

PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	March 19, 1991	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU:</u>	Transportation	:	APR-91-T-334*
4. <u>SECTION</u>	Technical Review	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>		:	April 5, 1991
Director:	Ernst 7-2154	:	
Supervisor:	Bigelow/Marzolf 3-5945	:	
7. <u>MONITOR:</u>		:	
8. <u>PERSON IN CHARGE:</u>	Pike 3-5947	:	
9. <u>DOCKET NO.:</u>	A-00108408, F. 1, Am-A (T/A)	:	

10. (a) CAPTION (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs
 (c) Recommendation

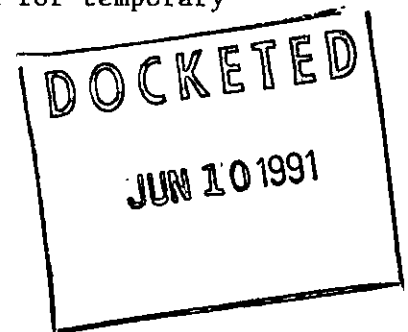
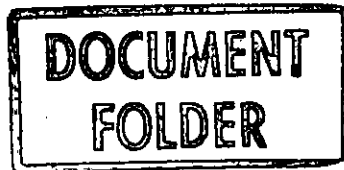
(a) Application of C.T. Hertzsch, Inc., Speed, Indiana, a corporation of the State of Indiana, for temporary authority to transport cement from points in Maiden creek Township, Berks County, to points in Pennsylvania, and vice versa.

(b) The applicant has not provided convincing evidence that an emergency exists.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed tentative decision denying the application for temporary authority.

DAP:np

RLS



11. MOTION BY:	Commissioner Chm. Smith	Commissioner Fischl - Yes
		Commissioner Holland - Yes
SECONDED:	Commissioner Rhodes	Commissioner Rolka - Yes

CONTENT OF MOTION: Staff recommendation adopted.

April 12, 1991

A-00108408
F.1, Am-A
(T/A)

Christian V. Graf, Esquire
Graf, Andrews & Radcliff, P.C.
407 North Front Street
Harrisburg, PA 17101

Application of C.T. Hertzsch, Inc., a corporation of the State of Indiana, for temporary authority to transport cement from points in Maiden creek Township, Berks County, to points in Pennsylvania, and vice versa.

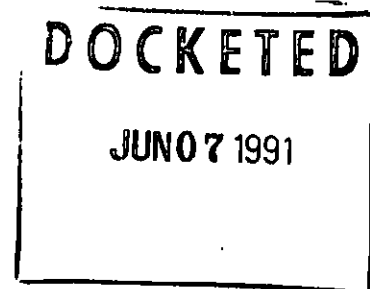
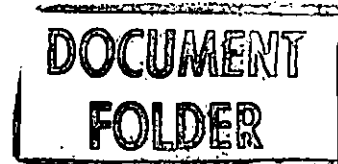
To Whom It May Concern:

This is to advise you that a Tentative Decision has been adopted by the Commission in Public Meeting on April 5, 1991 in the above entitled proceeding.

A Tentative Decision has been enclosed for your records.

Very truly yours,

Jerry Rich, Secretary



NVL

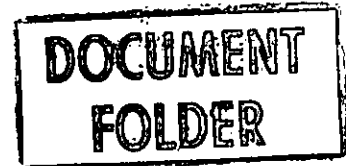
smk
Encls.
Cert.Mail

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 5, 1991

Commissioners Present:

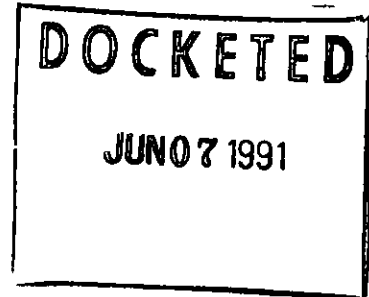
William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Frank Fischl, Commissioner
Wendell F. Holland, Commissioner
David W. Rolka, Commissioner



Application of C.T. Hertzsch, Inc., a corporation of the State of Indiana, for temporary authority to transport cement from points in Maiden creek Township, Berks County, to points in Pennsylvania, and vice versa.

