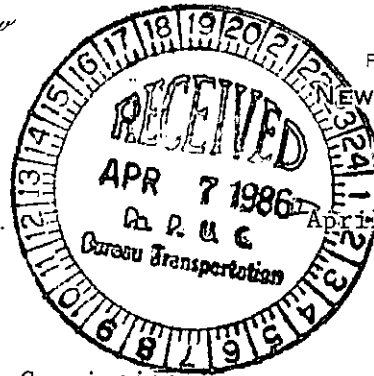


NORMAN J. BARILLA
Attorney and Counsellor at Law

SUITE 356

FIRST NATIONAL BANK BUILDING
NEW CASTLE, PENNSYLVANIA 16101

TELEPHONE (412) 654-5549



April 3, 1986

RECEIVED

APR 7 1986

**SECRETARY'S OFFICE
Public Utility Commission**

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

Re: Allied Coordinated Transportation Services, Inc.
Docket No. A-00106805

Dear Mr. Rich:

FILE

This letter of protest is submitted on behalf of my client, The New Castle Area Transit Authority. My client protests the issuance of a brokerage license to the above referenced corporation on the basis that an apparent conflict of interests exists between Allied Human Services, Inc., a Pennsylvania non-profit corporation, and the applicant, Allied Coordinated Transportation Services, Inc. since both corporations utilize the same office and office address in the conduct of their business. Please advise of the date at time scheduled for a hearing in this matter.

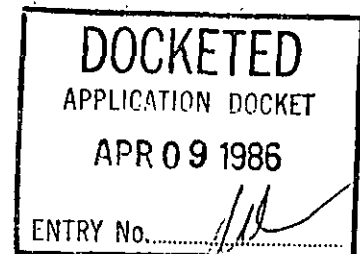
Thank you for your attention to this matter.

Very truly yours,

Norman J. Barilla

NJB/wsm

cc: New Castle Transit Authority



PENNSYLVANIA PUBLIC UTILITY COMMISSION



RECEIPT

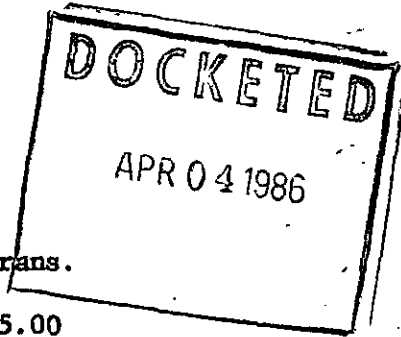
The addressee named hereunder has paid Pennsylvania Public Utility Commission for the following bill, subject to final collection of check or money order tendered for such payment.

Herbert R. Nurick
P.O. Box 1166
100 Pine St.
Harrisburg, PA 17108



Date April 3, 1986

CR 118442 A



In re application of Allied Cowrdinated Trans.
Services, Inc.
A-00106805.....\$125.00

Revenue account 01780-17601-102 (ck)
ck 73832 Checks \$125.00 Currency _____
Utility account 50:26

C. Joseph Meisinger
For Department of Revenue

April 9, 1986

IN REPLY PLEASE
REFER TO OUR FILE

Norman J. Barilla, Esquire
Suite 356
First National Bank Building
New Castle, PA 16101

In re: A-00106805 - Allied Coordinated Transportation Services, Inc.

Dear Protestant:

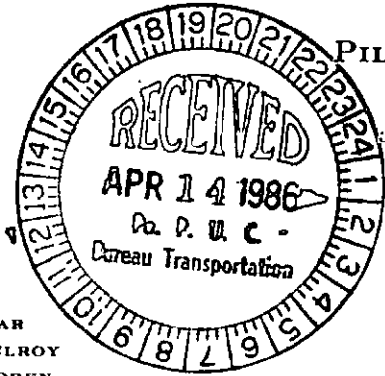
This will acknowledge receipt of a protest filed by you against the above mentioned application. Be advised that the protest did not indicate that service had been made on the applicant and applicants attorney, if any, as required by § 3.381 (c)(1) of Title 52 Pennsylvania Code.

Very truly yours,

David Ehrhart
Supervisor - Application Section
Bureau of Transportation

cc: Applicant
Applicant's Attorney

**DOCUMENT
FOLDER**



PILLAR AND MULROY, P.C.

ATTORNEYS-AT-LAW
SUITE 700

312 BOULEVARD OF THE ALLIES
PITTSBURGH, PA. 15222

TELEPHONE (412) 471-3300

RECEIVED
APR 14 1986
SECRETARY'S OFFICE
Public Utility Commission

JOHN A. PILLAR
THOMAS M. MULROY
SALLY A. DAVOREN
KEVIN W. WALSH

April 10, 1986

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

FILE

RE: Application of Allied Coordinated Transportation
Services, Inc.
Docket No. A-00106805

Dear Mr. Rich:

Please find enclosed a protest filed on behalf of
Frank S. Sfara, Jr., t/d/b/a Sfara Sales & Service

to the above captioned application.

A copy of this protest has been served upon the
applicant's representative named below in accordance
with the Commission's Rules of Practice.

Respectfully submitted,

PILLAR AND MULROY, P.C.

By: John A. Pillar

JOHN A. PILLAR

njm
Enclosure

cc: Herbert R. Nurick, Esq. (w/encl.)

DOCUMENT
FOLDER

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

APR 14 1986

SECRETARY'S OFFICE
Public Utility Commission

IN RE: Application of)
Allied Coordinated Trans-)
portation Services, Inc.) Docket No. A-00106805
)
)

PROTEST

FILE

In accordance with the Rules of Practice of the Pennsylvania Public Utility Commission, the carrier(s) named herein desire(s) to protest the above application and, in support thereof, state(s) as follows:

1. The name, address and telephone number of protestant(s) are set forth in Appendix A hereto.

2. The name, address and telephone number of protestant(s)' attorney:

PILLAR AND MULROY, P.C.
Suite 700
312 Boulevard of the Allies
Pittsburgh, PA 15222
(412) 471-3300

3. Protestant(s) hold(s) authority in conflict with this application as summarized in Appendix A attached hereto. A true copy of the pertinent portions of authority held by protestant(s) is attached hereto as Appendix B.

