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PATRICIA ARMSTRONG
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JOHN A. ALZAMORA
JOHN G. SHORT

July 16, 1992

John G. Alford, Secretary
Pennsylvania Public Utility Commission
North Office Building
P. O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
JUL 16 1992
SECRETARY'S OFFICE
Public Utility Commission

In re: Pennsylvania Public Utility Commission
v. Broadway Moving & Storage, Inc.
~~A-00106599~~

Petition for Reinstatement

Dear Mr. Alford:

Enclosed on behalf of Broadway Moving & Storage, Inc. are an original and two (2) copies of its Petition for Reinstatement of its Certificate of Public Convenience for failure to maintain proper evidence of current insurance for the reasons stated therein.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By

Jack F. Aschinger
Jack F. Aschinger



JFA:r:B7A
Encl.

cc: Richard Crocker, President
Broadway Moving & Storage, Inc.
130 Durand Avenue
Trenton, NJ 08611

D. L. Heller
Michael G. Curran Insurance Agency, Inc.
45 Thornridge Drive
Levittown, PA 19054

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

JUL 16 1992

SECRETARY'S OFFICE
Public Utility Commission

Pennsylvania Public Utility :
Commission :
v. :
Broadway Moving & Storage, :
Inc. :

A-00106599 ~~6-9201~~

JUL 24 1992

PETITION FOR REINSTATEMENT

AND NOW, comes Broadway Moving & Storage, Inc., by its attorneys, and petitions the Commission for reinstatement of its Certificate of Public Convenience, cancelled under order of the Commission, dated July 2, 1992, for failure to maintain evidence of current insurance in violation of Section 512 of the Public Utility Code. In support thereof, it is respectfully represented as follows:

1. Broadway Moving & Storage, Inc. ("BROADWAY MOVING"), a New Jersey corporation, was insured by Progressive Casualty Insurance Company ("PROGRESSIVE") under a policy for the policy term of 3/29/90 to 3/29/91 and from 3/29/91 to 3/29/92. BROADWAY MOVING received an end-of-the-year audit report indicating that an additional \$43,343.00 was due in premiums. BROADWAY MOVING immediately requested a re-audit, and as a good faith gesture, enclosed a check in the amount of \$10,000. PROGRESSIVE steadfastly refused to re-audit the books. The result has been two-fold:

DOCUMENT
FOLDER

(a) PROGRESSIVE cancelled evidence of insurance on file with the Commission. As a result, the Commission then instituted on April 23, 1992, an order to show cause against BROADWAY MOVING alleging that BROADWAY MOVING failed to maintain evidence of insurance in violation of Section 512 of the Public Utility Code, which ultimately resulted in the cancellation of its Certificate of Public Convenience by the Commission's Order, dated July 2, 1992, as more fully explained hereinafter.

(b) On April 20, 1992, a Civil Action was instituted by BROADWAY MOVING against PROGRESSIVE and is pending in the Superior Court of New Jersey, asserting in substance that PROGRESSIVE insured BROADWAY MOVING; PROGRESSIVE assessed BROADWAY MOVING additional insurance charges; that PROGRESSIVE negligently performed an end-of-the-year audit and refused to perform a re-audit; refused to correct its error; and refused to issue new insurance to BROADWAY MOVING until it paid the former policy overcharges, resulting in BROADWAY MOVING shutting down its operations in part due to its inability to perform

business without insurance.¹ In its Civil Action, BROADWAY MOVING seeks judgment against PROGRESSIVE for damages, compensatory damages, punitive damages, costs of the suit, attorneys fees and interest thereon. In addition, BROADWAY MOVING, by its New Jersey attorneys, requested an inquiry into this insurance dispute through the Department of Insurance of the State of New Jersey.

(c) While BROADWAY MOVING itself filed no answer to the Commission's Rule to Show Cause Order, it was because BROADWAY MOVING relied completely upon the assurances of its Insurance Agent that he had filed an answer to the Commission's Rule to Show Cause Order, and that he believed that the proper insurance was in effect as of May 5, 1992.² See Insurance Agent's letter to the Commission in Answer to the Commission's Rule to Show Cause Order attached hereto and made a part hereof.

2. BROADWAY MOVING, a New Jersey corporation, is a family-owned and operated business, established in the

¹Under procedures peculiar to New Jersey, BROADWAY MOVING is able to maintain evidence of insurance applicable to New Jersey operations.

²BROADWAY MOVING has not operated within Pennsylvania since receipt of the Commission's Order of July 2, 1992.

mid-1930's, providing interstate and New Jersey intrastate service from and to the Trenton, New Jersey and Morrisville-Yardley, Pennsylvania areas. Although the Company has its place of domicile in Trenton, New Jersey, it is Pennsylvania oriented in that the family owners are residents of Bucks County and maintain a registered office in Morrisville. BROADWAY MOVING operated within Pennsylvania for more than 40 years. For a complete history of its operations in Pennsylvania, see Commission's Order of September 24, 1987 and its Certificate of Public Convenience attached hereto and made a part hereof.

