

PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheets

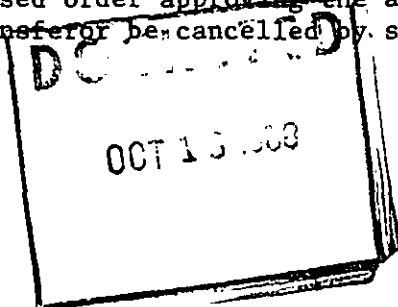
|  |   |                                |
|--|---|--------------------------------|
| 1. <u>REPORT DATE:</u>                                   | : | 2. <u>BUREAU AGENDA NO.</u>    |
| August 30, 1988  | : | SEP-88-T-1048*                 |
| 3. <u>BUREAU:</u>  | : |                                |
| Transportation   | : |                                |
| 4. <u>SECTION</u>  | : | 5. <u>PUBLIC MEETING DATE:</u> |
| Technical Review   | : |                                |
| 6. <u>APPROVED BY:</u>                                   | : |                                |
| Director: Ernst 7-2154                                   | : | September 29, 1988             |
| Supervisor: Bigelow/Marzolf 3-5945                       | : |                                |
| 7. <u>MONITOR:</u>                                       | : |                                |
|  | : |                                |
| 8. <u>PERSON IN CHARGE:</u>                              | : |                                |
| White 7-4387   | : |                                |
| 9. <u>DOCKET NO.:</u>                                    | : |                                |
| A-00108130   | : |                                |
| 10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines) |   |                                |
| (b) Short summary of history & facts, documents & briefs |   |                                |
| (c) Recommendation                                       |   |                                |

(a) Application of Anthony R. Popple, Wilkes-Barre, Luzerne County, for the transfer to him of all of the rights authorized under the certificate issued at A-00104280 to Philip Sarti, t/d/b/a Phil's Excavating, subject to the same limitations and conditions.

(b) The application is unopposed. We find that a continuing public need for the service does exist and that the applicant is fit, ready, willing and able to render same.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application and that the certificate of the transferor be cancelled by supplemental order.

RW:np



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

CONTENT OF MOTION: Staff recommendation adopted.

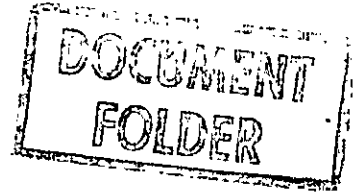


COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG, Pa. 17120

October 6, 1988

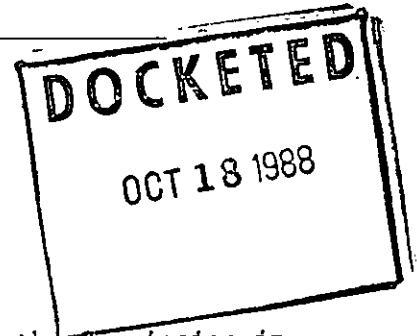
IN REPLY PLEASE  
REFER TO OUR FILE  
A-108130

James F. Geddes, Jr., Esquire  
1400 United Penn Bank Building  
Wilkes-Barre, PA 18701-1868



Application of Anthony R. Popple

To Whom It May Concern:



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

A Certificate of Public Convenience 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 the following forms with the Commission.
  - a. A Form E as evidence of minimum public liability and property damage insurance coverage as shown on the back of this sheet.
  - b. A Form H or Form UCPC-31 as evidence of cargo insurance coverage in an amount not less than \$5,000 per vehicle. Under certain circumstances, exemption from the cargo insurance requirement may be secured by filing the enclosed Form PUC-288.
- II. Prepare and file a tariff according to the enclosed instructions except applicants for transfer of authority must file a tariff adoption supplement which will be forwarded by separate cover at a later date.

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 certificate has been issued authorizing actual operations. A motor carrier 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 day period will cause the Commission to rescind the action of September 29, 1988 and dismiss the application without further proceedings.

If you foresee 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 black ink, appearing to read "Jerry Rich", written over a large, stylized flourish or scribble.