DOCUMENT
FOLDER

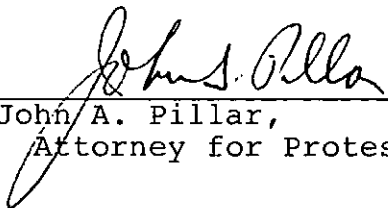
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APPLICATION DOCKET
APR 16 1986
ENTRY No. *[Signature]*

4. Protestant is presently providing service in the application area and is willing and able to provide such service. To the extent of protestant's authority, there is no need for additional service. Diversion of traffic and loss of revenues in connection with the transportation proposed by applicant will be seriously detrimental to protestant.

5. In addition to the above stated reasons for this protest, protestant also contends that since the applicant receives public funding for its service, the applicant will receive an unfair competitive advantage over protestant. Protestant submits that the Commission should determine whether it is in the public interest for a publicly funded company to be granted a license to compete with privately owned companies.

6. If a restrictive amendment will satisfy the interests of protestant, a proposed amendment will be attached hereto as Appendix C.

Respectfully submitted,

By: 
John A. Pillar,
Attorney for Protestant

Due Date: April 14, 1986

RE: Application of Allied Coordinated
Transportation Services, Inc.

Docket No. A-00106805

APPENDIX A

The foregoing protest to the above application is
filed on behalf of:

Sfara Sales & Service
P. O. Box 77
Hillsville, PA 16132

Frank S. Sfara, Jr., t/d/b/a Sfara Sales & Service holds
authority from this Commission at Docket No. A-00104231.
Authority of this protestant found at its lead certificate
is pertinent to the instant application. Specifically, the
protestant is authorized to transport groups and parties of
persons, and persons on special excursions and tours or sight-
seeing trips, between points in the county of Lawrence,
and from points in said county to points in Pennsylvania.
A copy of this pertinent authority is attached to this protest
as Appendix B.

FRANK S. SFARA, JR., t/d/b/a SFARA SALES & SERVICE

Certificate No. A-104231

To transport, as a common carrier, by motor vehicle, groups and parties of persons, and persons on special excursions and tours or sight-seeing trips, between points in the county of Lawrence and from points in the said county to points in Pennsylvania.

Docket No. A-00104231, F.2

To transport, as a common carrier, by motor vehicle, persons in limousine service, between points in the county of Lawrence and from points in the said county to points within an airline distance of one hundred (100) statute miles of the limits of the city of New Castle, Lawrence County, and vice versa.

Docket No. A-00104231, F.3

To transport, as a common carrier, persons, in paratransit service, between points in the county of Lawrence, and from points in the said county, to points in the counties of Beaver, Allegheny, Butler and Mercer, and return.

RE: Application of Allied Coordinated
Transportation Services, Inc.
Docket No. A-00106805

APPENDIX C

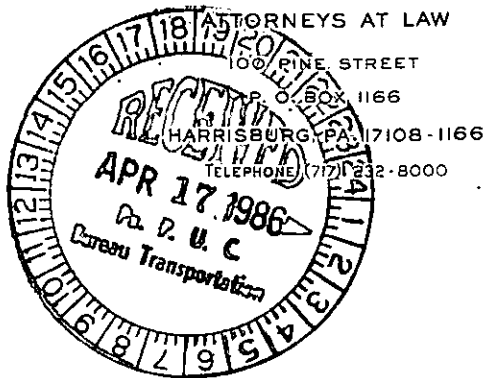
Proposed Restrictive Amendment

Protestant knows of no restrictive amendment which
would satisfy its interests in this proceeding at this time.

MOSES K. ROSENBERG
ARTHUR L. BERGER
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
F. MURRAY BRYAN
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

JOHN S. OYLER
DELANO M. LANTZ
HARVEY FREEDENBERG
EDWARD J. RIEHL
JASON S. SHAPIRO
ERIC L. BROSSMAN
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MARY JANE FORBES
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MICHAEL A. DOCTROW
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DANA S. SCADUTO
BARBARA S. KAHOE
ELIZABETH A. DOUGHERTY
ALAN R. BOYNTON, JR.
GARY F. YENKOWSKI
DIANE M. TOKARSKY
JAMES J. DODD-O

MCNEES, WALLACE & NURICK



STERLING G. MCNEES
1923-1959

DAVID M. WALLACE
1942-1967

RETIRED PARTNERS

HARRY H. FRANK
JAMES H. BOOSER
JAMES W. HAGAR
JAMES H. KING

OF COUNSEL

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

April 16, 1986

In re: Application of Allied Coordinating Transportation
Services, Inc.

A-00106805

Our File: 11044-001

RECEIVED

APR 17 1986

SECRETARY'S OFFICE
Public Utility Commission

Norman J. Barilla, Esquire
Suite 356
First National Bank Building
New Castle, PA 16101

Dear Mr. Barilla:

David Ehrhart, Supervisor - Application Section of the Bureau of Transportation of the Pennsylvania Public Utility Commission, sent you a letter dated April 9, 1986, advising you that you have not complied with the Commission's rules in that you did not send to us a copy of a protest which you filed in the above-captioned matter. We still have not received a copy of the protest.

We attempted to contact you on April 15, 1986, and left a message requesting you to return our call. Since we have not heard from you, we are sending this letter.

Please send the undersigned a copy of the protest which you filed immediately so that we can analyze the protest and act accordingly.

Very truly yours,

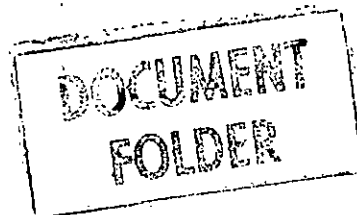
MCNEES, WALLACE & NURICK

By

Herbert R. Nurick

HRN/jh

cc: Mr. Jerry Rich
Mr. David Ehrhart
Mr. John J. Hadgkiss



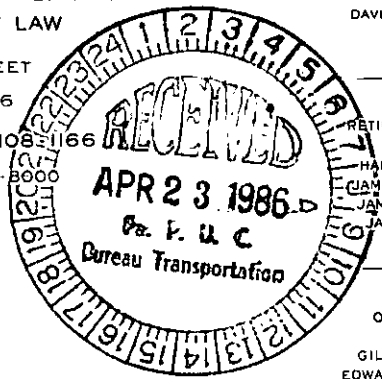
MOSES K. ROSENBERG
ARTHUR L. BERGER
FRANCIS B. HAAS, JR.
G. THOMAS MILLER
DONALD R. WAISEL
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ALAN R. BOYNTON, JR.
GARY F. YENKOWSKI
DIANE M. TOKARSKY
JAMES J. DODD-O

