





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

August 23, 1988

IN REPLY PLEASE  
REFER TO OUR FILE

A-00108100

DOCKETED

AUG 29 1988

DOCUMENT  
FOLDER

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

Application of Edward R. Rathway Trucking, Inc., a corporation of the Commonwealth of Pennsylvania

Enclosed is the compliance order issued by the Commission in this proceeding.

A Contract Carrier Permit evidencing the Commission's approval of the right to operate will not be issued until the applicant has complied with the following insurance and tariff requirements:

- I. Arrange through an insurance agent to have an insurance company file with the Commission a Form E as evidence of public liability and property damage insurance coverage as shown on the back of this sheet.
- II. File a bilateral contract, if required by the order.
- III. Prepare and file a schedule of minimum rates and charges according to the enclosed instructions.

Effective date: August 1, 1987

Minimum Limits for PA Public Utility Commission Authorized Service

Passenger Carriers:

- 15 passengers or less: \$35,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.
- \$25,000 first party medical benefits, \$10,000 first party wage loss benefits and \$1,500 first party funeral benefits for all passengers and pedestrians.
- \$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits for drivers (PA registered vehicles only).
- 16 passengers or more: \$5,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

Property Carriers:

- Common or Contract: \$300,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.
- \$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits (PA registered vehicles only).
- Common only: \$5,000 per accident per vehicle for loss or damage to cargo.

No motor carrier shall operate or engage in any transportation until compliance with all of the above requirements and a contract carrier permit has been issued authorizing actual operations. Motor carriers operating without complying with the above requirements will be subject to the penalty provisions of the Public Utility Code.

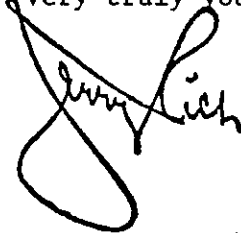
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty days will cause the Commission to rescind the action of August 18, 1988 and dismiss the application without further proceedings.

If you foresee any problems in meeting these requirements, please direct your questions to the following contact persons:

Insurance Filings: Mr. James McCarthy-Insurance Section  
(717) 783-5933

Tariff Filings: Mr. Joseph Machulsky-Tariff Section  
(717) 787-5521

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jerry Rich". The signature is written in black ink and is positioned above the typed name of the signatory.

Jerry Rich, Secretary

cc: Edward R. Rathway Trucking, Inc.  
R.D. 2, Box 174  
Perryopolis, PA 15473

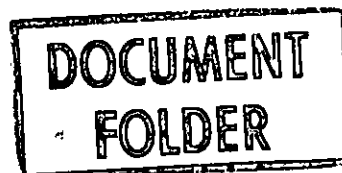
fao  
Enclosures  
Certified Mail  
Receipt Requested

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

Public Meeting held August 18, 1988

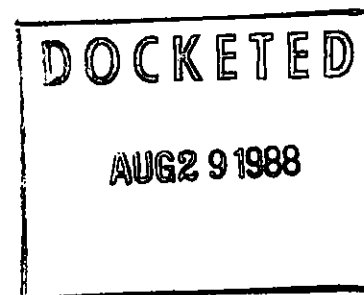
Commissioners Present:

Bill Shane, Chairman  
William H. Smith, Vice-Chairman  
Linda C. Taliaferro  
Joseph Rhodes, Jr.  
Frank Fischl



Application of Edward R. Rathway Trucking, Inc., a corporation of the Commonwealth of Pennsylvania, for the transfer of all of the operating rights of Edward R. Rathway, t/d/b/a Edward R. Rathway Trucking, under the permit issued at A-00103854 subject to the same limitations and conditions.

A-00108100



\_\_\_\_\_  
Pillar and Mulroy, P.C., by John A. Pillar for the applicant.  
\_\_\_\_\_

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed March 25, 1988. Public notice of the application was given in the Pennsylvania Bulletin of May 14, 1988. The unopposed application is certified to the Commission for its decision without oral hearing.

Edward R. Rathway, Inc. (applicant), is a Pennsylvania corporation, chartered March 7, 1988, with its principal place of business in Perryopolis, Fayette County. Edward R. Rathway (the transferor) is president of the corporation and his wife, Ann Louise Rathway is secretary and treasurer. The two officers hold all of the corporation's outstanding stock as tenants by the entireties. As evidence of its financial capacity to begin operation, the applicant reports assets of \$5,950, with liabilities of \$950, leaving a shareholders' equity of \$5,000. This transfer is essentially a change of business form from sole proprietorship to corporation, with no real change in ownership, management or method of operation.

