYS AT LAW

410 NORTH THIRD STREET

P.O. BOX 1146

HARRISBURG, PA 17108-1146

TELEPHONE (717) 233-5731

TELECOPIER (717) 232-1459

OF COUNSEL  
FRANK A. SINON

PAUL H. RHOADS  
1907-1984

JOHN M. MUSSELMAN  
1919-1980

CYCLE R. HENDERSHOT  
1922-1980

SUITE 301  
299 W. CAMINO GARDENS BLVD.  
BOCA RATON, FL 33432  
TELEPHONE (407) 395-5595  
TELECOPIER (407) 395-9497

FILE NO. 2423/01

DIRECT DIAL NO.

HENRY W. RHOADS  
ROBERT H. LONG, JR.\*  
GERALD K. MORRISON  
SHERILL T. MOYER  
JAN P. PADEN  
RICHARD B. WOOD  
LAWRENCE B. ABRAMS III\*  
J. BRUCE WALTER  
JOHN P. MANBECK  
FRANK J. LEBER  
R. STEPHEN SHIBLA  
CHARLES L. SIECK\*  
PAUL A. LUNDEEN  
JACK F. HURLEY, JR.  
NATHAN H. WATERS, JR.  
DAVID B. DOWLING  
EVELYN S. HARRIS  
DAVID F. O'LEARY

ROBERT L. BEALS\*\*  
DAVID O. TWADDELL  
CHARLES J. FERRY  
BRADLEY J. GUNNISON\*  
STANLEY A. SMITH  
JENS H. DAMGAARD\*  
DRAKE D. NICHOLAS  
THOMAS A. FRENCH  
DEAN H. DUSINBERRE  
DONNA M.J. CLARK  
LUCY E. KNISELEY  
GLORIA J. DAVIS  
SHAUN E. O'TOOLE  
PAUL F. WESSELL  
KATHLEEN J. HAYNES  
SHAWN D. LOCHINGER  
JOHN B. CONSEVAGE  
TIMOTHY M. ANSTINE

\*ALSO ADMITTED TO THE FLORIDA BAR  
\*\*ADMITTED TO THE FLORIDA BAR ONLY

Re: Application of Kleins' Bus Service, Inc.  
A.106803, F.1, Am-B

July 14, 1989

RECEIVED

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

DOCUMENT  
FOLDER

JUL 17 1989  
SECRETARY'S OFFICE  
Public Utility Commission

Dear Secretary Rich:

Enclosed you will please find an original and two (2) copies of the Petition for Reconsideration pursuant to Section 5.572 of the Commission Regulations in the above referenced order entered July 10, 1989.

A copy of this Petition has been served upon all parties of record.

Very truly yours,

RHOADS & SINON

By:

*J. Bruce Walter*  
J. Bruce Walter

JBW/dar

Enclosure

cc: Kleins' Bus Service, Inc.  
Lloyd R. Persun, Esquire  
S. Berne Smith, Esquire  
Christian V. Graf, Esquire  
James W. Patterson, Esquire  
David J. Brightbill, Esquire

ORIGINAL

Before the  
Pennsylvania Public Utility Commission

DOCKETED  
JUL 21 1989

Re: Application of Kleins' Bus Service, Inc.  
A.106803, F.1, Am-B

RECEIVED

JUL 17 1989

PETITION FOR RECONSIDERATION

SECRETARY'S OFFICE  
Public Utility Commission

1. The above referenced application originally sought authority to permit the transportation of persons in group and party service between the facilities owned or utilized by Boscov's Department Stores at identified locations of existing Boscov's Department Stores.

2. All protests were withdrawn when the applicant restrictively amended the application so that the authority sought was to be authority for Travel Center, Inc. between the facilities owned or utilized by Boscov's Department Stores at identified locations.

3. The amendment was drafted with knowledge of and reliance on the Commission's order granting authority to Capital Bus Company at A.67651, F.3, Am-N, entered January 11, 1983, granting authority, pursuant to the order of Administrative Law Judge Farber, to transport groups and parties of persons on special excursions and tours or sightseeing trips, for Adventure Unlimited, Ltd., from points and limiting that service to transportation of brokered tours of Adventure Unlimited, Ltd.