MCNEES, WALLACE & NURICK
ATTORNEYS AT LAW

100 PINE STREET
P. O. BOX 1166
HARRISBURG, PA. 17108-1166
TELEPHONE (717) 232-8000

STERLING G. MCNEES
1923-1959
DAVID M. WALLACE
1942-1967



RETIRED PARTNERS
HARRY H. FRANK
JAMES H. BOOSER
JAMES W. HAGAR
JAMES H. KING

OF COUNSEL

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

April 22, 1986

In re: Application of Allied Coordinated Transportation
Services, Inc.
A-00106805



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

APR 22 1986
SECRETARY'S OFFICE
Public Utility Commission

FILE

Dear Mr. Rich:

Enclosed for filing in the above-captioned matter is the proof of publication of notice of the subject application which appeared in New Castle News in New Castle, Pennsylvania. This notice also appeared in an earlier issue of New Castle News. A copy of the earlier notice is also enclosed. Since the first notice had a misprint in that it indicated that protests must be filed on or before April 4, 1986, instead of April 14, 1986, we requested republication, and the correct protest date was noted in the second publication.

We understand, from the staff of the Application Section of the Commission, that all notice requirements have now been completed.

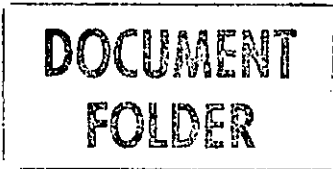
Very truly yours,
MCNEES, WALLACE & NURICK

By 
Herbert R. Nurick

HRN/jh

Enclosures

cc: Mr. David Ehrhart w/enclosure
Mr. John J. Hadgkiss w/enclosure



Proof of Publication of Notice in New Castle News

Under Act 1976, July 9, P.L. 877 No. 160

STATE OF PENNSYLVANIA, }
COUNTY OF LAWRENCE, } ss:

..... Richard E. Rentz, Jr. of THE NEWS COMPANY, a corporation of the County and State aforesaid, being duly sworn, deposes and says that THE NEW CASTLE NEWS is a newspaper published at 27-35 North Mercer Street, City of New Castle, County and State aforesaid, which was established as a daily newspaper September 11, 1880, since which date said daily newspaper has been regularly issued in said County, and that a copy of the printed notice or publication is attached hereto exactly as the same was printed and published in the regular editions and issues of the said daily newspaper on the following dates, viz:

FILE

..... and the 11th day of April, A.D. 19 .. 86.
Affiant further deposes that he is an officer duly authorized by THE NEWS CO., a corporation, publisher of said NEW CASTLE NEWS, a daily newspaper, to verify the foregoing statement under oath and also declares that affiant is not interested in the subject matter of the aforesaid notice of publication, and that all allegations in the foregoing statements as to time, place and character of publication are true.

Copy of notice or publication

NOTICE
Notice is hereby given that application has been made to the Pennsylvania Public Utility Commission by ALLIED COORDINATED TRANSPORTATION SERVICES, INC., a Pennsylvania business corporation (44 South Beaver Street, Suite 2 Colonial Building, New Castle, PA 16101), for the right to operate under a brokerage license — persons, between points in the county of Lawrence, and from points in said county, to points in Pennsylvania, and vice versa.
This application will be submitted to the Commission without a hearing provided no protests are filed on or before April 14, 1986
A-00106805
ALLIED COORDINATED TRANSPORTATION SERVICES, INC.
McNees, Wallace & Nurick
P.O. Box 1166
Harrisburg, PA 17108-1166
Attorneys for Applicant
Legal: April 11, 1986

..... *Richard E. Rentz, Jr.*
~~President~~ Secretary, The News Co.

Sworn to and subscribed before me this 12th

day of April 19 86

DOCKETED
APPLICATION DOCKET
APR 23 1986
ENTRY No.

..... *Donald H. Suorsa*
Notary Public

DONALD H. SUORSA, Notary Public
New Castle, Lawrence Co., Pa.
My Commission Expires Dec. 28, 1987

Statement of Advertising Costs
"Allied Coordinated Transportation Services, Inc."
c/o McNees, Wallace & Nurick, Attorneys
P.O. Box 1166 Harrisburg, Pennsylvania 17108
For publishing the notice or advertisement attached hereto on the above stated date \$ 14.88
Affidavit \$ 2.50
Total \$ 17.38

Publisher's Receipt for Advertising Costs

THE NEWS CO., a corporation, publisher of the NEW CASTLE NEWS, a daily newspaper, hereby acknowledges receipt of the aforesaid advertising and publication costs, and certifies that the same have been fully paid.



Established 1880
Incorporated Dec. 28, 1911
Phone 654-6651
DOCUMENT FOLDER

THE NEWS CO., A Corporation, Publisher of NEW CASTLE NEWS, a Daily Newspaper.

By *J. Marrella*

I hereby certify that the foregoing is the original Proof of Publication and Receipt for the Advertising costs in the subject matter of said notice.

.....
Attorney for

THE NEWS COMPANY

PUBLISHERS OF THE NEW CASTLE NEWS
27-35 NORTH MERCER ST PO BOX 60 NEW CASTLE PA 16103
PHONE 412-654-6651

MCNEES, WALLACE & MURICK, ATTYS.
100 PINE STREET
P. O. BOX 1166
HARRISBURG PA 17108

STATEMENT
4-05-86

PAYMENT
ACCOUNT-NO
94120-3

FILE

TRANSACTION DESCRIPTION	DATE	CHARGE	PAYMENT	ADJUST
BALANCE FORWARD		.00		
MISC-CLASS				
1 AFFALLIEDCOORD	3-31-86	.00		
LEGAL AFFIDAVIT	3-31-86	2.50		
LEGAL-LINES				
1 X 31 LN .480	3-31-86	14.88		
31 TOTAL LINES				
CHARGES THIS MONTH		17.38		
NEW BALANCE - PAY THIS AMOUNT		17.38		

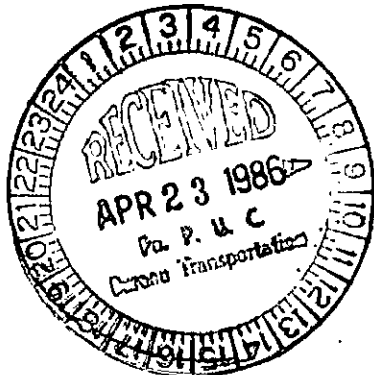
NOTICE

Notice is hereby given that application has been made to the Pennsylvania Public Utility Commission by ALLIED COORDINATED TRANSPORTATION SERVICES, INC., a Pennsylvania business corporation, (44 South Beaver Street, Suite 2 Colonial Building, New Castle, PA 16101), for the right to operate under a brokerage license persons, between points in the county of Lawrence, and from points in said county, to points in Pennsylvania, and vice versa.