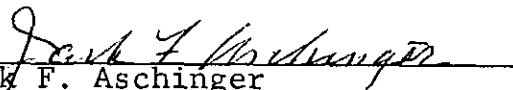
3. Under all the circumstances, it is respectfully requested that the Certificate of Public Convenience of BROADWAY MOVING be reinstated subject to a suspension of its operating rights until BROADWAY MOVING is afforded a reasonable opportunity to obtain new insurance of a responsible carrier, which has been ongoing since receipt of the Commission's Order of July 2, 1992.

WHEREFORE, it is respectfully requested that the
Petition of Broadway Moving & Storage, Inc. for
reinstatement of its Certificate of Public Convenience be
granted.

Respectfully submitted,

BROADWAY MOVING & STORAGE, INC.

By



Jack F. Aschinger
THOMAS, THOMAS, ARMSTRONG & NIESEN
212 Locust Street
P. O. Box 9500
Harrisburg, PA 17108
(717) 255-7609

Attorneys for
Broadway Moving & Storage, Inc.

DATE: July 16, 1992

BROAD/B7

TO: PA P.U.C.
Box 3265
HARRISBURG 17105

FROM

MICHAEL G. CURRAN
INSURANCE AGENCY, INC.

49 THORNBRIDGE DRIVE
HARRISBURG, PENNSYLVANIA 17104
Phone: (215) 945-3800

SUBJECT: Broadway Moving A 00106599 C9201

DATE: 5 May 92

We have submitted proper application, with required deposit premium to the NJ CAIP for above insured. It was assigned to Progressive as servicing carrier. The liability limit requested is \$750,000.

We requested proper filings both to NJ and PA PUC as well as ICC.


We have no evidence of completion of all filings as requested, and continue to press the carrier to give us evidence of filings.

I believe proper insurance is in effect as of this date, and will continue to pressure the carrier to do what they are obligated to do immediately on receipt of assignment.

The policy has not yet been received; on receipt I will send copy to you to match up with their filing.

PLEASE REPLY TO →

SIGNED


D. L. Heller

REPLY

DATE:

SIGNED

DETACH THIS COPY--RETAIN FOR ANSWER. SEND WHITE AND PINK COPIES WITH CARBONS INTACT.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

December 22, 1987

IN REPLY PLEASE
REFER TO OUR FILE

A. 00106599

Jack F. Aschinger, Esquire
212 Locust Street
P.O. Box 999
Harrisburg, PA 17108

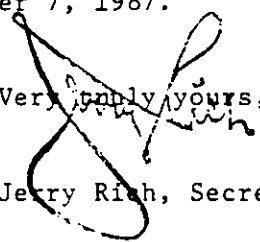
Application of BROADWAY MOVING & STORAGE, INC., a corp of the State of New Jersey

To Whom It May Concern:

The records of the Commission show that applicant has complied with the necessary tariff and insurance requirements.

Enclosed is the certificate of public convenience evidencing the Commission's approval of the right to operate.

Kindly attach the enclosures to the compliance order previously issued and mailed to you on October 7, 1987.

Very truly yours,


Jerry Rich, Secretary

EMD
Certified Mail

BROADWAY MOVING & STORAGE, INC.
130 Duran Avenue
Trenton, New Jersey 08611

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

IN THE MATTER OF THE APPLICATION OF

BROADWAY MOVING & STORAGE, INC., a corporation
of the State of New Jersey

CERTIFICATE
OF
PUBLIC CONVENIENCE

A. 00106599
Folder 1

The Pennsylvania Public Utility Commission hereby certifies that after an investigation and/or hearing had on the above entitled application, it has, by its report and order made and entered, a copy of which is attached hereto and made a part hereof, found and determined that the granting of said application is necessary or proper for the service, accommodation, convenience and safety of the public, and this certificate is issued evidencing its approval of the said application as set forth in said report and order.

In Testimony Whereof, The PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 22nd day of DECEMBER, 19 87,

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Attest:



Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 25, 1987

Commissioners Present:

Bill Shane, Chairman
Linda C. Taliaferro
Frank Fischl
William H. Smith

Application of Broadway Moving & Storage, Inc., a corporation of the State of New Jersey, for the right to begin to transport, as a common carrier, by motor vehicle, (1) household goods, personal effects and property used or to be used in a dwelling when a part of the furnishings, equipment or supplies of such dwelling as an incidental part of a removal by the householder from one domicile to another; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, in connection with the removal from one location to another; and articles, in use, including objects of art, displays and exhibits which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods, between points in the county of Bucks, and from points in said county, to points in Pennsylvania; (2) new and used furniture, fixtures and appliances, between points in the county of Bucks, and from points in said county, to points in Pennsylvania; (3) office equipment and supplies, new and used, between points in the county of Bucks, and from points in said county to points in Pennsylvania; (4) electronic equipment from the facilities of Indep, located in the borough of Willow Grove, Montgomery County, to points in Pennsylvania, and vice versa; and (5) electronic equipment from the facilities of Computer Hardware Service Center, located in the borough of Ivyland, Bucks County, to points in Pennsylvania, and vice versa.