4. The Commission, by order adopted July 6, 1989 and entered July 10, 1989, denied the above referenced application of

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Kleins' Bus Service, Inc., even though supported by Travel Center, Inc., on the basis that it would not be in the public interest to grant the applicant authority to serve a broker.

5. The Commission's order fails to distinguish the difference in operation between a property broker and a licensed travel broker operating as an arranger of travel for persons, or as a typical travel agency.

6. The Commission's order is incorrect in that it suggests, at page 4, that issuance of the authority would abrogate the customary role of a broker in searching out the appropriate carrier for the appropriate reasons. The authority as sought by Kleins' Bus Service, Inc. in no way limits the operations of Travel Center, Inc., and as clearly indicated in the verified statement submitted with the order, would merely supplement existing service, including the interstate service currently provided by Kleins' Bus Service, Inc. to Travel Center, Inc.

7. It is clear that the decision in Re Cressona Trucking Company is premised on the specific representation that the Broker would tender all of his traffic to the Applicant. See, 65 Pa. P.U.C. 267. No such statement appears in the Kleins' Bus Service record. No such situation is contemplated or possible.

8. No contractual arrangement exists, or for that matter could exist, which would limit Travel Center, Inc. to providing service only through Kleins' Bus Service, Inc. The only limitation presented by the application as amended is on the ability of Kleins' Bus Service, Inc. to serve the locations of

Boscov's Department Stores for Travel Center, Inc., the travel broker owned and affiliated with Boscov's Department Stores, on an intrastate basis in the same fashion Kleins' now provides interstate service.

9. The order as entered is contrary to the public interest in that it abrogates the support provided by the public in evidence to the Commission in support of the application of Kleins' Bus Service, Inc.

10. The more appropriate remedy, absent the reconsideration of the Commission's legal theory, would be to deny the legality of the amendment and submit the unamended application to hearing before an Administrative Law Judge or otherwise. The approach taken by the Commission in denying the application in whole for not being in the public interest is administratively wasteful and extremely expensive to the applicant, Kleins' Bus Service, Inc.

11. It is not in the public interest, nor does it make for a rational regulation, to permit one carrier to operate under a certain type of operating authority and at the same time deny competing carriers the ability to operate under nearly identical conditions.

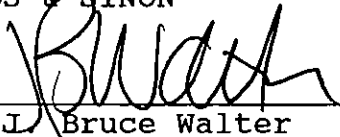
WHEREFORE, Applicant, Kleins' Bus Service, Inc., respectfully requests that the order of July 10, 1989, be reconsidered and the authority, as amended, be granted. In the

alternative, Applicant requests that the unamended application be set for hearing.

Respectfully submitted,

RHOADS & SINON

By: \_\_\_\_\_

  
J. Bruce Walter  
410 North Third Street  
P.O. Box 1146  
Harrisburg, PA 17108-1146  
(717) 233-5731

Date: July 14, 1989

Re: Application of Kleins' Bus Service, Inc.  
A.106803, F.1, Am-B

---

CERTIFICATE OF SERVICE

---

I hereby certify that a true and correct copy of the foregoing document has been served on all parties of record by first class mail, postage prepaid, unless otherwise indicated.

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

David J. Brightbill, Esquire  
Siegrist, Kochler, Brightbill,  
& Long  
P.O. Box 1604  
Lebanon, PA 17042

Christian V. Graf, Esquire  
Graf, Andrews & Radcliff  
407 N. Front Street  
Harrisburg, PA 17101

Lloyd R. Persun, Esquire  
Shearer, Mette, & Woodside  
P.O. Box 729  
1801 N. Front Street  
Harrisburg, PA 17108-0729

S. Berne Smith, Esquire  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

James W. Patterson, Esquire  
Rubin, Quinn, Moss & Heaney  
1800 Mutual Tower  
510 Walnut Street  
Philadelphia, PA 19606

RHOADS & SINON

By: 

J. Bruce Walter

Dated this 14th day of July, 1989, at Harrisburg,  
Pennsylvania.

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

ORIGINAL

CHRISTIAN V. GRAF  
FREDERICK W. ANDREWS  
DAVID H. RADCLIFF

OF COUNSEL  
JOHN E. FULLERTON

TELEPHONE: A. C. 717-236-9318

July 19, 1989  
Files: 747.11  
1159.1  
1213.0

RE: KLEINS' BUS SERVICE, INC., A. 106803, Folder 1, Am-B - Protests of  
H. E. Rohrer, Inc., d/b/a Rohrer Bus Service; R & J Transportation, Inc.  
and B.K.W. Coach Lines, Inc.