Jerry Rich, Secretary

lg  
Enclosures  
Certified Mail  
Receipt Requested  
cc:applicant

Anthony R. Popple  
90 Pine Road  
Trailwood  
Wilkes-Barre, PA 18702

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

Public Meeting held September 29, 1988

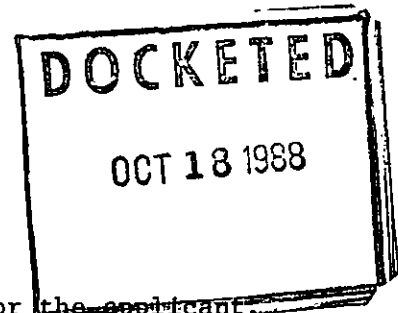
Commissioners Present:

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



A-00108130

Application of Anthony R. Popple, for the right to begin to transport, as a common carrier by motor vehicle, sand, gravel, cinders, railroad ties, coal, blacktop, ashes, fill, demolition debris, topsoil and dirt, between points in the counties of Lackawanna, Luzerne, Susquehanna and Wyoming; which is to be a transfer of the rights authorized under the certificate issued at A-00104280 to Philip Sarti, t/d/b/a Phil's Excavating, subject to the same limitations and conditions.



Silverblatt & Townsend, by James F. Geddes, Jr., for ~~the applicant.~~

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on May 6, 1988, and published in the Pennsylvania Bulletin of June 18, 1988. There are no protests and the record is now certified to the Commission for its decision without oral hearing.

Anthony R. Popple (or applicant) operates as a sole proprietor from his place of business at 90 Pine Road, Trailwood, Wilkes-Barre, Luzerne County, where he is engaged in the equipment rental business. He holds no motor carrier operating authority of any kind and is not affiliated with other carriers.

The applicant owns one tractor, one semi-trailer and three tri-axle dump trucks which are available and suitable for use in providing the service involved herein. A financial statement shows that he has current assets of \$172,963, total assets of \$570,095, with current liabilities of \$209,036 and total liabilities of \$403,554, leaving a net worth of \$166,541.

The total consideration for the operating authority is \$2,500. No tangible assets are involved. The sales agreement requires the consideration to be paid immediately upon receipt of our final order approving the application.

On October 5, 1987, an order was entered at A-00104280C871, instituting a complaint against the transferor for failure to file evidence of insurance. The certificate was suspended on July 1, 1987, the date the insurance coverage expired. In response, the transferor filed a request on January 11, 1988, for a voluntary suspension so a transfer application could be filed. In the interim, an order was entered on January 29, 1988, cancelling the certificate. By our further order adopted February 19, 1988, the order of January 29, 1988 was rescinded upon condition that the transferor file evidence of renewed insurance or an application for transfer on or before July 1, 1988. The immediate transfer application was placed before us on a timely basis on May 6, 1988.

We note in the original grant of authority to the transferor, the inclusion of the right to transport "ashes" was given its own discussion. The transportation of ashes in dump trucks is exempt pursuant to the provisions at 66 Pa. C.S. §102(4). Because the transferor's operating fleet consisted of both dump vehicles and tractor/semi-van trailer units, the right to haul ashes was left intact, assuming there was an outside chance that vehicles other than dump trucks would be used. The same situation is present here with the applicant's operating fleet which also includes a tractor/semi-trailer unit. Accordingly, we will not disturb the right to transport ashes in this proceeding.

The transferor avers that he will leave no unpaid business debts from the operation. Our records show that he has satisfied all obligations due this Commission.

The transferor was active in the business up until the time of voluntary suspension, which became necessary due to failing health problems. The applicant is anxious to acquire the authority and restore service to the public. We believe a continuing public need for the service does exist and that the applicant is fit to provide it.

We find:

1. That a continuing public need for the service does exist.
2. That the applicant is fit, ready, willing and able to provide the service.
3. That approval of the application is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application for transfer of the authority held by Philip Sarti, t/d/b/a Phil's Excavation at A-00104280, be and is hereby approved and that a certificate be issued granting the applicant the following right:

To transport, as a Class D carrier, sand, gravel, cinders, railroad ties, coal, blacktop, ashes, fill, demolition debris, topsoil and dirt, between points in the counties of Lackawanna, Luzerne, Susquehanna and Wyoming.

subject to the following 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 right to be acquired by applicant from the present certificate 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 his utility accounts any amount representing the right herein granted in excess of the actual cost of such right to the original holder thereof.
3. That the \$2,500 consideration paid by applicant for the right and/or going concern value of the business be capitalized by applicant in Account 1550 - Other Intangible Property or in the alternative be charged off against applicant's ownership equity less any amount recorded under condition 2 above; provided the latter is sufficient in amount to absorb said charge off.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until he 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 a tariff establishing just and reasonable rates.