A-00106599

Thomas & Thomas, by Jack F. Aschinger for the applicant.
William H. R. Casey for protestants: Diehl Storage Company, Clemmer
Moving & Storage, Inc., and Ware's Van and Storage, Inc.
John E. Fullerton for protestant, Movers World, Inc.
Scott A. Petri for protestants: Read's Van Service, Inc., and J. C.
Services, Inc., t/d/b/a J. C. Van Service.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on October 10, 1985, and published in the Pennsylvania Bulletin of December 7, 1985. Six carriers protested the application. One carrier withdrew upon reconsideration of its interest in the matter. The remaining five protestants withdrew upon restrictive amendment which prohibits service in certain areas of Bucks County in the proposed rights numbered (1), (2) and (3).

The unopposed record is now certified to the Commission for its decision without oral hearing. Verified statements were submitted by the applicant and 12 supporting shippers.

Richard N. Crocker, president of Broadway Moving & Storage, Inc. (or applicant), 130 Durand Avenue, Trenton, New Jersey, has entered a verified statement. The applicant corporation was organized under the laws of the State of New Jersey, and, on April 1, 1985, was qualified to conduct business in Pennsylvania as a foreign corporation. The company is operated by the applicant witness and his brother, David R. Crocker, secretary-treasurer. Both are residents of Pennsylvania.

The applicant holds household goods moving authority from the I.C.C. This application represents its initial entry into the field in Pennsylvania. Business is conducted from an office and warehouses in Trenton, New Jersey. Communications are conducted by telephone and three of its trucks are equipped with mobile phones for instant dispatch. Its equipment fleet consists of five tractors, nine straight trucks, one pickup truck, two window vans and nine trailers. Some trailers are equipped with hydraulic lift gates and other accessories for proper handling of household goods and office furnishings. The straight trucks are specially equipped to handle electronic components.

An unaudited balance sheet indicates that as of September 30, 1986, the applicant had current assets of \$149,337, total assets of \$263,483 with current liabilities of \$135,115 and total liabilities of \$137,410, leaving stockholders' equity of \$126,073. An unaudited statement of income for the applicant's fiscal year ended September 30, 1986, reveals that from revenues of \$858,332, the applicant incurred

expenses of \$850,184, leaving an operating income of \$8,148. It had accumulated retained earnings of \$111,073.

The applicant witness further submits that the applicant holds household goods moving authority from the I.C.C. and from the State of New Jersey. For years, it had been of the opinion that it had authority to render service between points in Pennsylvania under the I.C.C. authority which reads as follows:

"Between Trenton, New Jersey, on the one hand, and on the other hand, points in Pennsylvania, New York, Ohio, Delaware, Maryland, Rhode Island, Connecticut, Massachusetts and the District of Columbia."

"Between points in New Jersey, and Pennsylvania within 25 miles of Trenton, New Jersey (excluding Trenton), on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, Rhode Island, Connecticut, Massachusetts and the District of Columbia."

The I.C.C. authority dates back to 1940, at which time the rights were being operated by Peter Crocker, Jr., t/d/b/a Broadway Express. The misinterpretation centered on the second right which authorizes service "between points in New Jersey and Pennsylvania within 25 miles of Trenton, New Jersey (excluding Trenton), on the one hand, and on the other, points in ... (Pennsylvania). It was interpreted that under this authority, it could operate locally within Pennsylvania as long as it was done within 25 miles of Trenton.

The applicant operated within Pennsylvania under the misinterpretation for more than 40 years, until confronted by officers of this Commission relative to a movement between two points in Bucks County. A complaint was instituted, docketed at C-850005, and upheld by our order entered on January 21, 1985. The applicant satisfied the complaint by payment of the resulting fine. Since then, the applicant claims it has not conducted an intrastate operation in Pennsylvania. It now seeks appropriate authority through the immediate application.

Joseph F. Colyar is president of Computer Hardware Service Center located in Ivyland, Bucks County, and supports the applicant for the right proposed at (5) to transport electronic equipment to and from its Ivyland facilities. In its business as a computer refurb center, it has many different transportation companies loading and unloading computer equipment at its facilities which are the property of its customers. It is interested in serving its customer needs, many of which prefer to use the applicant for transportation of the equipment. The applicant has been used for interstate service with satisfactory results.