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JUL 20 1989

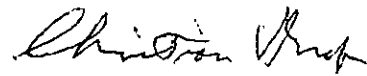
SECRETARY'S OFFICE  
Public Utility Commission

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

Dear Mr. Rich:

In connection with the above matter we enclose herewith the original and 9 copies of "Reply of Rohrer Bus Service; B.K.W. Coach Lines, Inc.; and R & J Transportation, Inc. to Petition for Reconsideration." As stated on the Certificate of Service we have served a copy upon all counsel of record and have mailed copies to our clients.

Very truly yours,



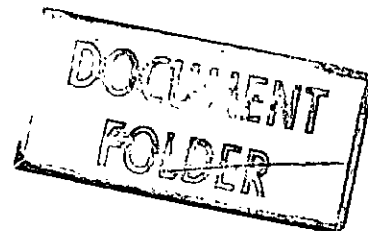
Christian V. Graf

CVG:tcr  
Enclosures

cc: S. Berne Smith, Esquire  
Lloyd R. Persun, Esquire  
James W. Patterson, Esquire  
David J. Brightbill, Esquire  
J. Bruce Walter, Esquire

Rohrer Bus Service  
R & J Transportation, Inc.  
B.K.W. Coach Lines, Inc.

David H. Radcliff, Esquire



ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY  
COMMISSION

In Re: Application of Kleins' Bus Service, Inc.  
A. 106803, Folder 1, Am-B

RECEIVED

JUL 20 1989

REPLY OF ROHRER BUS SERVICE; B.K.W. COACH LINES, INC.;  
and R & J TRANSPORTATION, INC.

SECRETARY'S OFFICE  
Public Utility Commission

TO  
PETITION FOR RECONSIDERATION

COME NOW, ROHRER BUS SERVICE; B.K.W. COACH LINES, INC. and R & J  
TRANSPORTATION, INC. and file this, their Reply to the above-captioned Petition  
and respectfully reply:

1. The averments contained in Paragraph 1 of the Petition are admitted.
2. It is admitted that the protests of the above three carriers were  
withdrawn when the application was amended by the addition thereto of the  
following:

"That service is limited to excursions, tours and  
trips for which Travel Center, Inc. has sold  
individual tickets."

The full text of the amendment is set forth at pages 2 and 3 of  
the Commission's Order.

3. We have no reason for knowing the state of mind of the applicant.
4. The averments contained in Paragraph 4 are admitted.

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FOLDER

DOCKETED  
JUL 21 1989

5. So far as the averments contained in Paragraph 5 are concerned, they are immaterial to the interests of the carriers on whose behalf this Reply is filed.

6. The averments contained in Paragraph 6 are not material to this Reply.

7. The averments contained in Paragraph 7 are not material to this Reply.

8. The averments contained in Paragraph 8 are not material to this Reply.

9. The averments contained in Paragraph 9 are not material to this Reply.

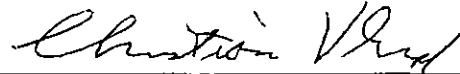
10. We object to the suggestion that the amendment on which this case proceeded should be disregarded and a hearing now set on the unamended application. The applicant has chosen to proceed on an amendment and should not be allowed now, after securing an unsatisfactory result, to withdraw that amendment and reopen its case. The applicant could restructure its case and re-apply so that any carriers which have received authority in the interim would have an opportunity to object.

11. The averments contained in this paragraph are not material to this Reply. In further answer, however, it is certainly true that administrative agencies have changed their rules, their regulations and even their decisions in the past. One such illustration is the policy statement adopted

by the Commission which changed the prior law by eliminating the requirement of proof of inadequacy of service.

WHEREFORE, the carriers on whose behalf this document is being filed object strenuously to any request that the unamended application be set for hearing. The amendment was made, applicant proceeded on that basis and if the result is not satisfactory to it, it may refile.

