

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCUMENT
FOLDER REF

Pennsylvania Public Utility Commission,
Bureau of Transportation and Safety,

Docket No.
A-00107168C0107

v.

Donald Fix t/a Don Farr Moving Company

DOCKETED

DEC 27 2001

INTERIM ORDER ONE –
PERTAINING TO BOTH PREHEARING AND HEARING MATTERS

2001 DEC 26 AM 9:42
PA PUC
SECRETARY'S BUREAU

RECEIVED

By notice to the parties dated December 14, 2001, the above-captioned complaint is scheduled for a prehearing conference to be immediately continued into the initial evidentiary hearing on Thursday, March 14, 2002, at 10:00 a.m. in an available hearing room at Suite 1103, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania, with ALJ James D. Porterfield as the presiding officer. Accordingly, the parties are hereby directed to comply with the following requirements:

1. You must serve me directly with a copy of any document that you file in this proceeding at the time of filing. If you send me any correspondence or document, you **must** send a copy to **all** other parties. For your convenience, a copy of the Commission's current service list of the parties to this proceeding is enclosed with this Order.

2. A request for a change of the scheduled hearing date must be submitted in writing no later than five (5) days before the hearing. 52 Pa. Code §1.15(b).

A request for a change of the initial hearing date must be sent to me, the Administrative Law Judge, with copies to all parties of record. The correct address is: Pennsylvania Public Utility Commission, Office of Administrative Law Judge, 1103 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222-1210. Only the Administrative Law Judge or Office of Administrative Law Judge Scheduling Unit may grant a request for a change of the date for an initial hearing. Such changes are granted only under circumstances where sufficient cause exists. If any party has any questions regarding this procedure, you may contact me at 412-565-3550.

3. Consistent with the foregoing, absent a timely request for a continuance for good cause (that is, no later than five days before the scheduled prehearing conference and initial evidentiary hearing), all parties must be prepared to participate in the scheduled prehearing conference and initial evidentiary hearing.

4. Please review the regulation pertaining to prehearing conferences, 52 Pa. Code §5.222, and in particular, subsection (d), which provides, in part:

(d) Participants and counsel will be expected to attend the conference *fully prepared for useful discussion* of all problems involved in the proceeding, both procedural and substantive, and *fully authorized to make commitments* with respect thereto. *The preparation should include, among other things, advance study of all relevant materials, and advance informal communication between the participants*, including requests for additional data and information, to the extent it appears feasible and desirable.

(Emphasis added.)

5. **YOU ARE ADVISED THAT YOU MAY LOSE THIS CASE IF YOU DO NOT TAKE PART IN THIS HEARING AND PRESENT EVIDENCE ON THE ISSUES RAISED.**

6. Please review the regulations relating to discovery: specifically, 52 Pa. Code §5.331(b), which provides, among other things, that “[p]articipants shall endeavor to initiate discovery as early in the proceedings as reasonably possible,” and 52 Pa. Code §5.322, which encourages participants to exchange information on an informal basis. All parties are urged to cooperate in discovery. Such cooperation is preferable to numerous or protracted discovery disagreements, which may require the presiding officer’s participation for resolution. Please be aware that there are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa. Code §§5.361, 5.371–5.372.

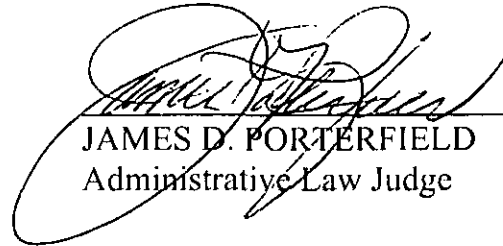
7. The parties’ attention is invited to sections 1.21; 1.22; and 1.23 of Title 52 to the Pennsylvania Code regarding the requirement that corporations be represented by legal counsel. Consult section 1.22 for the qualifications legal counsel must possess in order to represent a corporation in an adversarial proceeding. By choice, individuals may represent themselves.

8. To the extent that the subject complaint alleges that the Public Utility Code or other statute has been violated, the burden of proof is on the Bureau of Transportation and Safety, the Complainant. However, to the extent that the complaint alleges that Donald Fix t/a Don Farr Moving Company, the Respondent, violated a regulation or order of the Commission, the burden of proof is on the Respondent to prove that it is or was in compliance with the relevant determination, regulation, or order of the Commission. Moreover, the Respondent is advised that subsection 315(c) of the Public Utility Code also places the burden of proof on a public utility, that is, the Respondent, when the adequacy of services or facilities is at issue: “In any proceeding upon the motion of the commission, involving the service or facilities of any public utility, the burden of proof to show that the service and facilities involved are adequate, efficient, safe, and reasonable shall be upon the public utility.” 66 Pa. Code §315(c).

9. If you intend to subpoena witnesses for the hearing, you should review the procedures established at 52 Pa. Code §5.421. You must submit your written application to me sufficiently in advance of the hearing date so the other parties will have the required ten (10) days' notice to answer or object, and so you will have enough time to receive the subpoena and serve it.

10. Commission policy is to encourage settlements. 52 Pa. Code §5.231(a). Therefore, you are urged to discuss informally between yourselves the possible settlement of (or any part of) this case at least one week before the hearing. If you are unable to settle this case, you may still resolve as many questions or issues as possible during your informal discussion.

Dated: December 19, 2001



JAMES D. PORTERFIELD
Administrative Law Judge

SERVICE LIST: A-00107168C0107

R.K. Smith Jr., Esq.
PA Public Utility Commission
Bureau of Transportation and Safety
P.O. Box 3265
Harrisburg, PA 17105-3265

Donald Fix
t/a Don Farr Moving Company
4920 Buttermilk Hollow Road
West Mifflin, PA 15122

Louis W. Emmi, Esq.
201 Lebanon Shops
300 Mt. Lebanon Blvd.
Pittsburgh, PA 15234