This application will be submitted to the Commission without a hearing provided no protests are filed on or before April 4, 1986.

A-00106805

ALLIED COORDINATED TRANSPORTATION SERVICES, INC.
McNees, Wallace & Nurick
P.O. Box 1166
Harrisburg, PA 17108-1166
Attorneys for Applicant
Legal: March 31, 1986



TERMS - NO DISCOUNT. INVOICES DUE ON 15TH OF MONTH FOLLOWING PUBLICATION.
PLEASE RETURN DUPLICATE COPY WITH REMITTANCE.

MOSES K. ROSENBERG
ARTHUR L. BERGER
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
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JAMES J. DODD-O

MCNEES, WALLACE & NURICK

ATTORNEYS AT LAW

100 PINE STREET

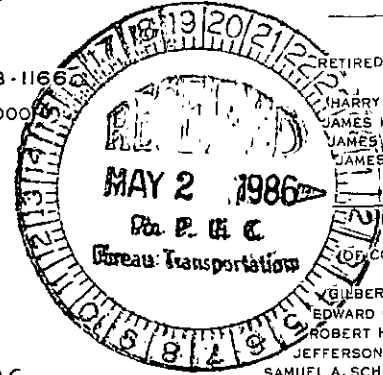
P. O. BOX 1166

HARRISBURG, PA. 17108-1166

TELEPHONE (717) 232-8000

STERLING G. MCNEES
1923-1959

DAVID M. WALLACE
1942-1967



RETIRE PARTNERS

HARRY H. FRANK
JAMES H. BOOSER
JAMES W. HAGAR
JAMES H. KING

OF COUNSEL

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

FILE

May 2, 1986

In re: Application of Allied Coordinated
Transportation Services, Inc.
A-00106805

RECEIVED

MAY 2 1986

SECRETARY'S OFFICE
Public Utility Commission

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

Dear Mr. Rich:

On behalf of our client, Allied Coordinated Transportation Services, Inc., we have enclosed for filing in the above-captioned matter the original and two copies of a "Motion to Strike and/or Dismiss Protests." The Certificate of Service is attached to the motion.

Very truly yours,

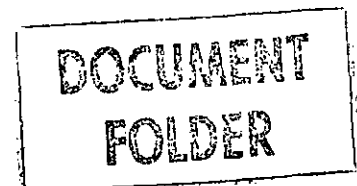
MCNEES, WALLACE & NURICK

By *Herbert R. Nurick*
Herbert R. Nurick

HRN/jh

Enclosure

cc: Norman J. Barilla, Esquire w/enclosure
John A. Pillar, Esquire w/enclosure
Mr. John J. Hadgkiss w/enclosure



RECEIVED

MAY 2 1986

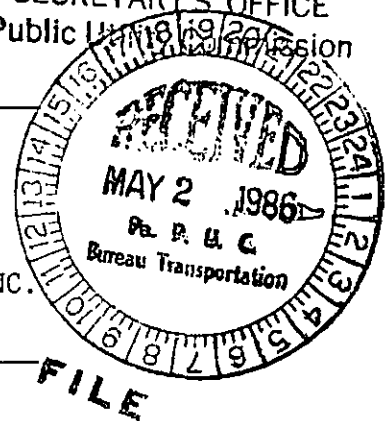
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S OFFICE
Public Utility Commission

In re:

APPLICATION OF

ALLIED COORDINATED TRANSPORTATION SERVICES, INC.
A-00106805



MOTION TO STRIKE AND/OR DISMISS PROTESTS

COMES NOW Allied Coordinated Transportation Services, Inc. ("applicant"), by its attorneys, and files this motion to strike and/or dismiss the protests of The New Castle Area Transit Authority ("ATA") and Frank S. Sfara, Jr., t/d/b/a Sfara Sales & Service ("Sfara"), pursuant to the provisions of 52 Pa. Code §3.381 and §5.101, averring as follows:

1. Applicant filed an application with the Pennsylvania Public Utility Commission ("Commission") seeking authority to operate as a broker, for the transportation of persons, between points in Lawrence County, and from points in said county to points in Pennsylvania, and vice versa.

2. Publication of notice of the application appeared in the Pennsylvania Bulletin of Saturday, March 22, 1986, at pages 1008 and 1009.

3. Norman J. Barilla, counsel for ATA, filed a letter dated April 3, 1986, with Secretary Rich of the Commission, which purports to be a protest and which, solely for purposes of argument, we shall

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
MAY 5 1986
ENTRY No.

hereinafter refer to as a "protest." A copy of said letter is attached hereto as Appendix "A."

4. Sfara filed a protest to the application. Paragraph 3 of the protest indicates that Sfara holds authority "in conflict with this application as summarized in Appendix A attached hereto."

Appendix A attached to the Sfara protest states as follows:

. . . Authority of this protestant found at its lead certificate is pertinent to the instant application. Specifically, the protestant is authorized to transport groups and parties of persons, and persons on special excursions and tours or sightseeing trips, between points in the county of Lawrence, and from points in said county to points in Pennsylvania.

5. The Commission's rules governing protests provide as follows at 52 Pa. Code §3.381(c):

(c) Protests: content and effect.

(1) Any person objecting to the approval of an application shall file with the Secretary of the Commission and serve upon the applicant and applicant's attorney, if any, a written protest which shall contain all of the following:

* * *

(ii) The name, business address and telephone number of the protestant.

* * *

(iv) A statement of the nature of the protestant's interest in the application, including a statement of any adverse impact which approval of the application can be expected to have on the protestant.

(v) A list of all Commission docket numbers under which the protestant operates, accompanied by a copy of any portion or

portions of protestant's authority upon which its protest is predicated.

(vi) A statement of any restrictions to the application which would protect the protestant's interest, including a concise statement of any amendment which would result in a withdrawal of the protest.

* * *

(3) A protest shall be treated as a pleading and the applicant may, within 20 days after the closing date for the filing of protests, file motions to strike, to dismiss, or for amplification as provided in §5.101 (relating to preliminary motions).

