



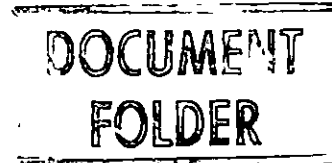
COMMONWEALTH OF PENNSYLVANIA
 PENNSYLVANIA PUBLIC UTILITY COMMISSION
 P. O. BOX 3265, HARRISBURG, Pa. 17120
 January 18, 1989

ISSUED:

IN REPLY PLEASE
 REFER TO OUR FILE

A-108005

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



Application of Roland T. Barry, t/d/b/a ABC--EZ Moving Co.

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Richard S. Herskovitz. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this Decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions MUST BE FILED WITH THE SECRETARY OF THE COMMISSION IN ROOM B-18, NORTH OFFICE BUILDING, NORTH STREET AND COMMONWEALTH AVENUE, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17120, within fifteen (15) days of the issuance date of this letter. The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa Code §1.11(a)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within ten (10) days of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (Name of Party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within fifteen (15) days, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs.

cc:ALJ Herskovitz/Office of ALJ/Law Bureau/Bureau of Trans./Mr. Bramson/OSA/
 Chairman/Commissioners/Correspondence/ Very truly yours,
 our file.

lg
 Encls.
 Certified Mail
 Receipt Requested

Allison K. Turner
 Chief Administrative Law Judge

Similar letter to: David M. O'Boyle, Esquire
 Wick, Streiff, Meyer, Metz & O'Boyle
 1450 Two Chatham Center
 Pittsburgh, PA 15219

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Roland T. Barry, : A-108005
t/d/b/a ABC--EZ Moving Co., :
for the right to begin to :
transport, as a common carrier, :
by motor vehicle, (1) as a :
Class B carrier, household :
goods, office furnishings and :
store equipment, in use, :
between points in the 27th Ward :
of the City of Pittsburgh and :
the Boroughs of Bellevue, Avalon, :
Ben Avon and West View and the :
Township of Ross, Allegheny :
County; (2) as a Class D carrier, :
household goods, office :
furnishings and store equipment, :
in use, from points in the 27th :
Ward of the City of Pittsburgh :
and the Boroughs of Bellevue, :
Avalon, Ben Avon and West View :
and the Township of Ross, :
Allegheny County, to other points :
in Pennsylvania within seventy- :
five (75) miles by the usually :
traveled highways of the City- :
County Building in the City of :
Pittsburgh; and (3) as a Class D :
carrier, household goods and :
office furniture, in use, between :
points in the County of :
Allegheny; which is to be a :
transfer of the rights authorized :
under the certificate issued at :
A-00092431 to Robert N. Fink, :
t/d/b/a Frank J. Irvin, subject :
to the same limitations and :
conditions. :

INITIAL DECISION

Before
Richard S. Herskovitz
Administrative Law Judge

History of the Proceedings

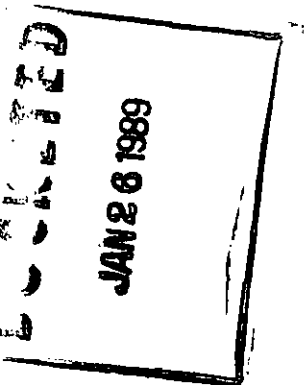
By Application filed February 24, 1988, Roland T. Barry, t/d/b/a ABC--EZ Moving Co. (Applicant or Transferee), seeks Commission approval for the transfer of the rights to transport household goods, office furnishings and store equipment currently held by Robert N. Fink, t/d/b/a Frank J. Irvin (Transferor), at A-00092431. More specifically, he requests transfer of the right to transport:

(1) as a Class B carrier, households goods, office furnishings and store equipment, in use, between points in the 27th Ward of the City of Pittsburgh and the Boroughs of Bellevue, Avalon, Ben Avon and West View and the Township of Ross, Allegheny County;

(2) as a Class D carrier, households goods, office furnishings and store equipment, in use, from points in the 27th Ward of the City of Pittsburgh and the Boroughs of Bellevue, Avalon, Ben Avon and West View and the Township of Ross, Allegheny County, to other points in Pennsylvania within seventy-five (75) miles by the usually traveled highways of the City-County Building in the City of Pittsburgh; and

(3) as a Class D carrier, household goods and office furniture, in use, between points in the County of Allegheny.