Continental Computer Leasing Corp., represented herein by its vice president of finance, Ronald E. Peeples, supports the applicant. The company, located in Newtown, Bucks County, has computer equipment which is shipped to Indep in Willow Grove, Montgomery County and Computer Hardware Service Center in Bucks County, which are computer refurbishing centers. Upon completion of the refurbishing work, the equipment is shipped from the centers to various areas of the state. The applicant has provided excellent service in interstate commerce. The service sought here would be very accommodating.

Agnes Hild, an employee of HIS Equipment Marketing Co., domiciled in Brooklyn, New York, sets forth in a supporting affidavit that as a buyer, seller and lessor of computer equipment, the company has had occasion to move equipment solely within the confines of Pennsylvania. It utilizes the refurbishing services of Indep in Montgomery County and Computer Hardware Service Center in Bucks County. The applicant has been used for most of the company's nation wide moves, however, as the Pennsylvania intrastate service occasions arise, it would be convenient to have the applicant available to provide this service as well.

John T. Topley of John T. Topley & Associates, currently uses the applicant to transport electronic equipment throughout the east. He feels that its excellent service and competitive prices would make the proposed intrastate service a valuable asset to his business. He also uses the refurb centers of Indep and Computer Hardware.

Joan Flanagan, general manager of Penn Jersey Business Machines, Inc., Morrisville, Bucks County, supports the applicant. The company has need for the transportation of office furniture to various points in Pennsylvania and requires a carrier that is properly equipped to lift and place the furniture at the desired customer locations. She will use the applicant if the service becomes available.

Fay B. Hackman is sales associate for R. A. Weidel Real Estate, Inc., located in Yardley, Bucks County, and has submitted a supporting verified statement. In the process of selling and showing real estate, she has occasion to arrange or refer moving services for her clientele at the rate of approximately four times a month. She has personally known the applicant for many years and would like to have its moving services available in Bucks County.

Helen S. Pedersen, a real estate broker operating as Pedersen Real Estate located in Falls Township, Bucks County, has the need to arrange for household goods moving services approximately two times a month. She knows that the applicant is reputable and has many satisfied customers. It would be very accommodating to her business to have the proposed service available in Bucks County.

The Colorcraft Corporation, Computer Leasing, Inc., and three other shippers of electronic equipment support the application, attesting to the need for transportation services to and from the facilities of

Indep in Montgomery County and Computer Hardware Service Center in Ivyland, Bucks County. Each shipper has used the applicant for interstate transportation and will use it in Pennsylvania if the proposed service becomes available.

DISCUSSION AND FINDINGS

Broadway Moving & Storage, Inc. is a family-owned and operated business, established in the mid 1930's and providing interstate and New Jersey intrastate service from and to the Trenton, New Jersey and Morrisville-Yardley, Pennsylvania areas. Although the company has its place of domicile in Trenton, New Jersey, it is Pennsylvania oriented in that the family owners are residents of Bucks County and maintain a registered office in Morrisville.

The applicant has not hesitated to point out that in the course of interpreting its grant of I.C.C. authority over the years, it presumed it had authority to provide intrastate service in that portion of Pennsylvania that was situated within 25 miles of Trenton. In reliance of this assumption, service was provided between points in that area of Bucks County that falls within 25 miles of Trenton, for the past 40 years.

Notwithstanding the applicant's contention that its interpretation of the I.C.C. authority was not unreasonable, the fact remains that service rendered on shipments having origin and destination in Pennsylvania requires the appropriate authority in the form of a certificate of public convenience or a permit. Absent either a certificate or a permit, it can only be concluded that the Pennsylvania intrastate service the applicant provided over the years was rendered illegally.

It is obvious that this application was placed before us as the result of a confrontation with officers of this Commission pursuant to the completion of an intrastate Bucks County move which resulted in a complaint. The complaint was instituted against the applicant on January 4, 1985, docketed at C-850005, wherein it was alleged to have provided service on or about September 24, 1984, between points in Pennsylvania without a certificate of public convenience or a permit. Our order was entered January 21, 1985, sustaining the complaint, and a fine of \$250.00 was assessed. The applicant satisfied the complaint and paid the fine on February 14, 1985.

We are inclined to allow the applicant the benefit of doubt and believe it had no intention to willfully circumvent the Public Utility Law. We do not feel that the illegal service was rendered in bad faith, and the fact it is now before us for certification is a measure of good faith in itself.