The requirements of subsection (c)(1) above are mandatory.

6. Section 5.101 of the Commission's rules (preliminary motions), 52 Pa. Code §5.101, provides, in subsection (a), that the following motions are available, among others:

(2) A motion to strike a pleading that is insufficient as to form.

(3) A motion to dismiss a pleading that is insufficient as to substance, that does not indicate on its face the standing of the party to participate in the proceeding, or the failure to join an indispensable party.

7. The purported protest of ATA is insufficient as to form, and fails to indicate on its face the standing of ATA to participate.

a. Form

(1) The protest does not contain the name, business address and telephone number of ATA.

(2) The protest does not contain a statement of the nature of ATA's interest in the application, including a statement of any adverse impact which approval of the application can be expected to have on ATA.

(3) The protest does not contain a list of all Commission docket numbers under which the protestant operates, accompanied by a copy of any portion or portions of protestant's authority upon which its protest is predicated; nor does the protest contain a statement of any legislation which would authorize ATA to perform the service which the applicant seeks.

(4) Assuming, solely arguendo, that ATA has an interest, the protest does not contain a statement of any restrictions to the application which would protect ATA's interest, nor does the protest include a concise statement of any amendment which would result in the withdrawal of ATA's protest.

b. Substance and Standing

(1) The protest lacks substance, as set forth above.

(2) Because ATA did not set forth any interest it has in the application, the protest must also fail for lack of standing of the protestant.

8. The protest of Sfara is insufficient as to substance because the authority on which Sfara bases its protest is essentially different from the authority which applicant seeks. Therefore, Sfara has also failed to show any standing to protest.

9. With further regard to form and substance, we allude to the Initial Decision of Administrative Law Judge Morris Mindlin in Re: Application of Capitol Bus Company, Docket No. A-00067651, F.18 (decision dated March 16, 1983). In that decision, Judge Mindlin struck a protest for failure to comply with 52 Pa. Code §3.381(c)(1)(iv), (v), and (vi).

a. As to the various subsections just set forth, Judge Mindlin stated as follows:

(iv)

... A reasonable and forthright particularity of basis of protest is required; the more so

when equitable allowance is sought for amendment.

(Initial Decision, pp. 4, 5)

(v)

... It should not be necessary for the applicant, the presiding officer, or the Commission to extract from the Commission's records the protestant's pertinent authority.

(Initial Decision, pg. 5)

(vi)

... The procedural requirement is purposefully directed to avoidance of needless controversy and litigation.

(Initial Decision, pg. 5)

b. The Judge also stated the following at pages 5 and 6 of the Initial Decision:

The Commission's rules for protest in a certification proceeding exemplify an administrative purpose efficiently, effectively, economically and expeditiously to accommodate the public's interest as well as the rights of the parties. In the case before us, we have a breach of procedure that bespeaks inattention or indifference to procedural requirements and administratively desirable purpose.

c. Applicant submits that a review of the purported protest filed by ATA speaks for itself in showing that it makes no attempt whatsoever to comply with the Commission's rules. While ATA may not hold authority with the Commission, it should not be necessary for the applicant, the presiding officer, or the Commission to have to

determine what basis ATA may have, if any, to file a protest. Whatever, ATA has not even attempted to comply with the Commission's rules and its protest should be stricken for this reason alone.

10. With regard to substance and standing, to allow either protest to stand would be contrary to the past action of the Commission in similar circumstances.

a. In Application of Blue Bird Cab Co., Inc., at Docket No. A-100853, for contract carrier authority to transport employees of Consolidated Rail Corporation and their equipment in vehicles having a seating capacity of not less than seven or more than 15 persons, a protest by Charles Bruce Long, Jr., t/d/b/a Long's Taxi Service, was dismissed "with prejudice." The order of Administrative Law Judge Edward R. Casey dated June 13, 1978, dismissing the protest, was "based upon the essential difference between call or demand taxi service" and the specialized contract carrier service proposed by Blue Bird Cab Co., Inc.

b. In Application of J & D's, Incorporated at Docket No. A-95971, F.2, where the applicant sought to transport "persons in paratransit service, including but not limited to plan-a-ride or share-a-ride, van pool contracting and service for federal, state and local

social service agencies," a protest of Samuel C. Grassmeyer and Hilda V. Grassmeyer, Copartners, t/d/b/a City Taxi, was dismissed by the Administrative Law Judge in an Initial Decision issued February 10, 1978, on the ground that a call or demand taxicab operator had no standing to be a protestant to a paratransit application.

c. In Application of Nicholas D. Marino and Angelina F. Marino, copartners, d/b/a Farragut Travel Service, at A. 00099562, Folder 1, Am-B, by order nisi entered April 18, 1979, where applicant was granted the right to transport "persons and their baggage in airport transfer service," the Commission held that a protestant providing group and party service had no standing in the proceeding:

Starr Transit Co. [the protestant] has no standing as a protestant in this proceeding. Starr is certificated as a common carrier authorized [to provide] scheduled route service and group and party service. It is Starr's contention that the proposed service conflicts with its group and party rights . . . Although the territory requested by the applicant and that now authorized Starr does conflict, there is a crucial difference in the type of service proposed and that authorized the protestant. The Commission has not formalized rules and regulations for airport transfer service as here requested, however, group and party service is controlled by formal rules and regulations and based upon those we see no possible conflict between the two services, hence no grounds to protest the application on the part of Starr. (Sheet 3) (emphasis added)

d. In Application of Capitol Bus Company, Docket No. A-67651, F.6, Am-I, Administrative Law Judge Edward R. Casey ordered and directed that applicant's motion to dismiss protest be granted and that the formal protest filed by Middletown Taxi Company, t/d/b/a MAT Taxi, be dismissed "with prejudice." (ALJ Order Re: Applicant's "Motion to Dismiss Protest," dated June 13, 1979.) In that case, the judge noted the applicant's contention:

... that protestant "lacked standing" to file a protest to this application because of the fundamental difference between protestant's authority as "call or demand" taxi carrier and applicant's proposed authority to render service to the public as a scheduled-route bus (common) carrier.

e. In the present case, ATA has not even attempted to indicate its standing to protest and, therefore, its protest should be dismissed for this reason. With regard to Sfara, Sfara does not hold the same type of authority which the applicant is seeking. Applicant is seeking a brokerage license, which is not even a carrier activity; whereas, Sfara is protesting based on group and party rights, which constitute a carrier activity. Just as in the cases cited above, there is a fundamental and crucial difference between the two types of authority and, therefore, applicant respectfully submits that Sfara's protest should be dismissed.