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 the 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.

IT IS FURTHER ORDERED: That upon compliance with this order, the right granted the transferor, Philip Sarti, t/d/b/a Phil's Excavation, at A-00104280 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in cursive script, appearing to read "Jerry Rich", written over a large, loopy flourish.

Jerry Rich  
Secretary

(SEAL)

ORDER ADOPTED: September 29, 1988

ORDER ENTERED: OCT 06 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 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.  Restricted Delivery  
 ↑(Extra charge)↑

|   |  |
|---|--|
| 3. Article Addressed to:<br><i>A-108130 order</i><br><i>James F. Hedderly</i> | 4. Article Number<br><b>44371</b>  |
|   | Type of Service:<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured<br><input type="checkbox"/> Certified <input type="checkbox"/> COD<br><input type="checkbox"/> Express Mail |
| 5. Signature - Addressee<br><i>James F. Hedderly</i>                          | 8. Addressee's Address (ONLY if requested and fee paid)<br><b>OCT - 7 1988</b>   |
| 6. Signature - Agent<br><i>Chris Cagle</i>                                    |  |
| 7. Date of Delivery   |  |

PS Form 3811, Mar. 1987

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

DOMESTIC RETURN RECEIPT

**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 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.  Restricted Delivery  
 ↑(Extra charge)↑

|  |  |
|--|--|
| 3. Article Addressed to:<br><i>A-108130 order</i><br><i>Philip Sarti, Ha</i><br><i>Phil's Excavating</i> | 4. Article Number<br><b>44372</b>  |
|  | Type of Service:<br><input type="checkbox"/> Registered <input type="checkbox"/> Insured<br><input type="checkbox"/> Certified <input type="checkbox"/> COD<br><input type="checkbox"/> Express Mail |
| 5. Signature - Addressee<br><i>Philip Sarti</i>  | 8. Addressee's Address (ONLY if requested and fee paid)  |
| 6. Signature - Agent<br><i>John Sarti</i>  |  |
| 7. Date of Delivery<br><i>10-11-88</i>   |  |

PS Form 3811, Mar. 1987

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

DOMESTIC RETURN RECEIPT



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

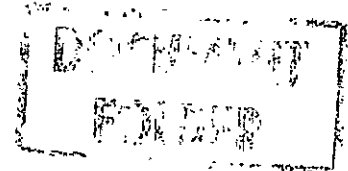
November 21, 1988

A-00108130

IN REPLY PLEASE  
REFER TO OUR FILE

R-16

James F. Geddes, Jr., Esquire  
1400 United Penn Bank Building  
Wilkes-Barre, PA 18701-1868



Anthony R. Popple

Dear Mr. Geddes:

Under date of October 6, 1988, the Secretary's office transmitted to you the Commission's compliance order of September 29, 1988, evidencing approval of the above carrier's application at A-00108130, which is in effect a transfer of the rights formerly held by Philip Sarti, t/d/b/a Phil's Excavating at A-00104280. The letter transmitting the order directs attention to the requirement for the filing of a tariff.

In accordance with the provisions of Pa. Code, Title 52, Section 23.13(c), you should immediately arrange to file adoption supplements with us whereby the tariff of the former operator will become the tariff of the latter, and no change in rates is permitted to cover the transfer of rights. To assist you in meeting this tariff requirement, we are enclosing three copies of the necessary supplement to be properly executed by you, the original and one copy of which must be returned to us for filing and the remaining one to be retained for your records. Upon the proper filing of the adoption supplements, the tariff requirements will be satisfied.

Very truly yours,  
Barry L. Ernst, Director  
Bureau of Transportation

By: Joseph M. Machulsky, Chief  
Financial Document Section

MHD:dmm  
Enclosure (1 set)

cc: Anthony R. Popple  
90 Pine Road  
Trailwood  
Wilkes-Barre, PA 18702

Contact Person: G. B. Harry  
(717) 783-5937