Respectfully submitted,

  
\_\_\_\_\_  
Christian V. Graf, Esquire

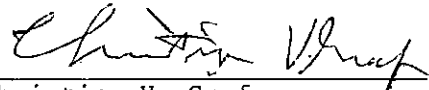
GRAF, ANDREWS & RADCLIFF, P.C.  
407 North Front Street  
Harrisburg, Pennsylvania 17101  
Telephone: A.C. 717, 236-9318

Attorneys for:  
ROHRER BUS SERVICE  
B.K.W. COACH LINES, INC.  
R & J TRANSPORTATION, INC.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing "Reply of Rohrer Bus Service; B.K.W. Coach Lines, Inc.; and R & J Transportation, Inc. to Petition for Reconsideration" upon all counsel of record by U.S. First Class Mail, postage prepaid, at the addresses shown below.

Date at Harrisburg, Pennsylvania, this 19th day of July, 1989.

  
Christian V. Graf

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

John Schrantz, Vice-President  
Rohrer Bus Service  
P.O. Box 100  
Duncannon, PA 17020

S. Berne Smith, Esquire  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Jay Newswanger, President  
R & J Transportation, Inc.  
R.D. #5, Box 5389-A  
Pottsville, PA 17901

Lloyd R. Persun, Esquire  
Shearer, Mette & Woodside  
P.O. Box 729  
1801 N. Front Street  
Harrisburg, PA 17108-0729

Harry Wilhour, President  
B.K.W. Coach Lines, Inc.  
P.O. Box 254  
Hummels Wharf, PA 17831

James W. Patterson, Esquire  
Rubin, Quinn, Moss & Heaney  
1800 Mutual Tower  
510 Walnut Street  
Philadelphia, PA 19606

David J. Brightbill, Esquire  
Siegrist, Kochler, Brightbill & Long  
P.O. Box 1604  
Lebanon, PA 17042

J. Bruce Walter, Esquire  
Rhoads & Sinon  
410 North Third Street  
P.O. Box 1146  
Harrisburg, PA 17108-1146

# ORIGINAL

## SHEARER, METTE, EVANS & WOODSIDE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1801 NORTH FRONT STREET

P. O. BOX 729

HARRISBURG, PA 17108-0729

WALTER W. SHEARER  
JAMES W. EVANS  
CHARLES B. ZWALLY  
LLOYD R. PERSUN  
JAMES A. ULSH  
C. PETER CARLUCCI, JR.  
TIMOTHY I. MARK  
DANIEL L. SULLIVAN  
CHRISTOPHER C. CONNER  
ANDREW H. DOWLING  
MICHAEL D. REED  
PAULA J. LEICHT  
TIMOTHY A. HOY  
JOHN J. McNALLY, III

HOWELL C. METTE  
ROBERT MOORE  
PETER J. RESSLER  
CRAIG A. STONE  
JACK M. STOVER  
R. SCOTT SHEARER  
JAMES J. KUTZ  
STEVEN D. SNYDER  
ELYSE ROGERS KEINTZ  
THOMAS M. FRATICELLI  
ROBERT P. HAYNES III  
PAULA J. McDERMOTT  
SCOTT T. WYLAND

July 20, 1989

RETIRED  
ROBERT E. WOODSIDE

TELEPHONE  
(717) 232-5000

TELECOPIER  
(717) 236-1816

IRS NO.  
23-1985005

71.15

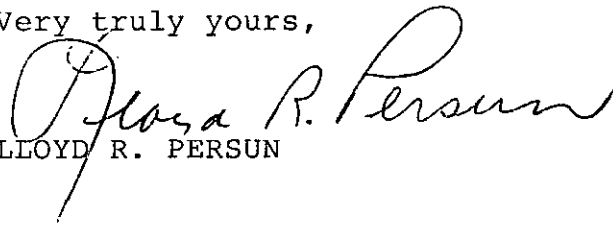
Re: Application of Kleins' Bus Service, Inc.  
A.106803, F.1, Am-B

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

Dear Sir:

We file herewith on behalf of Wolf's Bus Lines, Inc. the original and two copies of its Answer to Applicant's Petition for Reconsideration. Please acknowledge receipt of this Answer by stamping and returning the enclosed copy of this letter.