11. Applicant further submits that, as indicated by Judge Mindlin in his Initial Decision in Re: Application of Capitol Bus Company, Docket No. A-00067651, F.18, cited in paragraph 9 herein, one of the objectives of the Commission's rules of practice is to achieve the expeditious and efficient disposition of cases. To allow the protests in this case would subvert this objective.

WHEREFORE, Allied Coordinated Transportation Services, Inc. respectfully prays that the protests of The New Castle Area Transit Authority and Frank S. Sfara, Jr., t/d/b/a Sfara's Sales and Service, be stricken and/or dismissed.

Respectfully submitted,

ALLIED COORDINATED TRANSPORTATION
SERVICES, INC.

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

Counsel for Applicant

Dated: May 2, 1985

NORMAN J. BARILLA
Attorney and Counsellor at Law

SUITE 356
FIRST NATIONAL BANK BUILDING
NEW CASTLE, PENNSYLVANIA 16101
TELEPHONE (412) 654-5549

April 3, 1986

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

Re: Allied Coordinated Transportation Services, Inc.
Docket No. A-00106805

Dear Mr. Rich:

This letter of protest is submitted on behalf of my client, The New Castle Area Transit Authority. My client protests the issuance of a brokerage license to the above referenced corporation on the basis that an apparent conflict of interests exists between Allied Human Services, Inc., a Pennsylvania non-profit corporation, and the applicant, Allied Coordinated Transportation Services, Inc. since both corporations utilize the same office and office address in the conduct of their business. Please advise of the date at time scheduled for a hearing in this matter.

Thank you for your attention to this matter.

Very truly yours,

Norman J. Barilla

NJB/wsm

cc: New Castle Transit Authority

APPENDIX "A"

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion has been served on the following persons by first class mail, postage prepaid, and properly addressed:

Norman J. Barilla, Esquire
Suite 356
First National Bank Building
New Castle, PA 16101

John A. Pillar, Esquire
Pillar and Mulroy, P.C.
Suite 700
312 Boulevard of the Allies
Pittsburgh, PA 15222


S. Berne Smith

Dated: May 2, 1986

MOSES K. ROSENBERG
ARTHUR J. BERGER
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
F. MURRAY BRYAN
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

JOHN S. OYLER
DELANO M. LANTZ
HARVEY FREEDENBERG
EDWARD J. RIEHL
JASON S. SHAPIRO
ERIC L. BROSSMAN
ROBERT D. STETS
TERRY R. BOSSERT
MARY JANE FORBES
JEFFREY B. CLAY
DAVID M. KLEPPINGER
NEAL S. WEST
JESSIE L. SMITH
BRUCE A. FELDMAN
FRANKLIN A. MILES, JR.
MICHAEL A. DOCTROW
MICHAEL G. JARMAN
STEPHEN A. MOORE
DANA S. SCADUTO
BARBARA S. KAHOE
ELIZABETH A. DOUGHERTY
ALAN R. BOYNTON, JR.
GARY F. YENKOWSKI
DIANE M. TOKARSKY
JAMES J. DODD-O

MCNEES, WALLACE & NURICK
ATTORNEYS AT LAW

100 PINE STREET
P. O. BOX 1166
HARRISBURG, PA. 17108-1166
TELEPHONE (717) 232-8000

STERLING G. MCNEES
1923-1959

DAVID M. WALLACE
1942-1967

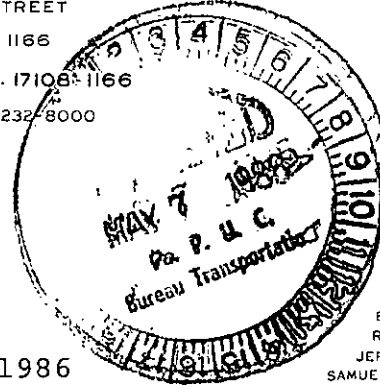
RETIRED PARTNERS

HARRY H. FRANK
JAMES H. BOOSER
JAMES W. HAGAR
JAMES H. KING

OF COUNSEL

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

May 6, 1986



In re: Application of Allied Coordinated
Transportation Services, Inc.
A-00106805

FILE
RECEIVED

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

MAY 6 1986

SECRETARY'S OFFICE
Public Utility Commission

Dear Mr. Rich:

On May 2, 1986, we filed the original and two copies of a "Motion to Strike and/or Dismiss Protests" in the above-captioned matter. Subsequent to the filing of this document, we noted an error in paragraph 7 on page 3. The first sentence of paragraph 7 should read:

The purported protest of ATA is insufficient as to form, and substance, and fails to indicate on its face the standing of ATA to participate.

The two words "and substance" were in the draft of the motion but did not appear in the final pleading. Although the final pleading was reviewed by this office, the omission of the words "and substance" has just come to our attention.

In view of the above, we have enclosed the original and two copies of a revised page 3 to the motion, and we respectfully request that you substitute this page for the page 3 on file. This

DOCUMENT
FOLDER

Jerry Rich, Secretary
May 6, 1986
Page 2

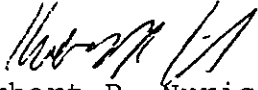
should create no misunderstanding on the part of the parties because the heading for paragraph 7b. states "Substance and "Standing." Nevertheless, we are sorry for any inconvenience which this causes you and the parties.

We are serving copies of this corrected page on the parties with a copy of this letter to them.

Very truly yours,

McNEES, WALLACE & NURICK

By


Herbert R. Nurick

HRN/jh

Enclosure

cc: Norman J. Barilla, Esquire w/enclosure
John A. Pillar, Esquire w/enclosure
Mr. John J. Hadgkiss w/enclosure

portions of protestant's authority upon which its protest is predicated.

(vi) A statement of any restrictions to the application which would protect the protestant's interest, including a concise statement of any amendment which would result in a withdrawal of the protest.

* * *

(3) A protest shall be treated as a pleading and the applicant may, within 20 days after the closing date for the filing of protests, file motions to strike, to dismiss, or for amplification as provided in §5.101 (relating to preliminary motions).

The requirements of subsection (c)(1) above are mandatory.