Notice of the Application was published in the Pennsylvania Bulletin on March 19, 1988, to be disposed of



without hearing provided no protests were filed on or before April 11, 1988. A timely Protest was filed by Patrick Kissel, Sr.

Hearing on the Application was held on September 7, 1988. Applicant represented himself. Protestant was represented by David M. O'Boyle, Esquire. The resulting record consists of a 75 page transcript, two Applicant Exhibits and three Protestant Exhibits. John A. Pillar, Esquire, subsequently filed an appearance and brief on behalf of Applicant. No brief was filed on behalf of Protestant.

Summary of Testimony

Roland Thomas Barry, Applicant, testified on his own behalf. Mr. Barry agreed to pay Robert Fink \$10,000 for the rights involved in the subject transfer Application (N.T. 6-7). Mr. Barry was formerly employed by Hamburg Brothers, a wholesale distributor in the tri-state area, for 32 years. He served in several capacities that he believes qualifies him to manage a moving company (N.T. 7-8).

Applicant owns a 1967 Ford truck and a 1980 Ford Econoline Van. He intends to use his residence as his office for the time being. He also intends to do small jobs that many other movers don't because they have minimum charges of \$150 or \$200. Mr. Barry is 57 years old. He will drive the trucks himself

initially. He will also do some of the actual physical moving of the goods himself (N.T. 8-9).

Applicant sponsored Exhibit 1, his financial statements (N.T. 10). He further testified that Mr. Fink had a voluntary suspension of his rights from the previous August (N.T. 12).

On cross-examination, Mr. Barry stated that the trade name of ABC--EZ Moving Company was registered as a fictitious name with the Secretary of the Commonwealth on February 26, 1988 (N.T. 18-19). Applicant further explained his financial arrangement with Mr. Fink; \$8,000 down and the remaining \$2,000 in monthly payments of \$90.46 (N.T. 20-22).

Applicant was unable to state the difference between the different classes of common carriers. He also did not know where the 27th ward in Pittsburgh was located and was not sure specifically what he could do under the rights to be transferred. He did state, however, that Mr. Fink would be available to advise him on all these matters (N.T. 23-26).

Mr. Barry would prefer to make local moves, North Hills moves, within Allegheny County, but would make moves anywhere within the limits of his authority (N.T. 26-28). Applicant further stated that if his present equipment isn't adequate to do the job, he would buy Mr. Fink's equipment. He keeps his equipment on his property at the present time (N.T. 28-29).

In discussing his assets, Mr. Barry testified that he valued his 1967 truck at \$3,500. His house is valued at \$80,000 and stocks \$20,000. He has \$15,000 cash and \$500 of materials and supplies such as pads and dollies. His only liability is the \$2,000 promissory note to Mr. Fink (N.T. 31-32).

Mr. Barry currently offers his two vehicles for rent. He advertises in the newspaper and will rent the truck pads and dolly for two hours for \$47. He will not provide drivers for the rented truck. He has, however, driven the truck on 15-20 occasions for someone who leased it, not being aware at those times that he was not supposed to do that. He learned from the Commission in March or April of 1987 that he couldn't provide a driver with a rental truck and has not done so since (N.T. 33-37).

Mr. Barry identified Protestant's Exhibits 1 and 2 as newspaper advertisements he placed for his truck rental service. He inserted a reference to truck rental in the Pennysaver ad after being told by them that anyone advertising motor carrier service must have a PUC number (N.T. 39-41).

Applicant testified further on cross-examination that he will be looking for a place to operate the business from if the rights are transferred (N.T. 42). He also testified that Mr. Fink's rights are still under voluntary suspension. Mr. Fink has not conducted any operations under his certificate since

August 1987 (N.T. 43). Mr. Barry intends to file the same tariff filed by Mr. Fink (N.T. 45).

Except for the two vehicles, all of Applicant's assets are owned jointly by Mr. Barry and his wife. The 1967 Ford is in Mr. Barry's name alone, and the 1980 van is titled in his son's name (N.T. 47-48).

There have been no complaints filed against Applicant before the PUC (N.T. 48). Mr. Barry concluded his testimony by again stating that Mr. Fink is available as an advisor and would advise him on all the proper safety regulations (N.T. 50).

Patrick Kissel, Sr., the Protestant, testified on his own behalf. He has been in the moving industry since 1957 and has held PUC operating authority at Docket No. A-99886 since 1976. The bulk of his business involves household goods both within and outside of Allegheny County (N.T. 53-55).