The applicant has applied for five individual rights, each of which has been altered to some extent by restrictive amendment. For clarification purposes, we deem it appropriate to set forth each right in its amended form. They now read as follows:

- (1) To transport household goods, personal effects and property used or to be used in a dwelling when a part of the furnishings, equipment or supplies of such dwelling as an incidental part of a removal by the householder from one domicile to another; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, museums, institutions, hospitals or other establishments, in connection with a removal from one location to another; and articles, in use, including objects of art, displays and exhibits which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods, between points in Bucks County, excepting those points north of U.S. Route 202 and those points south of a line which connects the municipal boundaries of Doylestown and Morrisville, but not excluding said places, as well as Newtown, and from said area to points in Pennsylvania.
- (2) To transport new and used furniture, fixtures and appliances, between points in Bucks County, excepting those points north of U.S. Route 202 and those points south of the line which connects the municipal boundaries of Doylestown and Morrisville; but not excluding said places, as well as Newtown, and from said points in said area to points in Pennsylvania, further limited to moves which are incidental or part of an office move or transfer. (Emphasis added)
- (3) To transport office equipment and supplies, new and used, between points in Bucks County, excepting those points north of U.S. Route 202 and those points south of a line which connects the municipal boundaries of Doylestown and Morrisville, but not excluding said places, as well as Newtown, and from points in said area to points in Pennsylvania, further limited to moves which are incidental or part of an office move or transfer. (Emphasis added)
- (4) To transport electronic equipment from the facilities of Indep, located in the borough of Willow Grove, Montgomery County, to points in Pennsylvania, and vice versa.
- (5) To transport electronic equipment from the facilities of Computer Hardware Service Center,

located in the borough of Ivyland, Bucks County, to points in Pennsylvania, and vice versa.

From a territorial standpoint, we have no problem with the amendment since it essentially precludes the applicant from serving the northern portion and a specified southern portion of Bucks County, but does preserve the Morrisville-Yardley areas (including Doylestown and Newtown) where the applicant's operation is entrenched. We do have difficulty with a portion of the amended authority which we have purposely emphasized in Right Nos. (2) and (3) above.

In the two rights, the applicant proposes to transport (2) new and used furniture, fixtures and appliances, and (3) new and used office equipment and supplies. The term "new and used" appears to have been contradicted by the amendment which further limits the service to "moves which are incidental or part of an office move or transfer". By limiting the authority to office moves or transfers, it would appear that the equipment, furniture and supplies are relegated to a used category and would eliminate entirely, the right to handle new equipment, furniture or supplies.

With the elimination of the right to transport new equipment, furniture or supplies, the right to handle the equipment, furniture or supplies in used condition is conveyed by the right to transport household goods, personal effects and property in the "broad form" service proposed at Right (1). Accordingly, any authority which may be granted hereinafter will be modified to the extent that Rights (2) and (3) will be omitted.

This matter of contradiction, among other things, had been called to the applicant counsel's attention by staff letter of April 7, 1987. Counsel concurred with our conclusion in his reply of June 26, 1987. It might be well to note also that the application is absent of any support relative to the need to transport new furniture, fixtures, appliances and supplies.

Relative to the broad form household goods moving services proposed at (1), and the right to transport electronic equipment proposed at (4) and (5), we conclude that the supporting evidence of shipper need is sufficient to sustain a determination that approval of the application will serve a useful purpose and be responsive to a public demand.

We find:

1. That the applicant is qualified to conduct business in Pennsylvania as a foreign corporation.
2. That the applicant is authorized to provide the type of service proposed here in interstate commerce and in New Jersey intrastate commerce.
3. That the applicant has rendered illegal service between points in Pennsylvania.

4. That the illegal service rendered in Pennsylvania was provided as the result of misinterpretation of its I.C.C. authority.

5. That the illegal service was not rendered with the willful intent to violate the Public Utility Law.

6. That the application is supported by 12 shippers who have displayed a need for the proposed service as amended and hereinafter modified.

7. That the applicant is financially fit, and has the necessary equipment and experience to render the proposed service as amended and modified.

8. That approval of the application, as amended and modified, is necessary for the accommodation and convenience of the public;
THEREFORE,

IT IS ORDERED: That the application be and is hereby approved as amended and modified, granting the applicant the following rights:

- (1) To transport, as a Class D carrier, household goods, personal effects and property, used or to be used in a dwelling when a part of the furnishings, equipment or supplies of such dwelling as an incidental part of a removal by the householder from one domicile to another; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments, when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, in connection with the removal from one location to another; and articles, in use, including objects of art, displays and exhibits which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods, between points in Bucks County, excepting those points north of U.S. Route 202 and those points south of a line which connects the municipal boundaries of Doylestown and Morrisville, but not excluding said places, as well as Newtown, and from said area to points in Pennsylvania.
- (2) To transport, as a Class D carrier, electronic equipment, from the facilities of Indep, located in the borough of Willow Grove, Montgomery County, to points in Pennsylvania, and vice versa.
- (3) To transport, as a Class D carrier, electronic equipment, from the facilities of Computer Hardware

Service Center, located in the borough of Ivyland, Bucks County, to points in Pennsylvania, and vice versa.


IT IS FURTHER ORDERED: That upon compliance with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of the Commission relative to the filing and acceptance of evidence of insurance, and a tariff establishing just and reasonable rates, a certificate issue evidencing the Commission's approval of the right to operate as above determined.