6. Section 5.101 of the Commission's rules (preliminary motions), 52 Pa. Code §5.101, provides, in subsection (a), that the following motions are available, among others:

(2) A motion to strike a pleading that is insufficient as to form.

(3) A motion to dismiss a pleading that is insufficient as to substance, that does not indicate on its face the standing of the party to participate in the proceeding, or the failure to join an indispensable party.

7. The purported protest of ATA is insufficient as to form, and substance, and fails to indicate on its face the standing of ATA to participate.

a. Form

(1) The protest does not contain the name, business address and telephone number of ATA.

PILLAR AND MULROY, P.C.

ATTORNEYS-AT-LAW
SUITE 700
312 BOULEVARD OF THE ALLIES
PITTSBURGH, PA. 15222

TELEPHONE (412) 471-3300

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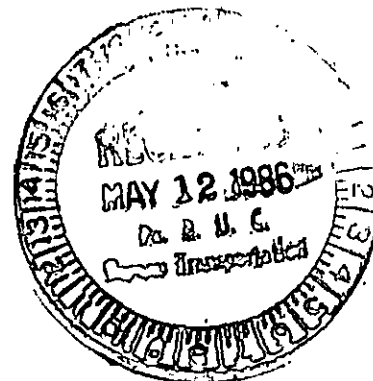
MAY 12 1986

SECRETARY'S OFFICE
Public Utility Commission

JOHN A. PILLAR
THOMAS M. MULROY
KEVIN W. WALSH

May 9, 1986

Re: Allied Coordinated Transportation
Services, Inc.
Docket No. A-00106805



FILE

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

Dear Sir:

Enclosed for filing is the Reply of Sfara Sales & Service to Applicant's Motion to Strike and/or Dismiss the Protest in connection with the above proceeding. Copies have been served on all parties of record.

Please acknowledge receipt of the enclosures.

Sincerely,

JOHN A. PILLAR

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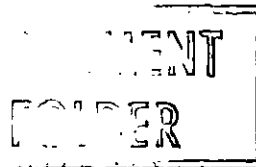
MAY 13 1986

Office of A. L. J.
Public Utility Commission

SW

Enclosures

cc: Sfara Sales & Service
Herbert R. Nurick, Esq.
Norman J. Barilla, Esq.



RECEIVED

MAY 12 1986

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S OFFICE
Public Utility Commission

RECEIVED
MAY 21 1986

Application of
ALLIED COORDINATED TRANSPORTATION SERVICES, INC.

Docket No. A-00106805

RECEIVED
MAY 12 1986
P. U. C.
Great Transportation
FILE 6829

REPLY OF SFARA SALES & SERVICE TO
APPLICANT'S MOTION TO STRIKE AND/OR
DISMISS THE PROTEST

NOW COMES Frank S. Sfara, Jr., t/d/b/a Sfara Sales & Service (hereinafter referred to as Sfara), by its attorneys, Pillar and Mulroy, P.C., and replies to the applicant's motion to strike and/or dismiss the protest as follows:

1. Allied Coordinated Transportation Services, Inc. (hereinafter referred to as Allied or applicant) seeks approval of its application to operate as a broker, for the transportation of persons, between points in Lawrence County, and from points in said County to points in Pennsylvania, and vice versa.

2. Section 2501 of the Public Utility Code, 66 Pa. C.S.A. §2501(b), defines the term "broker" as:

Any person or corporation not included in the term 'motor carrier' and not a bona fide employee or agent of any such carrier, or group of such carriers, who or which, as principal or agent, sells or offers for sale any transportation by a motor carrier, or the furnishing, providing, or procuring of facilities therefor, or negotiates for, or holds out by solicitation, advertisement, or otherwise, as one who sells, provides, furnishes, contracts, or arranges for such transportation, or the furnishing,

FILED
MAY 12 1986

providing, or procuring of facilities therefor, other than as a motor carrier directly or jointly, or by arrangement with another motor carrier, and who does not assume custody as a carrier.

3. It appears from the record (see Appendix A to Applicant's Motion) that the applicant is a non-profit corporation that is either affiliated with, or under common control by, the owners of Allied Human Services, Inc., a Pennsylvania non-profit corporation, which has the same address as the applicant, and which is the coordinator of certain paratransit activities in Lawrence County.

4. The protest filed by Sfara sets forth all of the information required under the Commission's regulations for a protest, including a description of the particular authority that Sfara believes is in conflict with the application, as well as actual copies of the operating rights of Sfara issued by this Commission. In Appendix A to Sfara's protest, it is specified that "the protestant is authorized to transport groups and parties of persons, and persons on special excursions and tours or sight-seeing trips, between points in the County of Lawrence, and from points in said County to points in Pennsylvania".

5. The service performed by Sfara, under its authority to transport persons on special excursions and tours or sight-seeing trips, is virtually identical to the type of business that applicant proposes to perform, except that applicant may not actually take custody of the passengers. Under its authority, Sfara may sell individual tickets and arrange tours or sight-

seeing trips originating in Lawrence County, destined to points in Pennsylvania. It may plan excursions, arrange for meals, hotels, and admission to various points of interest, and otherwise plan a complete tour for an individual customer. This is precisely what a broker does, except that the broker must arrange with a third party for the actual transportation.

6. The service proposed by the applicant is directly competitive with the service provided by Sfara. If this application is approved, the applicant can plan tours or sight-seeing trips originating in Lawrence County and destined to points in Pennsylvania in direct competition with Sfara; moreover, the applicant can then divert the transportation portion of the service to another company to the detriment of Sfara. Sfara would potentially lose revenues from the trip planning and preparation, as well as from the actual transportation.

7. The applicant's contention that Sfara's protest is incomplete in that Sfara failed to state any restrictions which would protect the protestant's interest is misplaced in that, since the applicant seeks authority to operate as a broker between all points in Lawrence County and from all points in Lawrence County to all points in Pennsylvania, and vice versa, the application totally overlaps the interest of Sfara, and no restrictions are, therefore, possible, short of withdrawal of the application. This is unlike some applications in which an applicant seeks authority to serve a portion of a territory served by a protestant, and where restrictions can be negotiated.

8. The cases cited by the applicant in paragraph 10 of its Motion are inapplicable to the facts of this case. Here, Sfara is presently authorized to provide the precise type of service that the applicant seeks to provide as a broker; the only difference is that Sfara may also transport the passenger, or "take custody," while the applicant may not. However, the applicant may divert the transportation portion of the tour or sight-seeing trip to a competitor of Sfara, an act which Sfara should be able to resist through this protest.