Very truly yours,

  
LLOYD R. PERSUN

LRP:hmc

Enclosures

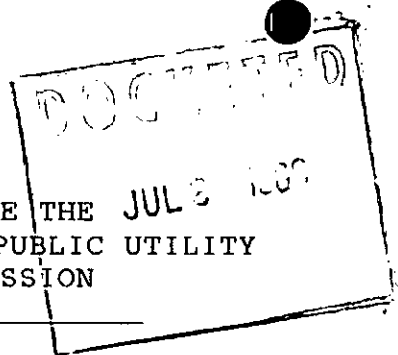
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JUL 20 1989

SECRETARYS OFFICE  
Public Utility Commission

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY  
COMMISSION



In Re: Application of Kleins' Bus Service, Inc.  
A.106803, Folder 1, Am-B

ANSWER OF WOLF'S BUS LINES, INC.  
TO  
APPLICANT'S PETITION FOR RECONSIDERATION

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JUL 20 1989

SECRETARYS OFFICE  
Public Utility Commission

AND NOW, this 20th day of July, 1989, Wolf's Bus Lines, Inc. (Wolf), by its attorneys, in accordance with Section 5.572 of the Commission's Rules of Practice, 52 Pa. Code §5.572, files the following Answer to Applicant's Petition for Reconsideration.

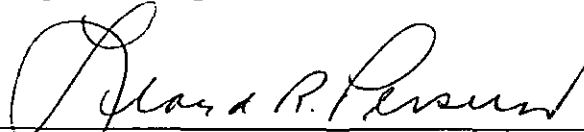
1. For the reasons advanced by Applicant in paragraphs 1 through 8 of its Petition for Reconsideration, the Commission on reconsideration should approve the Restrictive Amendment.

2. The allegations of paragraphs 9 through 11 are denied as conclusions of law.

3. In the alternative, if the Commission does not approve the Restrictive Amendment, then Wolf adopts the position advanced by Rohrer Bus Service, B.K.W. Coach Lines,

Inc. and R & J Transportation, Inc. in their Reply to the Petition for Reconsideration. The said Reply was filed on July 19, 1989 and is incorporated herein by reference. Applicant elected to restrictively amend its Application and did so, having elected to proceed on the basis of a Restrictive Amendment. If the Restrictive Amendment is not approved by the Commission, then the Application must be denied. Applicant's option in that event is to refile its Application in accordance with the Commission's Rules of Practice.

Respectfully submitted,



---

Lloyd R. Persun, Esquire  
Shearer, Mette, Evans & Woodside  
1801 North Front Street  
P.O. Box 729  
Harrisburg, PA 17108-0729  
(717) 232-5000  
Attorneys for Wolf's Bus  
Lines, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Answer upon all counsel of record by United States mail, first class, postage prepaid, addressed as follows:

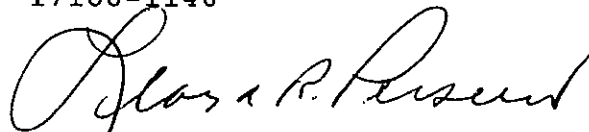
S. Berne Smith, Esquire  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

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

James W. Patterson, Esquire  
Rubin, Quinn, Moss & Heaney  
1800 Mutual Tower  
510 Walnut Street  
Philadelphia, PA 19606

David J. Brightbill, Esquire  
Siegrist, Kochler, Brightbill & Long  
P.O. Box 1604  
Lebanon, PA 17042

J. Bruce Walter, Esquire  
Rhoads & Sinon  
410 North Third Street  
P.O. Box 1146  
Harrisburg, PA 17108-1146



---

Lloyd R. Persun, Esquire

Dated: July 20, 1989

FRANCIS B. HAAS, JR.  
G. THOMAS MILLER  
DONALD R. WAISEL  
RICHARD R. LEFEVER  
J. THOMAS MENAKER  
CLYDE W. MCINTYRE  
S. BERNE SMITH  
ROD J. PERA  
EDWARD W. ROTHMAN  
ROBERT A. MILLS  
W. JEFFRY JAMOUNEAU  
HERBERT R. NURICK  
DAVID E. LEHMAN  
NORMAN I. WHITE  
RICHARD W. STEVENSON  
WILLIAM A. CHESNUTT  
HENRY R. MACNICHOLAS  
WILLIAM M. YOUNG, JR.  
ROBERT M. CHERRY  
DAVID B. DISNEY  
H. LEE ROUSSEL  
MAURICE A. FRATER  
C. GRAINGER BOWMAN  
BURTON H. SNYDER  
JOHN S. OYLER  
DELANO M. LANTZ  
HARVEY FREEDENBERG  
JASON S. SHAPIRO  
ERIC L. BROSSMAN  
ROBERT D. STETS  
TERRY R. BOSSERT