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

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

IT IS FURTHER ORDERED: That the application in all other respects be denied for lack of proof of necessity.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: September 25, 1987

ORDER ENTERED: OCT 07 1987

Thomas, Thomas, Armstrong & Niesen
Attorneys and Counsellors at Law

ORIGINAL

CHARLES E. THOMAS
JACK F. ASCHINGER
CARROLL F. PURDY
CHARLES E. THOMAS, JR.
D. MARK THOMAS
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JOHN A. ALZAMORA
JOHN G. SHORT

212 LOCUST STREET
P. O. BOX 9500
HARRISBURG, PA 17108-9500
(717) 255-7600
FAX (717) 236-8278
(VERIFY (717) 255-7816)

HLS

WRITER'S DIRECT DIAL NUMBER
255-7609

August 7, 1992

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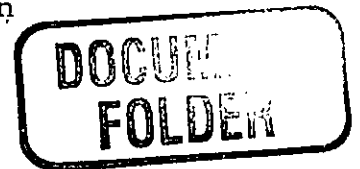
AUG 10 1992

John G. Alford, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

SE
Pub

RECEIVED

RE: Pennsylvania Public Utility Commission
v.
Broadway Moving and Storage, Inc.
Ac-00106599 ~~0001~~



SUPPLEMENT TO PETITION FOR REINSTATEMENT

Dear Mr. Alford:

Enclosed on behalf of Broadway Moving and Storage, Inc. are an original and two (2) copies of a Supplement to its Petition for Reinstatement of its Certificate of Public Convenience for failure to maintain proper evidence of current insurance.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By

Jack F. Aschinger
Jack F. Aschinger

G:F8

Enclosure

cc: Richard Crocker, President - w/enc.
Broadway Moving and Storage, Inc.
130 Durand Avenue
Trenton, NJ 08611

D. L. Heller
Michael G. Curran Insurance Agency, Inc.
45 Thornridge Drive
Levittown, PA 19054

ORIGINAL

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AUG 17 1992

Pennsylvania Public Utility
Commission
v.
Broadway Moving and Storage,
Inc.

C-00106599 ~~65201~~

AUG 10 1992

SEC. OFFICE
Public Utility Commission

**DOCUMENT
FOLDER**

SUPPLEMENT TO PETITION FOR REINSTATEMENT

AND NOW, comes Broadway Moving and Storage, Inc., by its attorneys, and supplements, in the nature of a progress report, its petition to the Commission for reinstatement of its Certificate of Public Convenience, cancelled under order of the Commission, dated July 2, 1992, for failure to maintain evidence of current insurance, in violation of Section 512 of the Public Utility Code, as follows:

1. Letter of New Jersey Automobile Insurance Plan ("NJ CAIP Plan") to Progressive Casualty Insurance Company ("Progressive"), dated June 22, 1992, which requires Progressive to review the premium audit dispute. See Attachment A.

2. Letter of Progressive, dated July 9, 1992 to NJ CAIP Plan advising that a new audit will be scheduled. See Attachment B. The audit has been scheduled for 8/12/92. The civil action instituted by Broadway is still pending in the Superior Court of New Jersey.

3. Broadway has reapplied to the NJ CAIP for insurance, with a \$5,000.00 check as a deposit.

4. NJ CAIP Plan's "Notice to Applicant" (Broadway), dated 8/4/92, that its application for insurance had been assigned to Progressive. See Attachment C.


5. Reference is made on the "Notice to Applicant" to the reverse side of this Notice for important information relative to this assignment. See Attachment D (reverse side of the Notice) as to the effectiveness of the insurance.

6. Documentation should be filed with the Pennsylvania Public Utility Commission by Progressive.

Respectfully submitted,

BROADWAY MOVING & STORAGE, INC.

By



Jack F. Aschinger
THOMAS, THOMAS, ARMSTRONG & NIESEN
212 Locust Street
P. O. Box 9500
Harrisburg, PA 17108-9500
(717) 255-7600

Attorneys for
Broadway Moving and Storage, Inc.

DATED: August 7, 1992

NEW JERSEY AUTOMOBILE INSURANCE PLAN

302 CENTRAL AVENUE, JOHNSTON, R.I. 02919-4995
401-946-2800

June 22, 1992

Patty Harris
Progressive Casualty Insurance Company
Box 94762
Cleveland, Ohio 44101

RE: New Jersey Automobile Insurance Plan
Broadway Moving & Storage

Dear Patty:

This letter is in reference to the captioned New Jersey Plan insured.

Progressive is attempting to collect an outstanding earned premium from this insured.