9. In addition to the foregoing reasons, Sfara further contends that there is an issue here as to whether it is in the public interest for the applicant, a non-profit corporation, which is closely allied to Allied Human Services, Inc., which receives public funding from the Department of Transportation, to be granted a license to compete with privately owned companies. A question is raised as to what the relationship will be between the applicant and Allied Human Services, Inc.; why should a publicly funded corporation be permitted, through a closely controlled but separate corporation, to engage in a private business enterprise; to whom will the profits of such business be distributed; and what qualifications does the applicant have to perform such service? The Sfara protest raises these questions and, as a privately owned company in Lawrence County, it should have the right to inquire into these issues.

10. The Commission's Rules of Practice are not so rigid that a protest should be stricken or dismissed strictly as to

form. Sfara's protest presents the information necessary for the applicant to be fully aware of the identity of the protestant and its counsel, the nature of the protestant's interest in the application, and a copy of the protestant's operating authority, which includes docket numbers and a complete statement of the authority. Sfara submits that it has a significant and substantial interest in this proceeding, and that applicant's motion to strike is based on extremely technical grounds that, if approved, would deny a full and complete hearing on all of the issues raised by this application.

WHEREFORE, Sfara respectfully requests that applicant's motion to strike and/or dismiss the protest of Sfara Sales & Service be denied.

Respectfully submitted,
PILLAR AND MULROY, P.C.

By: 

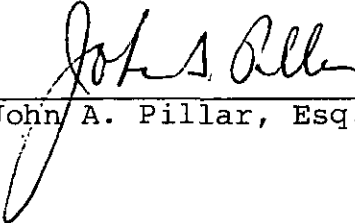
John A. Pillar, Esq.
Attorney for
FRANK S. SFARA, JR.,
t/d/b/a SFARA SALES &
SERVICE

PILLAR AND MULROY, P.C.
Suite 700
312 Boulevard of the Allies
Pittsburgh, PA 15222

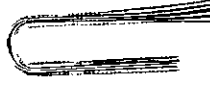
CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing reply on all parties of record in this proceeding, in accordance with the Commission's Rules of Practice.

Dated at Pittsburgh, PA, this 9th day of May, 1986.



John A. Pillar, Esq.



NORMAN J. BARILLA
Attorney and Counsellor at Law

SUITE 356
FIRST NATIONAL BANK BUILDING
NEW CASTLE, PENNSYLVANIA 16101

TELEPHONE (412) 654-5549

May 19, 1986

RECEIVED

MAY 23 1986

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

SECRETARY'S OFFICE
Public Utility Commission

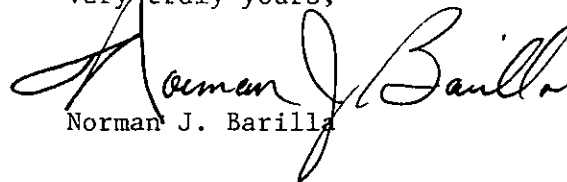
Re: Application of Allied Coordinated
Transportation Services, Inc.
A-00106805

Dear Mr. Rich:

Enclosed please find a Motion for Withdrawal of Protest which I am filing in the above referenced case on behalf of my client, the New Castle Area Transit Authority. A Certificate of Service is attached to the Motion.

Thank you for your attention to this matter.

Very truly yours,


Norman J. Barilla

NJB/sll

Enclosures

cc: Herbert R. Nurick, Esquire
John A. Pillar, Esquire
Paul Domenick, NCATA



RECEIVED

MAY 23 1986

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S OFFICE
Public Utility Commission

In Re:

APPLICATION OF

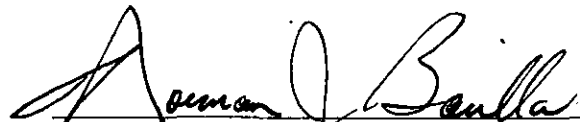
ALLIED COORDINATED TRANSPORTATION SERVICES, INC.
A-00106805

MOTION TO WITHDRAW PROTEST

NOW COMES the New Castle Area Transit Authority, by its attorney, Norman J. Barilla, Esquire, and makes this Motion to Withdraw the Protest heretofore filed in the within case with the Pennsylvania Public Utility Commission for the reason that the application of Allied Coordinated Transportation Services Inc., for a brokerage license is not in conflict with or identical to the services provided by the New Castle Area Transit Authority.

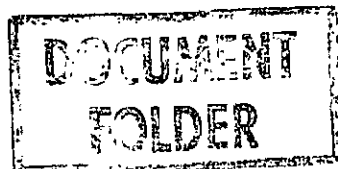
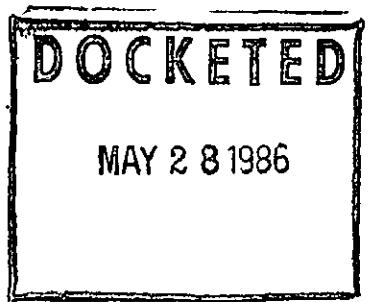
WHEREFORE, the New Castle Area Transit Authority moves to withdraw the protest heretofore filed in this matter with the Pennsylvania Public Utility Commission.

Respectfully submitted,



Norman J. Barilla, Esquire
Attorney for the New Castle Area
Transit Authority

218 East Washington Street
New Castle, PA 16101
(412) 654-5549



NORMAN J. BARILLA ATTORNEY AT LAW NEW CASTLE, PENNSYLVANIA 16101

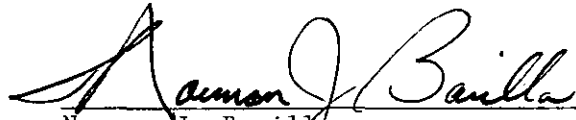
CERTIFICATE OF SERVICE

I hereby certify that on this date, I served a true and correct copy of the within Motion to Withdraw Protest on the following persons, by U.S. first class mail, postage pre-paid, addressed as follows:

Herbert R. Nurick, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

John A. Pillar, Esquire
Pillar and Mulroy, P.C.
Suite 700
312 Boulevard of the Allies
Pittsburgh, PA 15222

Dated: May 20, 1986



Norman J. Barilla
Attorney for the New Castle Area
Transit Authority

218 East Washington Street
New Castle, PA 16101
(412) 654-5549