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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: A-00108408, F001, Am-A Application of C.T. Hertzsch, Inc. Amendment so as to permit the transportation of cement, from points in the township of Maiden creek, Berks County, to points in Pennsylvania, and vice versa. Initial hearing.

- - - - -

Harrisburg, Pennsylvania
June 25, 1991

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Pages 1 to 34, inclusive

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HOLBERT ASSOCIATES
KATHY J. OWENS
Suite 203, Cranberry Court
212 North Third Street
Harrisburg, Pennsylvania 17101

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JUL 16 1991

SECRETARYS OFFICE
Public Utility Commission

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- - - - -

Stenographic report of hearing held in Hearing Room 1, North Office Building, Harrisburg, Pennsylvania,

Tuesday,
June 25, 1991
at 10:45 o'clock a.m.

- - - - -

BEFORE

HERBERT COHEN, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

CHRISTOPHER V. GRAF, ESQUIRE
407 North Front Street
Harrisburg, Pennsylvania 17101
Appearing on behalf of C.T. Hertzsch,
Incorporated

- - - - -

HOLBERT ASSOCIATES
KATHY J. OWENS
Suite 203, Cranberry Court
212 North Third Street
Harrisburg, Pennsylvania 17101

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Arnetta Dickey	5			
Richard J. Hohlefelder	7			
Dennis P. Miller	22			

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1 JUDGE COHEN: I apologize to all of the parties.
2 This is the time set for the hearing in the application of
3 C.T. Hertzsch, Inc., H-e-r-t-z-s-c-h, at docket number
4 A-00108408, Folder 001, Amendment-A.

5 This is an amendment to permit the transportation of
6 cement from points in the township of Maiden creek, Berks
7 County, to points in Pennsylvania, and vice versa. By
8 notice dated May 24, 1991, the following parties were
9 advised that an initial hearing on caption, rather, would be
10 held today June 25, 1991, at 10 a.m. in the available
11 hearing room in the ground floor of the North Office
12 Building, North Street and Commonwealth Avenue in
13 Harrisburg, Pennsylvania.

14 The notice was directed to Christian V. Graf and
15 David H Radcliff, on behalf of counsel for the applicant and
16 to the applicant, C.T. Hertzsch, Inc. at 282 U.S. Highway
17 31, Speed, Indiana. Zip number
18 47172-13406.

19 The notice was also directed to William J. O'Kane,
20 O apostrophe K-a-n-e, Inc., 102 Pickering Way, Exton,
21 19341-0200. The record indicates that the attorney of
22 record at the time of the filing of the protest which will
23 be mentioned later which was filed by Chemical, Inc.,
24 indicated that their counsel is also an Andrew V. Risman,
25 Esquire.

1 At 10:00 this morning, June 25, 1991, the appearance
2 is by Christian V. Graf, Esquire, on behalf of the
3 applicant, in the hearing room, Hearing Room Number 1, with
4 his witnesses and with his file ready to proceed with the
5 hearing.

6 No appearances were entered by the protestant
7 Chemical Leaman, Line, Inc. by letter dated February 20,
8 1991, directed to Mr. Jerry Rich, Secretary of the
9 Pennsylvania Public Utility Commission Paul L. Gaush,
10 G-a-u-s-h, Director of Traffic Services Chemical Leaman,
11 Inc., 102 Pickering, P-i-c-k-e-r-i-n-g, Easton, Pennsylvania
12 19341 dash 0200 filed a protest with the Commission.

13 The last paragraph states as follows: "Please enter
14 the name of Paul L. Gaush, Director of Traffic Services,
15 Inc., 102 Pickering Way. Exton, PA 19341-0200 to also
16 receive all notices of additions to this proceeding.

17 At approximately 10:15 a.m., as Presiding Officer, I
18 directed my secretary, Mrs. Arnetta Dickey to make an
19 attempt to contact Mr. Gaush, who filed the protest.

20 Ms. Dickey did make an attempt to contact Mr. Gaush,
21 but he was out of the office. At this time I will state for
22 the record it is now 10:45 a.m. At this time, for purposes
23 of indicating what attempts were made to contact the
24 protestant and what subsequently was determined with respect
25 to the protest, I'll call Ms. Arnetta Dickey. Will you

1 raise your right hand, please.

2 ARNETTA DICKEY, called as a witness, having been duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY JUDGE COHEN:

6 Q. Would you state your full name, spell your last
7 name for the reporter, please.

8 A. My name is Arnetta, A-r-n-e-t-t-a, Dickey,
9 D-i-c-k-e-y.

10 Q. And by whom are you employed and in what
11 capacity?

12 A. I'm employed by the Public Utility Commission,
13 Office of Administrative Law Judges as a secretary.

14 Q. At my direction at approximately 10:15 a.m., this
15 morning, did you telephone Mr. Paul Gaush, a Chemical Leaman
16 Tank Lines by calling Area Code 215-263-4200?

17 A. Yes, I did.

18 Q. What response did you receive to that call?

19 A. The secretary said that Mr. Gaush was not in the
20 office. She would try to locate someone who knew about this
21 application.