The producer is disputing the development of the earned premium based on the following:

Radius of Operation

The audit conducted in August 1991, determined that the insured's operation is 48% intermediate, 45% local and 6% long haul. In order to determine the radius of operation. Progressive reviewed 77 bills of lading. The producer contends that the random sampling of 77 bills of lading does not accurately reflect the nature of the operation. The producer would like information as to how Progressive determined that the inspection of 77 bills of lading is an accurate sampling. Also note that the list of bills of lading as shown in the audit, does not indicate the date that the goods were hauled.

Financial Records

According to the insured, the financial records audited by Progressive were from September 1, 1989 to August 31, 1990. The insured feels that the financial records for this time period do not accurately reflect the activity of the insured during the policy period as the policy was in force from March 29, 1990 to August 28, 1991.

Please review this matter and revise as to your findings.

Very truly yours,

Michael Tutalo

Michael Tutalo
Administrative Assistant

MT/lg

cc: Chuck Weidman, Broadway Moving and Storage

progressive

INSURANCE SERVICES
P.O. BOX 94762
CLEVELAND, OHIO 44101

July 9, 1992

Mr. Michael Tutalo
Administrative Assistant
The New Jersey Automobile Insurance Plan
302 Central Avenue
Johnston, RI 02919-4995


Re: Broadway Moving & Storage, Policy #IS04972873

Dear Mr. Tutalo:

We are in receipt of your correspondence dated June 22, 1992. We have reviewed the file and the premium audit in dispute. Due to the fact that the records audited were not for a time period that exactly corresponds to the policy period, we will order a new audit and postpone any further collection activities until that audit can be performed and reviewed.

We will attempt to schedule a new audit within the next thirty days. If the insured refuses to schedule, cancels, or refuses to produce all the required records, we will immediately resume collection activities and no further activities will be performed to adjust the premium.

Sincerely,



Patricia J. Harris
Division Underwriting Manager
Progressive Casualty Insurance Company

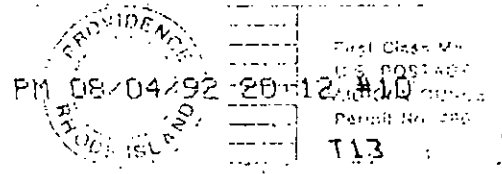
cc: Mr. Richard Crocker, Broadway Moving & Storage

Attachment C

NOTICE TO APPLICANT:

Your application for insurance has been assigned to the following insurance company:

27335 U OF
PROGRESSIVE CAS INS CO - SC
P.O. BOX 94762
CLEVELAND, OH 44101



FIRST CLASS MAIL

PRODUCER

CURRAN M G
49 THORNRIE DR
LEVITTOWN PA 19054

AIR CASE NUMBER: 920801232900

STATE: NJ CAIP

EFFECTIVE DATE AND TIME: 07/30/92

ASSIGNED 08/04/92

Note: Please refer to the reverse side of this Notice for important information relative to this assignment.



BROADWAY MOVING
130 DURANCE AVE
TRENTON

NJ

08611

AUTOMOBILE INSURANCE PLANS
P.O. BOX 6560
PROVIDENCE, R.I. 02940-6560

The Insurance Company named on the front side of this Notice has been designated to process your application for insurance, in accordance with the provisions of the AIP of this state, for the vehicles described in the application to the Plan and the coverages therein requested, to the extent the applicant is entitled to such coverage under the rules of the Plan. If and when issued, your insurance policy shall be effective as of the date specified on the front side of this Notice. If the application does not indicate limits of coverage requested, in no event will coverage exceed basic limits.

The company accepting this applicant acknowledges itself advised that the terms, conditions and limitations of the policy of insurance in current use by the company for the kind of insurance to which the applicant may be entitled shall apply to your application from the effective date specified on the front side of this Notice and the applicant accepts this Notice under such terms, conditions and limitations. Any policy accepted by the applicant shall be regarded as fulfilling the application, and such policy shall replace and render this Notice null and void.

ORIGINAL

Thomas, Thomas, Armstrong & Niesen
Attorneys and Counsellors at Law

CHARLES E. THOMAS
JACK F. ASCHINGER
CARROLL F. PURDY
CHARLES E. THOMAS, JR.
D. MARK THOMAS
PATRICIA ARMSTRONG
THOMAS T. NIESEN
JOHN A. ALZAMORA
JOHN G. SHORT

212 LOCUST STREET
P. O. BOX 9500
HARRISBURG, PA 17108-9500
(717) 255-7600
FAX (717) 236-8278
(VERIFY (717) 255-7618)

HL S
WRITER'S DIRECT DIAL NUMBER

717/255-7609

September 9, 1992

RECEIVED

SEP 10 1992

SECRETARY'S OFFICE
Public Utility Commission

John G. Alford, Secretary
Pennsylvania Public Utility Commission
North Office Building
P. O. Box 3265
Harrisburg, PA 17105-3265

In re: Pennsylvania Public Utility Commission
v.
Broadway Moving & Storage, Inc.
A-00106599

Dear Mr. Alford:

To further supplement our Petition for Reinstatement, we enclose an original and two (2) copies of a letter, dated August 31, 1992, by Progressive Casualty Insurance Company to Richard Crocker, President, Broadway Moving & Storage, Inc. indicating a new policy has issued. We have been further informed that evidence of insurance (Form E) will be filed this day with the Commission. A Form F is enclosed for your further information.