Mr. Kissel described his facilities, equipment and number of employees (N.T. 55-56). He then explained that he contacted the Applicant several times by telephone recently while checking into the advertisers who are not using a PUC number. He represents a group of local movers who will file a complaint with the Commission if the advertiser doesn't display a PUC number. He filed a complaint in March 1988 against Applicant, referred to as "Moving Are You", with the PUC. It was in the form of a letter and complained of operating without authority. The name

"Moving Are You" was taken from the Pennysaver ad. He stated the complaint was lost, so he refiled a month later. Nothing has been done since with regard to the complaint. There is no Commission docket number assigned to the complaint to his knowledge (N.T. 57-62).

Mr. Kissel explained the nature of his telephone calls to Applicant. He wanted to check how Applicant got around listing a PUC number in the Pennysaver ad. He stated that he talked to Mr. Barry who told him how much his service costs. Mr. Kissel's son also called and was told by Mr. Barry that he could rent the truck with or without a driver (N.T. 62-66).

Mr. Kissel further testified that he is protesting the Application because he feels it is impossible to compete against someone with no rules, no tariff (N.T. 67-68). The movers he represents are trying to get rid of the illegal operators (N.T. 69). Mr. Kissel feels Applicant is unfit and will continue to be unfit if granted authority (N.T. 70). He also feels there are already too many in the household moving industry (N.T. 71).

Mr. Barry, on rebuttal, testified his interest is to make money legally. He also commended Mr. Kissel for his efforts to keep the "gypsies" out of the business. He concluded by stating that he has no knowledge of the phone calls made to him by Mr. Kissel or his family (N.T. 71-72).

Findings of Fact

1. Applicant, Roland T. Barry, t/d/b/a ABC--EZ Moving Co., entered into a contract with Robert N. Fink to purchase Mr. Fink's operating rights at PUC Docket No. A-92431 for a consideration of \$10,000; \$8,000 down and \$90.46 monthly until the \$2,000 balance is paid in full (N.T. 6-7, 20-22).

2. Applicant is 57 years old and was formerly employed by Hamburg Brothers, a wholesale distributor, for 32 years as a warehouseman, warehouse manager, shipper, receiver, office manager, sales administrative manager and field sales manager (N.T. 7-8).

3. Applicant has total assets of \$255,789 and no liabilities other than the balance due to Mr. Fink on the \$2,000 promissory note executed in conjunction with the agreement to purchase the subject operating rights (N.T. 10, 32, Applicant Exhibit 1).

4. Mr. Fink's operating rights were placed in voluntary suspension in August 1987 until he could find a buyer for them (N.T. 12, 43).

5. Applicant registered the fictitious name of ABC--EZ Moving Co. with the Secretary of the Commonwealth in February 1988 (N.T. 17-19, Applicant Exhibit 3).

6. Mr. Fink has been engaged in moving household goods within Allegheny County for the past 20 years and will

advise Applicant on all matters concerning the operating rights and Commission regulations if the transfer is approved by the Commission (N.T. 23-26, 50).

7. Applicant owns a 1967 Ford truck with a remanufactured engine and parts, and his son owns a 1980 Ford Econoline Van. Both vehicles will be used in his moving business (N.T. 8, 31, 47-48).

8. Applicant will purchase additional equipment from Mr. Fink if his own equipment isn't adequate to do the job (N.T. 28).

9. Applicant currently keeps his equipment on his property which has a two car garage, concrete pad outside the garage and parking space alongside the garage (N.T. 28-29).

10. Applicant owns furniture pads, dollies and other moving supplies (N.T. 32).

11. Since his retirement in 1980, Applicant has been offering his property for rent (N.T. 33).

12. Since January or February of 1987, Applicant has offered his vehicles for rent (N.T. 33).

13. Although Applicant has driven trucks on 15 or 20 occasions for someone who leased them, when informed by the Commission in March or April of 1987 that he could not operate the trucks unless he had a PUC certificate, Applicant ceased

driving the vehicles and has not rented one with a driver since then (N.T. 35-37).

14. Applicant was not aware at the time he drove the rented vehicles that he could not do so without PUC operating rights (N.T. 35-37).

15. Applicant intends to adopt the tariff of Mr. Fink, and further intends to look into the office space previously rented by Mr. Fink to conduct his new business (N.T. 42, 45).