A-00108408
F. 1
Am-A
(T/A)

Christian V. Graf for the applicant.



TENTATIVE DECISION

BY THE COMMISSION:

This matter comes before the Commission on an application for temporary authority filed January 16, 1991. Corresponding application for permanent authority has also been filed. Application for emergency temporary authority was denied by order adopted February 14, 1991.

The applicant, C.T. Hertzsch, Inc. wishes to serve Allentown Cement Company, Inc., (Allentown Cement) Maiden creek Township, Berks County. The shipper requires transportation of cement in bulk and packages to all points in Pennsylvania. Allentown Cement has decided to discontinue its private carriage. Allentown Cement requires a carrier able to guarantee exact time deliveries, on call without twenty-four hour notice. The shipper listed six failures to provide service by the currently certificated carriers, Schwerman and Chemical Leaman.

The applicant herein was granted authority by a certificate issued December 8, 1989 to transport cement between points in Pennsylvania, subject to several exclusions with the specific exclusion of service to or from the facilities of the supporting shipper herein. Authority for emergency temporary authority and temporary authority was approved for Venezia Hauling, Inc., by our orders adopted November 1, 1990 and December 20, 1990, docketed at A-00105332, F. 601. Allentown Cement also supported the Venezia Hauling, Inc. grant of ETA and TA authority for service from its facilities.

DISCUSSION AND FINDINGS

The failures (all of the service failures are dated in September) to provide service attested to in this application are identical to those furnished in support of Venezia Hauling, Inc. In Venezia's case Allentown Cement also noted five service failures by the applicant, C.T. Hertzsch. The Commission has already granted authority to meet the immediate need stated herein by its grant of emergency temporary authority and temporary authority to Venezia Hauling, Inc. The applicant has added nothing that would indicate further that temporary authority is necessary.

In light of the above facts, we find that the applicant has failed to prove that a situation exists which creates an immediate need for the proposed service; THEREFORE,

IT IS ORDERED: That the application for temporary authority be and is hereby denied for failure of the applicant to establish that an emergency exists which creates an immediate service need.

IT IS FURTHER ORDERED: That unless exceptions are filed within twenty (20) days from the date of service, this order shall become final.

IT IS FURTHER ORDERED: That the action taken on this application for temporary authority shall have no bearing on our decision in the application for permanent authority.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: April 5, 1991

ORDER ENTERED: APR 12 1991

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. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: **A-00108408, F.I, AM-A**

4. Article Number: **044262**

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature - Addressee
X Paul K. Hausch

6. Signature - Agent
X [Signature]

7. Date of Delivery

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 **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. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: **A-00108408, F.I, AM-A**

4. Article Number: **044263**

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature - Addressee
X M. Ziegler

6. Signature - Agent
X

7. Date of Delivery: **4/15/91**

8. Addressee's Address (ONLY if requested and fee paid)

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 **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. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: **A-00108408, F.I, AM-A**

4. Article Number: **044264**

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and **DATE DELIVERED**.

5. Signature - Addressee
X Christian V. Graf, Esq.

6. Signature - Agent
X

7. Date of Delivery: **4/13/91**

8. Addressee's Address (ONLY if requested and fee paid)
MA KJR

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 **DOMESTIC RETURN RECEIPT**

ENTRY NO. : 0001
NAME: C.T. HERTZSCH. INC.
ADDRESS1: 282 U.S. HIGHWAY 31
ADDRESS2:
CITY: SPEED STATE: IN ZIP: 47172-1396
REPRESENTING: SELF

ENTRY NO. : 0002
NAME: CHRISTIAN V GRAF ESQ
ADDRESS1: 407 NORTH FRONT STREET
ADDRESS2:
CITY: HARRISBURG STATE: PA ZIP: 17101
REPRESENTING: APPLICANT

ENTRY NO. : 0003
NAME: PAUL L GAUSCH DIR TRFC SERV
ADDRESS1: 102 PICKERING WAY
ADDRESS2:
CITY: EXTON STATE: PA ZIP: 19341
REPRESENTING: CLEMICAL LEAMAN TANK LINES PROTESTANT

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