Very truly yours,

THOMAS, THOMAS, ARMSTRONG & NIESEN

By

Jack F. Aschinger
Jack F. Aschinger

JFA:r:W5
Encls.

DOCUMENT
FOLDER

progressiveGAIP DIVISION
6080 PARKLAND BOULEVARD
MAYFIELD HTS., OH 44124
PO BOX 94782 CLEVELAND OH 44101
800 876-8010

August 31, 1992

Mr. Richard Crocker, President
Broadway Moving and Storage Co., Inc.
130 Durand Avenue
Trenton, NJ 08611**RECEIVED**

SEP 10 1992

SECRETARY'S OFFICE
Public Utility Commission

Re: Broadway Moving & Storage Co., Inc., Policy # IS04972873

Dear Mr. Crocker:

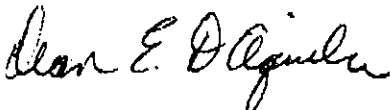
I have reviewed the second premium audit on the above-referenced policy and have made the following changes on both terms:

1. All vehicles except the 1989 Isuzu Trooper have been rated with an intermediate radius.
2. The cost of hire has been changed to \$96,002 for each term.
3. The surcharges have been removed from the 1987 Ford van for the 1991-1992 term reducing the premium for that vehicle and the rate per \$ 100 for cost of hire.

These changes have resulted in a total credit to the policy. The total earned premium for the policy was \$33,215.00. The total amount paid (including two payments received with new applications in the amounts of \$9,405 and \$5,000) was \$41,166.00 generating a credit of \$7,951. This credit, in addition to a deposit of \$5,000 has been applied to your new policy # CNJ0009062328-2.

If I can be of any further service, please do not hesitate to contact me.

Sincerely,

Dean E. D'Aquila
Senior Underwriter
Progressive Casualty Insurance Company**DOCKETED**

SEP 17 1992

**DOCUMENT
FOLDER**

progressive companies

Progressive Casualty Insurance Company
 Progressive American Insurance Company
 Progressive County Mutual Insurance Company
 Progressive Southeastern Insurance Company
 Progressive Northwestern Insurance Company

Progressive Specialty Insurance Company
 Progressive Northern Insurance Company
 Progressive Gulf Insurance Company

(specify)

FORM F

UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE ENDORSEMENT

It is agreed that:

1. The certification of the policy, as proof of financial responsibility under the provisions of any State motor carrier law or regulations promulgated by and State commission having jurisdiction with respect thereto, amends the policy to provide insurance for automobile bodily injury and property damage liability in accordance with the provisions of such law or regulations to the extent of the coverage and limits of liability required thereby; provided only that the insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except by reason of the obligation assumed in making such certification.
2. The Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance has been filed with the State Commissions indicated on the reverse side hereof.
3. This endorsement may not be cancelled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured and no further notice is required to commence to run from the date the notice is actually received in the office of such Commission.

Attached to and forming part of Policy No. CNT 000 9062 328

issued by PROGRESSIVE CASUALTY INSURANCE CO., herein called Company
 of PO BOX 94762 CLEVELAND OH 44101 to BROADWAY MOVING
 of 130 DURAND AVENUE TRENTON NJ 08611

Dated at CLEVELAND OH 44101 this 9 day of SEPTEMBER, 19 92

Countersigned by *Josette Potts*
 (Authorized Company Representative)

/ - INDICATES STATE COMMISSIONS WITH WHOM UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE HAS BEEN FILED.

ALABAMA	ILLINOIS	MONTANA	RHODE ISLAND
ALASKA	INDIANA	NEBRASKA	SOUTH CAROLINA
ARIZONA	IOWA	NEVADA	SOUTH DAKOTA
ARKANSAS	KANSAS	NEW HAMPSHIRE	TENNESSEE
CALIFORNIA	KENTUCKY	NEW JERSEY	TEXAS
COLORADO	LOUISIANA	NEW MEXICO	UTAH
CONNECTICUT	MAINE	NEW YORK	VERMONT
DELAWARE	MARYLAND	NORTH CAROLINA	VIRGINIA
DISTRICT OF COLUMBIA	MASSACHUSETTS	NORTH DAKOTA	WASHINGTON
FLORIDA	MICHIGAN	OHIO	WEST VIRGINIA
GEORGIA	MINNESOTA	OKLAHOMA	WISCONSIN
HAWAII	MISSISSIPPI	OREGON	WYOMING
IDAHO	MISSOURI	PENNSYLVANIA	XX ICC MC 77414 XX