16. Protestant, Patrick Kissel, Sr., has held a PUC certificate at Docket No. A-99886 since 1976 for the right to transport household goods and office furniture within and outside of Allegheny County (N.T. 54-55).

17. Other than a letter complaint (docket number unknown) filed by Protestant against "Moving Are You" (allegedly Applicant's business) and three other advertisers of household goods hauling, alleging advertising without a PUC number and operating without proper PUC authority, there have been no complaints filed against Applicant before the Commission (N.T. 48, 57-62).

18. To date there has been no action on Protestant's letter complaint (N.T. 61-62).

Discussion

A person proposing to provide intrastate transportation services to the public for compensation must obtain from the Public Utility Commission a certificate of public convenience. Under Section 1103 of the Public Utility Code, 66 Pa. C.S. §1103, a "certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public."

The evidentiary criteria for determining whether a certificate of public convenience will be granted or denied in motor common carrier proceedings are codified at 52 Pa. Code §41.14:

(a) An applicant seeking motor common carrier authority has a burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need.

(b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service, and, in addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally.

(c) The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the

operations of existing common carriers to such an extent that, on balance, the granting of authority would be contrary to the public interest.

This proceeding involves the transfer of existing operating rights granted at Docket No. A-00092431 from Robert N. Fink, t/d/b/a Frank J. Irvin, to Applicant. In proceedings of this nature, the Commission applies the doctrine of "presumption of continuing necessity." First articulated in Application of Louis L. Grimm, 17 Pa. P.U.C. 25 (1937), this doctrine provides that the Applicant for the transfer of existing authority is not required to show that the underlying service authorized by the certificate being transferred is necessary or proper for the convenience of the public. It is presumed that the convenience once found (in the original certificate) continues until the contrary is shown by the Protestant. In Re Byerly, 440 Pa. 521, 270 A.2d 186 (1970). Accordingly, the Applicant here does not have the burden of proof specified in Section 41.14(a), that approval of the Application will serve a useful public purpose, responsive to a public demand or need.

Likewise, the Protestant in a proceeding involving the transfer of existing authority need not meet the burden of proof under Section 41.14(c), that entry of a new carrier would endanger or impair the operations of existing carriers to such an extent that the granting of the authority would be contrary to the public interest. Although Applicant is technically a "new

carrier", the operating authority sought to be transferred here is not new authority. The Commission has previously determined the issue of public necessity for the rights to be transferred. Thus, a Protestant should not be expected to submit evidence that the exercise of those rights by a different carrier would be contrary to the public interest.

What remains to be proven by the Applicant in transfer proceedings is that the Transferee possesses the technical and financial ability (fitness) to provide the proposed service. 52 Pa. Code §41.14(b). Additionally, in this case, Protestant has raised the issues of Applicant's propensity to operate safely and legally and abandonment by the Transferor of the rights in question.

Fitness

Every Application proceeding for motor carrier authority requires a determination that the Applicant is fit to render the proposed service. Both technical and financial fitness must be considered. Additionally, if required by the record, consideration must also be given to the Applicant's propensity, or lack thereof, to operate safely and legally. 52 Pa. Code §41.14(b). The evidence of record here establishes to my satisfaction that the Applicant is technically and financially fit to provide the proposed service.

Applicant has the equipment necessary to engage in this undertaking. He owns a 1967 Ford truck with a remanufactured engine and parts, and his son owns a 1980 Ford Econoline Van. Both vehicles will be used in his moving business (N.T. 8, 31, 47-48). Applicant also owns furniture pads, dollies and other supplies necessary in the moving business (N.T. 32). He will purchase additional equipment from the Transferor if necessary (N.T. 28). He also has space available on his property to conduct this business and store his equipment, and, if the Application is granted, he will look into renting the same office space the Transferor used previously (N.T. 28-29, 42).

While Applicant admitted on several occasions that he did not know many of the rules and regulations of the Commission and Department of Transportation that will apply to his operation if the Application is approved, he will seek the advice of the Transferor, Mr. Fink, on such matters (N.T. 23-26, 50). Mr. Fink has been engaged in moving household goods in Allegheny County for the past 20 years (N.T. 23). In any event, detailed knowledge of all the rules and regulations pertaining to ownership of a certificate of public convenience is not a prerequisite to such ownership. That Applicant is aware he must comply with a myriad of rules and regulations, asserts that he will comply with them, and can seek advice from other persons on such matters, whether it be the Transferor, an attorney, or

anyone else experienced in the industry, is sufficient evidence toward satisfying the technical ability requirement. Fitness certainly doesn't turn on whether the Applicant knows all the legalities associated with owning a PUC certificate.

