

PUC - 77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE</u> : March 15, 1989	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU</u> : Law	MAR-89-L-192*
4. <u>SECTION(S)</u> : Motor Carrier	5. <u>PUBLIC MEETING DATE</u> :
6. <u>APPROVED BY</u> : Director: Povilaitis 7-5000 Supervisor: House 3-3713	March 30, 1989
7. <u>MONITOR</u> :	
8. <u>PERSON IN CHARGE</u> : Debra Paist 3-3713	
9. <u>DOCKET NO</u> : A-00107697	
10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines) (b) Short summary of history & facts, documents & briefs (c) Recommendation	<div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>DOCKETED</p> <p>APR 21 1989</p> </div>

(a) Application of R.P. Blair Equipment Rentals, Inc.; Ivyland, Bucks County; Petition for Reinstatement of Order Approving Transfer Application.

(b) By an Order entered December 11, 1987, the Commission approved the application of R.P. Blair Equipment Rentals, Inc. (Blair) for transfer to it of the operating authority of sole proprietor R.P. Blair, Jr. The December 11 Order was conditioned upon Blair's filing acceptable evidence of insurance and a tariff adoption supplement. By Secretarial Letter dated October 20, 1988, Blair's application was dismissed for failure to file evidence of bodily injury/property damage insurance and cargo insurance or a waiver of cargo insurance. By a petition received November 4, 1988, Blair has requested reinstatement of the December 11 Order approving its transfer application. Commission records show that proper evidence of bodily injury/property damage insurance was filed with the Commission and that the cargo insurance exemption form has also been filed with the Commission.

(c) For the reasons stated in the proposed order, the Law Bureau recommends that the Commission adopt the proposed order reinstating the Commission's December 11 Order approving Blair's transfer application.

11. <u>MOTION BY</u> : Commissioner Chm. Shane	Commissioner Rhodes - Yes
	Commissioner Smith - Yes
<u>SECONDED</u> : Commissioner Fischl	Commissioner

CONTENT OF MOTION: Staff recommendation adopted.



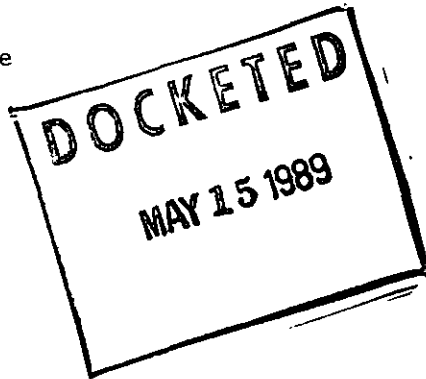
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

April 10, 1989

IN REPLY PLEASE
REFER TO OUR FILE

A-107697

James W. Patterson, Esquire
1800 Penn Mutual Tower
510 Walnut Street
Philadelphia, PA 19106



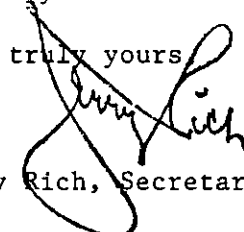
Application of R. P. Blair Equipment Rentals, Inc.; Ivyland, Bucks
County; Petition for Reinstatement of Order Approving Transfer
Application.

To Whom It May Concern:

This is to advise you that an Order has been adopted by the
Commission in public meeting held March 30, 1989.

An Executed Order has been enclosed for your records.

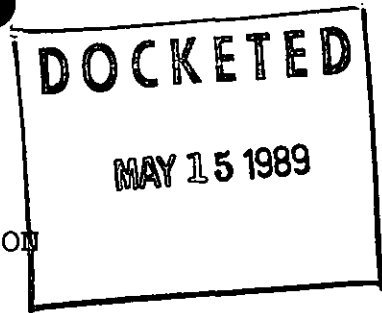
Very truly yours


Jerry Rich, Secretary

lg
Encls.
Cert. Mail

Law Bureau
Bureau of S & C
Bureau of Trans.
J. Lauver
Mr. McCarthy
Tariff
Frances Jones

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120



Public Meeting held March 30, 1989

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice Chairman
Joseph Rhodes, Jr., Commissioner
Frank Fischl, Commissioner



Application of R.P. Blair Equipment
Rentals, Inc.; Ivyland, Bucks County;
Petition for Reinstatement of Order
Approving Transfer Application.

Docket No.
A-00107697

O R D E R

BY THE COMMISSION:

Now before the Commission for consideration is a Petition of R.P. Blair Equipment Rentals, Inc. (Blair) for Reinstatement of the Commission's Order entered December 11, 1987 at A-00107697.

On July 20, 1987, Blair filed an application for transfer to it of the operating authority held by Rubin P. Blair, Jr., at A-00099574. Public notice of the application was given in the Pennsylvania Bulletin of September 12, 1987, and no protests were filed to the application.

By an Order adopted December 3, 1987, and entered December 11, 1987, at A-00107697, the Commission found that a continuing need existed for the transportation involved in the application, that Blair had the technical and financial ability to provide the proposed transportation, that approval of transportation was necessary for the accommodation and convenience of the public. Consequently, the Commission approved the transfer application conditioned upon Blair's filing, within sixty days from the service date of the order, acceptable evidence of insurance and a tariff adoption supplement pursuant to 52 Pa. Code § 23.13(c).