MARY JANE FORBES  
JEFFREY B. CLAY  
DAVID M. KLEPPINGER  
NEAL S. WEST  
FRANKLIN A. MILES, JR.  
MICHAEL A. DOCTROW  
STEPHEN A. MOORE  
DANA S. SCADUTO  
ELIZABETH A. DOUGHERTY  
ALAN R. BOYNTON, JR.  
BRUCE D. BAGLEY  
MICHAEL G. JARMAN  
GARY F. YENKOWSKI  
DIANE M. TOKARSKY  
BERNARD A. LABUSKES, JR.  
ANNE K. FIORENZA  
JOHN M. ABEL  
RICHARD S. KAHLBAUGH  
KEVIN J. FREDERICK  
DAVID M. WATTS, JR.  
TRENT HARGROVE  
LAWANA M. JOHNS  
WILLIAM G. PRINS  
JAY H. FEASTER  
DONALD B. KAUFMAN  
JAMES L. FRITZ  
ABIGAIL A. TIERNEY  
ROBERT B. ARMOUR  
DONNA J. LONG  
TIMOTHY L. CLAWGES  
P. NICHOLAS GUARNESCHELLI

MCNEES, WALLACE & NURICK  
ATTORNEYS AT LAW

100 PINE STREET  
P. O. BOX 1166

HARRISBURG, PA. 17108-1166

TELEPHONE (717) 232-8000

FAX (717) 236-2665

ORIGINAL

July 20, 1989

STERLING G. MCNEES  
1923-1959

DAVID M. WALLACE  
1942-1967

RETIRED PARTNERS

HARRY H. FRANK  
JAMES H. BOOSER  
JAMES W. HAGAR  
ARTHUR L. BERGER  
JAMES H. KING  
MOSES K. ROSENBERG

OF COUNSEL

GILBERT NURICK  
EDWARD C. FIRST, JR.  
ROBERT H. GRIEWOLD  
JEFFERSON C. BARNHART  
SAMUEL A. SCHRECKENGAUST, JR.

In re: Application of Kleins' Bus Service, Inc.  
A. 106803, F.1, Am-B

Jerry Rich, Secretary  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, PA 17120

Dear Mr. Rich:

On behalf of the clients represented by our firm, we have enclosed, for filing in the above-captioned matter, the original and two copies of our "Answer To Petition For Reconsideration."

Copies have been served on the other parties of record.

Very truly yours,

MCNEES, WALLACE & NURICK

By

  
Herbert R. Nurick

HRN/ec  
Enclosures

cc: J. Bruce Walter, Esquire (w/enc.)  
Christian V. Graf, Esquire (w/enc.)  
Lloyd R. Persun, Esquire (w/enc.)  
David J. Brightbill, Esquire (w/enc.)  
James W. Patterson, Esquire (w/enc.)  
Mr. Joshua N. Bennett (w/enc.)  
Mr. Edward J. Patton (w/enc.)  
Mr. Thomas W. Meredith, Jr. (w/enc.)

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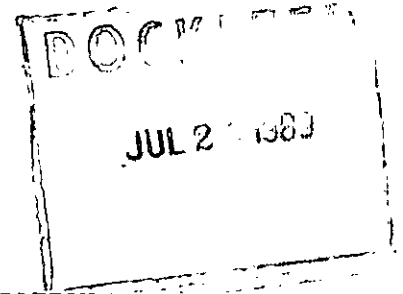
SECRETARYS OFFICE  
Public Utility Commission

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re:

APPLICATION OF  
KLEINS' BUS SERVICE, INC.  
A. 106803, F. 1, Am-B



ANSWER TO PETITION FOR RECONSIDERATION

COMES NOW Capitol Bus Company, Capitol International Tours, Inc.,  
Conestoga Tours, Inc., Frank Martz Coach Company, Overland Coach  
Service, Inc., and Penn Highway Transit Company (hereinafter  
collectively referred to as "protestants"), by their attorneys, and  
answer the petition for reconsideration filed by Kleins' Bus Service,  
Inc. ("applicant") in the above-captioned matter, averring as follows:

1. Applicant filed an application with the Pennsylvania  
Public Utility Commission ("Commission"), at the above-captioned  
docket number, seeking authority as follows:

To transport persons, in group and party service  
between the facilities owned or utilized by Boscov's  
Department Stores, located in West Lebanon Township,  
Lebanon County, Norwegian Township, Schuylkill County,  
Monroe Township, Snyder County, city of Wilkes-Barre and  
township of Hazle, Luzerne County, Hampden Township,  
Cumberland County, Lower Paxton Township, Dauphin County,  
city of Lancaster, Lancaster County, city of York, York  
County and the borough of Norristown, Montgomery County,  
and from said facilities, to points in Pennsylvania.