As for Applicant's financial ability to provide the proposed service, he has total assets in excess of \$250,000 and liabilities of only the balance due Mr. Fink on the \$2,000 promissory note he executed as part of the consideration for the purchase of the operating rights (N.T. 10, 32, Applicant Exhibit 1).

Protestant briefly and weakly challenges Applicant's propensity to operate safely. However, the evidence does demonstrate that Applicant is familiar with the "rules of the road" and will be advised by the Transferor of any special safety regulations once his Application is approved (N.T. 48-50). The record is devoid of any other evidence on this matter. I therefore conclude that the record does not demonstrate that Applicant lacks a propensity to operate safely.

Protestant more vigorously attacks Applicant's propensity to operate legally. However, in cases where there is evidence of record that an Applicant has engaged in unauthorized transportation services, evidence of unlawful operations per se does not preclude approval of an Application for motor carrier authority. In order for such evidence to serve as the denial of

an Application for the authority, it must be demonstrated that the unauthorized service was provided in willful violation of the Public Utility Code and that the Applicant was not providing the service in good faith, or was not providing the service as a result of a bona fide misunderstanding of the law. Brinks, Inc. v. Pa. P.U.C., 500 Pa. 387, 456 A.2d 1342 (1983); Bunting Bristol Transfer, Inc. v. Pennsylvania Public Utility Commission, 418 Pa. 286, 210 A.2d 281 (1965); and D. F. Bast, Inc. v. Pennsylvania Public Utility Commission, 397 Pa. 246, 154 A.2d 505 (1959).

In support of its position that Applicant lacks a propensity to operate legally, Protestant references two newspaper ads of Applicant allegedly indicating that Applicant was providing the proposed service without first obtaining a PUC certificate (N.T. 57-62, Protestant Exhibits 1, 2). However, Applicant testified that he was advertising his truck rental business and did not know he had to include those specific words in his advertisements. After being informed of such by the newspaper, he inserted a reference to truck rental in his ad (N.T. 39-41, Protestant Exhibit 2).

Applicant also admitted that he had driven the truck on 15 or 20 occasions when rented by someone else. However, he was not aware at those times that he could not do so without a PUC certificate. He was informed by someone from the Commission in March or April of 1987 that he could not provide a driver with a

rental truck, and he has not done so since then (N.T. 33-37). To rebut this, Protestant testified that his son recently called Applicant and was told by Mr. Barry that he could rent a truck from him with a driver (N.T. 64-66). Even though I will not accord any weight to this hearsay testimony, I note that Applicant denied any knowledge of such phone calls in any event (N.T. 72)

Finally in this regard, Protestant testified that he filed a Complaint before the Commission against Applicant in March 1988 for operating without authority. The Complaint was in letter form and named three others as operating without authority in addition to Applicant. However, Applicant was referred to as "Moving Are You" (from the newspaper ad), no docket number has been assigned to the Complaint, and nothing has been done with regard to the Complaint since then (N.T. 57-62). Applicant is unaware of any Complaints filed against him (N.T. 48).

It is clear from the evidence above that Applicant has provided unauthorized motor carrier service on several occasions in the past. He readily admits he has done so. It is also equally clear that Applicant's transgressions of the law were not willful or intentional, but resulted from a bona fide misunderstanding of the law. Applicant is a neophyte in the motor carrier business and is not yet aware of what he can and cannot do. On each occasion when he was informed of his illegal

activity, he ceased that activity. Additionally, I am persuaded by his honesty and sincerity in this matter to operate a household goods transportation service lawfully. I therefore conclude that the evidence does not demonstrate that Applicant lacks a propensity to operate legally.

Abandonment

Protestant finally contends that the Transferor's operating rights have been abandoned. However, abandonment requires proof of intent to abandon together with external acts by which that intent is carried into effect. In Re Byerly, supra, and Morgan Drive Away, Inc. v. Pennsylvania Public Utility Commission, 6 Pa. Commonwealth Ct. 229, 293 A.2d 894 (1972). The evidence here is clearly to the contrary.

Applicant testified that the Transferor's operating rights were placed in voluntary suspension by the Commission in August 1987. The Commission's official files indicate this to be the case. The suspension was requested by the Transferor because he no longer wanted to operate but wanted time to find a buyer for his rights (N.T. 12, 43).