By a letter dated January 12, 1988, the Commission's Bureau of Transportation reminded Blair of the tariff filing requirement in the Commission's December 11 Order. Commission records show that on February 4, 1988, a tariff adoption supplement was filed on behalf of Blair.

By a Secretarial Letter dated October 20, 1988, Blair was advised that its application was dismissed for Blair's failure to comply with the insurance filing requirements stated in the Commission's December 11 Order. By a letter/petition received November 4, 1988, Blair requests that the Commission reinstate its December 11 Order approving Blair's transfer application.

In reviewing reinstatement petitions, we consider three factors: (1) the amount of elapsed time between the dismissal of the petitioner's application and the filing of the reinstatement petition; (2) the petitioner's history of violations of the Public Utility Code and the Commission's regulations pursuant thereto, and (3) the reasonableness of the excuse offered by petitioner for the act of noncompliance resulting in the dismissal of the petitioner's application. Application of Brandon & Gina, Inc., A-00103413 (order adopted February 9, 1989, entered February 21, 1989); see Re Bishop, 58 Pa. P.U.C. 519 (1984).

Blair's Reinstatement Petition was filed within fifteen days of the dismissal of Blair's application. Consequently, Blair's Reinstatement Petition was expeditiously filed.

Other than the delay in complying with the Commission's December 11 Order, Commission records do not evidence any instance in which Blair (transferee) has failed to comply with the Public Utility Code and the Commission's regulations. However, we are mindful that the purpose of Blair's transfer application is, as we noted in our December 11 Order, to change the form of Blair's business from a sole proprietorship to a corporation. The transferor is Rubin P. Blair, Jr., who is the sole officer and shareholder of the applicant/transferee (Blair). Due to the close affiliation and association between the transferor and the transferee, we consider it appropriate to review the compliance history of the transferor in determining whether to grant Blair's Reinstatement Petition. See, e.g., Application of Tosh Moving & Storage, Inc., A-00098380, F.2 (order adopted October 29, 1987, entered November 9, 1987).

Commission records show that from 1983 to 1988, transferor Rubin P. Blair, Jr., failed to comply with the Public Utility Code or Commission regulations on five separate occasions documented by Commission complaints. Two of the Commission complaints concerned untimely filings of annual reports. One Commission complaint involved the absence of a valid driver medical examination certificate card aboard a motor vehicle operated on behalf of Rubin P. Blair, Jr. A fourth complaint cited the absence of a valid driver medical examination certificate aboard the operated motor vehicle and also cited an air pressure drop of more than three PSI per minute. The fifth

complaint again concerned the lack of a driver medical examination certificate aboard the operated vehicle but additionally cited inoperative front wheel brakes, inoperative low air warning device, and inoperative third and fourth axle rear brakes. All the complaints were satisfied by the payment of monetary penalties or the filing of the delinquent annual reports.

In its Reinstatement Petition, Blair asserts that it now has proper evidence of bodily injury/property damage liability insurance (Form E) on file with the Commission, and Commission records substantiate this assertion. Furthermore, Blair admits in its Petition that as of the date of the October 20 Secretarial Letter, Blair had not submitted either evidence of cargo liability insurance or a cargo liability insurance exemption form. Blair explains in its Petition that it did not realize the necessity for filing a cargo waiver affidavit inasmuch as its transportation would be exempt from cargo insurance under 52 Pa. Code § 32.13(b), namely, transportation, in dump trucks, of property having a value of no more than \$500 per load.¹ Blair attached to its Reinstatement Petition a completed exemption from cargo insurance form.

Weighing the factors present in this case, we conclude that we should exercise our discretion to reinstate our December 11 Order approving Blair's transfer application. However, Blair is hereby cautioned that its record of compliance is not a good one. We will not view future lapses as leniently as this one. Should Blair's certificate be cancelled again, reinstatement may not be granted.

THEREFORE, IT IS ORDERED:

1. That the Petition of R.P. Blair Equipment Rentals, Inc. to Reinstate the Commission's December 11, 1987, Order at A-00107657 is hereby granted.

2. That this Commission's Secretarial Letter dated October 20, 1988, is hereby rescinded.

¹ Subsection 32.13(b) specifically states that the "subsection applies only if an affidavit stating that the vehicle is limited to the type of transportation described in this subsection is first filed with the Commission." (Emphasis added.)

3. That the Commission's Order adopted December 3, 1987 and entered December 11, 1987 at A-00107697 approving the transfer application of R.P. Blair Equipment Rentals, Inc., is hereby reinstated.

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 30, 1989

ORDER ENTERED: APR 10 1989

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

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

<p>3. Article Addressed to:</p> <p><i>A-109697 order</i> <i>James W. Patterson,</i> <i>only</i></p>	<p>4. Article Number</p> <p>44755</p>
<p>5. Signature — Address</p> <p><i>[Signature]</i></p>	<p>Type of Service:</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise</p>
<p>6. Signature — Agent</p> <p><i>[Signature]</i></p>	<p>Always obtain signature of addressee or agent and DATE DELIVERED.</p>
<p>7. Date of Delivery</p>	<p>8. Addressee's Address (ONLY if requested and fee paid)</p> <p><i>[Signature]</i></p> <p>APR 21 1989</p> <p><i>[Signature]</i></p>

PS Form 3811, Mar. 1988

* U.S.G.P.O. 1988-212-865

DOMESTIC RETURN RECEIPT

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