The transferor's initial grant of authority was to serve Northbrook Mining, Inc., between points in five counties (A-00103854, order adopted may 7, 1982). By subsequent amendment the transferor was granted authority to serve the same shipper between points in Pennsylvania (A-00103854, Folder 1, Amendment B, order adopted June 15, 1983). Since the authority of the initial grant is completely encompassed in Amendment B we will eliminate the initial grant as unnecessary surplus authority.

The applicant has not submitted contracts with the shippers as required by 66 Pa. C.S. §2506. Prior to providing service, the applicant will be required to file with this Commission bilateral contracts which comply with the provisions contained at 52 Pa. Code §31.45. The contracts shall place specific obligations upon the shippers and the carrier, and must state a specified number of shipments during a stated period of time. The contracts shall also state the authority granted by this order.

The total consideration for the rights is the nominal sum of one dollar (\$1.00). No tangible assets are involved. The sales agreement required the consideration to be paid at the execution of the agreement on March 30, 1988.

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

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

We find:

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

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

1. To transport, as a contract carrier by motor vehicle, property, for Tri-State Pallet & Repair, Inc., between points in the borough of Fairhope, Fayette County, and from points in said boroughs, to points in Pennsylvania and vice versa.

2. To transport, as a contract carrier by motor vehicle, coal for Northbrook Mining, Inc., between points in Pennsylvania.
3. To transport, as a contract carrier by motor vehicle, coal, for R. P. Suto Coal and Minerals, Inc., between points in Pennsylvania.
4. To transport, as a contract carrier by motor vehicle, coal, for Intercarbon Coal Company, between points in Pennsylvania;

subject to the following condition:

That no right, power or privilege is granted to provide service to, from or between points in the county of Somerset except for shipments originating at the borough of Donora, Washington County, destined to the borough of Hooversville, Somerset County.

5. To transport, as a contract carrier by motor vehicle, property, for Burrell Group, Inc., Burrell Construction and Supply Company, Standard Terminals, Inc., Burrell Trucking, Inc. and Penn Builders Supply Company, between points in Pennsylvania;

subject to the following condition:

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

6. To transport, as a contract carrier by motor vehicle, property, in bulk, in dump vehicles, for Matt Canestrone Contracting, Inc., between points in the counties of Washington and Westmoreland, and from points in said counties to points in Pennsylvania, and vice versa.
7. To transport, as a contract carrier by motor vehicle, property, in bulk in dump vehicles, for Russell Minerals-Fayette, Inc., from its facilities located in the counties of Fayette and Westmoreland, to points in Pennsylvania, and vice versa.
8. To transport, as a contract carrier by motor vehicle, coal and coke, for Purco Coal, Inc., and Sunshine Fuels Company, between points in the counties of Fayette and Westmoreland,

and from points in said counties to points in Pennsylvania and vice versa.

9. To transport, as a contract carrier by motor vehicle, coal and coke, for Marquis Mining Corp., and J. M. Adams Coal, between points in Pennsylvania.

subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present permit holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in its accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$1.00, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above; and subject to further adjustment due to any normal interim transactions to the date of actual transfer.
4. That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its accounts any amounts representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
5. That the operating authority granted herein, or now held or subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.

6. That the permit holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 PA C.S.A. §2503(b).

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and the filing of a schedule of minimum rates and charges.


IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a permit issue evidencing the Commission's approval of the right to operate as above-determined.

IT IS FURTHER ORDERED: That the issuance of the permit is contingent upon the applicant filing acceptable contracts in accordance with the requirements of 52 Pa. Code §31.45.

IT IS FURTHER ORDERED: That in the event said 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 upon compliance with this order, the rights granted the transferor, Edward R. Rathway, t/d/b/a Edward R. Rathway Trucking, at A-00103854, be cancelled and the record be marked closed.

BY THE COMMISSION,



Jerry Rich  
Secretary

(SEAL)

ORDER ADOPTED: August 18, 1988

ORDER ENTERED: AUG 23 1988

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you with the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

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

<p>3. Article Addressed to:  <i>A. 108100</i>  <i>John A. Pillar, Esq.</i></p>	<p>4. Article Number  <b>4949</b></p> <p>Type of Service:  <input type="checkbox"/> Registered      <input type="checkbox"/> Insured  <input checked="" type="checkbox"/> Certified      <input type="checkbox"/> COD  <input type="checkbox"/> Express Mail</p> <p>Always obtain signature of recipient or agent and <b>DATE DELIVERED</b></p>
<p>5. Signature — Addressee  <i>X</i></p>	<p>8. Addressee's Address (requested and fee paid)  <i>S. Wardzinski</i></p>
<p>6. Signature — Agent  <i>X</i>      <i>S. Wardzinski</i></p>	
<p>7. Date of Delivery  <b>AUG 25 1988</b></p>	

PS Form 3811, Mar. 1987

\* U.S.G.P.O. 1987-178-268

DOMESTIC

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