Even without this testimony, there is absolutely no other evidence to indicate the Transferor intended to abandon his operating authority. I therefore conclude that there has been no abandonment of the rights in question.

Conclusion

In light of the above, Applicant has met the burden of proof required for the transfer of authority requested in the Application. The above also demonstrates that the authority requested by Applicant has not been abandoned. I will therefore grant the Application.

Conclusions of Law

1. The parties to and subject matter of this proceeding are properly before the Commission.
2. In proceedings seeking the transfer of existing motor carrier operating authority, the Applicant does not have the burden of proving that the proposed service would serve a useful public purpose, responsive to a public demand or need.
3. Applicant possesses the necessary technical and financial ability to provide the proposed service.
4. Applicant has the propensity to operate safely and legally.
5. The operating rights sought to be acquired by Applicant have not been abandoned.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Application for the transfer of all the rights held by Robert N. Fink, t/d/b/a Frank J. Irvin, at Docket No. A-00092431 is hereby approved and that a certificate be issued to Roland T. Barry, t/d/b/a ABC-EZ Moving Co. granting the following rights:

1. To transport, as a Class B carrier, households goods, office furnishings and store equipment, in use, between points in the 27th Ward of the City of Pittsburgh and the Boroughs of Bellevue, Avalon, Ben Avon and West View and the Township of Ross, Allegheny County;

2. To transport, as a Class D carrier, households goods, office furnishings and store equipment, in use, from points in the 27th Ward of the City of Pittsburgh and the Boroughs of Bellevue, Avalon, Ben Avon and West View and the Township of Ross, Allegheny County, to other points in Pennsylvania within seventy-five (75) miles by the usually traveled highways of the City-County Building in the City of Pittsburgh; and

3. To transport, as a Class D carrier, household goods and office furniture, in use, between points in the County of Allegheny.

Subject to the following general conditions:

A. That the approval hereby given is not to be understood as

committing this Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the rights to be acquired by Applicant from the present certificate holder equal to the consideration to be paid therefore, or equal to any value that may be placed thereon by Applicant, or to approve or prescribe rates sufficient to yield a return thereon.

- B. That Applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
- C. That the Applicant charge to Account 1550, Other Intangible Property, \$10,000, being the amount of consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under Condition B above.

2. That the operating authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the carrier, shall not be construed as conferring more than one operating right.


3. That the Applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing

of insurance and the filing and acceptance of a tariff establishing just and reasonable rates.

4. That in the event Applicant has not, on or before 60 days from the date of service of this Order, complied with the requirements set forth above, the Application shall be dismissed without further proceedings.

5. That upon compliance with this Order, the rights granted the Transferor, Robert N. Fink, t/d/b/a Frank J. Irvin, at Docket No. A-00092431, are hereby cancelled and the record marked closed.

Date: January 6, 1989



RICHARD S. HERSKOVITZ
Administrative Law Judge

2/1

ACT 294

Case Identification: A-108005; Application of Roland T. Barry,
t/d/b/a ABC--EZ Moving Company

Recommended Decision by: ALJ Richard S. Herskovitz

Deadline For Return To OSA: February 1, 1989

ALJ Recommendation: That the application for a transfer of
authority to applicant to permit operation
as a common carrier transporting household
goods in use be granted.

DOCUMENT
FOLDER

* * * * *

DOCKETED
JAN 31 1989

I want full Commission review of this decision.

Commissioner

DATE

I do not want full Commission review of this decision.

Bill Sharone pw
Commissioner

1-26-89
DATE

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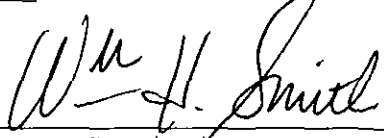
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I want full Commission review of this decision.

Commissioner

DATE

I do not want full Commission review of this decision.



Commissioner

1-27-89

DATE

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* * * * *

I want full Commission review of this decision.

Commissioner

DATE

I do not want full Commission review of this decision.

X *Joseph Rhodes, Jr.*

Commissioner

1/27/89

DATE

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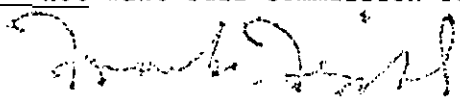
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I want full Commission review of this decision.

Commissioner

DATE

I do not want full Commission review of this decision.



Commissioner

1-26-89

DATE