RECEIVED

JUL 20 1989

SECRETARYS OFFICE  
Public Utility Commission

2. Protestants filed protests to the application.
3. On February 23, 1989, applicant restrictively amended the application to read as follows:

To transport, as a common carrier, by motor vehicle, groups and parties of persons on a non-exclusive basis for special excursions and tours or sightseeing trips, for Travel Center, Inc. between the facilities owned or utilized by Boscov's Department Stores, located in West Lebanon Township, Lebanon County, Norwegian Township, Schuylkill County, Monroe Township, Snyder County, city of Wilkes-Barre and township of Hazle, Luzerne County, Hampden Township, Cumberland County, Lower Paxton Township, Dauphin County, city of Lancaster, Lancaster County, and from said facilities to points in Pennsylvania, and return, provided, however:

That service is limited to excursions, tours and trips for which Travel Center, Inc. has sold individual tickets.

4. Conditioned upon acceptance of the foregoing amendment by the Commission and any order being consistent therewith, the protestants withdrew their protests.
5. By order adopted July 6, 1989, and entered July 10, 1989, the Commission denied the application on the basis that it "would not be in the public interest to grant the applicant authority to serve a broker" (p. 4).
6. Applicant filed a petition for reconsideration of this order requesting that the order entered July 10, 1989, be reconsidered and the authority, as amended, be granted or, in the alternative, that the "unamended application be set for hearing."

7. Protestants aver that there is no "unamended application" before the Commission at this time. When an application is amended, the application, as amended, becomes the pleading before the Commission. Therefore, there is no "unamended application" to be considered.

8. Protestants submit that approval of the application, as amended, would not be contrary to the public interest.

9. Protestants submit that they entered into the restrictive amendment negotiations in good faith and relied on the amendment in withdrawing their protests. This case has been settled between applicant and protestants. Assuming, solely arguendo, that the application could be "unamended," it would be prejudicial to protestants to expend the further time, effort, and expense which they would incur in this matter in attempting to negotiate another amendment or proceed through a hearing.

10. Protestants aver that other than considering the application, as amended, this case has come to a conclusion and applicant has not met the applicable standards for reconsideration.

WHEREFORE, protestants respectfully: (1) submit that they have no objection to approval of the application, as amended, and as set

forth in paragraph 3 herein, and (2) request that the matter not be otherwise reconsidered.

Respectfully submitted,

McNEES, WALLACE & NURICK

By Herbert R. Nurick  
Herbert R. Nurick  
100 Pine Street  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 232-8000

Attorneys for Capitol Bus Company,  
Capitol International Tours, Inc.,  
Conestoga Tours, Inc., Frank Martz  
Coach Company, Overland Coach  
Service, Inc., and Penn Highway  
Transit Company

Dated: July 20, 1989

CERTIFICATE OF SERVICE

I hereby certify that I have, this day, served a copy of the foregoing answer upon the following parties of record:

J. Bruce Walter, Esquire  
Rhoads & Sinon  
410 North Third Street  
P. O. Box 1146  
Harrisburg, PA 17108-1146


David J. Brightbill, Esquire  
Siegrist, Kochler, Brightbill,  
& Long  
P. O. Box 1604  
Lebanon, PA 17042

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

James W. Patterson, Esquire  
Rubin, Quinn, Moss & Heaney  
1800 Mutual Tower  
510 Walnut Street  
Philadelphia, PA 19606

Lloyd R. Persun, Esquire  
Shearer, Mette & Woodside  
P. O. Box 729  
1801 North Front Street  
Harrisburg, PA 17108-0729

by first class mail, postage prepaid and properly addressed.

  
\_\_\_\_\_  
Herbert R. Nurick

Harrisburg, PA  
July 20, 1989