22 Q. At my further direction, did you attempt to
23 contact the names of counsel who appeared on the notice of
24 May 24, 1991, name of William J. Ocane, Esquire?

25 A. Yes. I was advised that Mr. Ocane, Senior --

1 this was by Mr. Ocane, Junior, that Mr. Ocane, Senior, no
2 longer is counsel for chemical Lehman Tank Lines.

3 Q. And at my direction, did you attempt to contact
4 Andrew B. Eisman, Esquire, whose name appeared on the
5 Commission's report as attorney for the protestant, Chemical
6 Leaman and Tank Lines, Inc.?

7 A. Yes, I contacted Mr. Andrew Eisman who advised me
8 that Mr. Gaush, director of traffic services for Chemical
9 Leaman Tank Lines did not advise him of this hearing. Mr.
10 Eisman did get in touch with the vice president of the
11 company.

12 Q. What's his name?

13 A. Mr. Jack Elrod E-l-r-o-d, district vice president
14 for the eastern division of the company. Mr. Elrod gave
15 permission to Mr. Eisman to withdraw the protest of Chemical
16 Leaman.

17 Q. And at approximately 25 of 11 this morning, did,
18 in fact, yourself and counsel for the applicant, Mr. Graf,
19 and myself, did we reach attorney Eisman via a telephonic
20 conference in the Office of Administrative Law Judge
21 conference room?

22 A. Yes, we did.

23 Q. And did he at that time confirm to all present
24 that he had been directed by the vice president for Chemical
25 Leaman to withdraw the protest?

1 A. Mr. Eisman did again state that he had been
2 directed by Mr. Elrod to withdraw this protest.

3 JUDGE COHEN: Thank you, Mrs. Dickey. Mr. Graf,
4 would you -- were you present when the --

5 MR. GRAF: Yes.

6 JUDGE COHEN: -- protest was withdrawn?

7 MR. GRAF: Yes, I heard Mr. Eisman's comments and I
8 confirm the testimony of Mrs. Dickey.

9 JUDGE COHEN: Thank you very much. You've indicated
10 that you're ready to proceed.

11 MR. GRAF: Yes.

12 PRESIDING OFFICER: Call your first witness, please.

13 MR. GRAF: I call Mr. Richard J. Hohlefelder,
14 H-o-h-l-e-f-e-l-d-e-r.

15 JUDGE COHEN: Would you spell it again, please.

16 MR. GRAF: H-o-h-l-e-f-e-l-d-e-r.

17 JUDGE COHEN: Thank you, Mr. Graf. Morning Mr.
18 Hohlefelder.

19 MR. HOHLEFELDER: Morning, Judge.

20 RICHARD J. HOHLEFELDER, called as a witness, having
21 been duly sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. GRAF:

24 Q. Give us your name and business address.

25 A. My name is Richard J. Hohlefelder. I'm the

1 president of C.T. Hertzsch. It's 282 U.S. Highway 31,
2 Speed, S-p-e-e-d, Indiana 47172 is the zip.

3 Q. And in that capacity, as president, are you
4 familiar with the authorities, facilities, and operations of
5 the applicant?

6 A. Yes, I am.

7 Q. And how long have you been president?

8 A. I've been president of C.T. Hertzsch since
9 September of 1987.

10 Q. Now, has C.T. Hertzsch, Incorporated, secured a
11 certificate of authority to do business in the Commonwealth
12 of Pennsylvania?

13 A. Yes, sir.

14 Q. And have you caused to have prepared copies of
15 the certificate of authority?

16 A. Yes.

17 MR. GRAF: I request that the certificate of
18 authority be marked as Exhibit 1 for the applicant.

19 JUDGE COHEN: We will mark it A-1 as applicant's
20 exhibit. Well, identify it.

21 (Applicant's Exhibit No. 1 was produced and marked
22 for identification.)

23 BY MR. GRAF:

24 Q. In reference to Exhibit A-1, it was dated October
25 4, 1988. Is that correct?

1 A. That is correct. October the 4th, 1988.

2 Q. And have you caused to have prepared a summary
3 showing the officers and directors of C.T. Hertzsch?

4 A. Yes, sir, Mr. Graf. I have submitted that to you.

5 MR. GRAF: I request that the list be marked for
6 identification as Exhibit A-2.

7 (Applicant's Exhibit No. 2 was produced and marked
8 for identification.)

9 BY MR. GRAF:

10 Q. Mr. Hohlefelder, is the exhibit shown on A-2 true
11 and correct?

12 A. Yes, it is true and correct.

13 Q. Does your company currently possess authority
14 from this Commission at docket A-00108408.

15 A. I'm sorry, Chris. I couldn't hear you. Yes,
16 that's correct.

17 Q. And have you caused to have prepared copies of
18 the granting order dated September 7 -- ended September 7,
19 1989?

20 A. Yes, I have.

21 Q. I request that the referenced authority be marked
22 as Exhibit A-3 for identification.

23 (Applicant's Exhibit No. 3 was produced and marked
24 for identification.)

25 BY MR. GRAF:

1 Q. I'd like to refer you, Mr. Hohlefelder, to
2 Exhibit A-3 at the -- at Page 4.

3 A. Yes, sir.

4 Q. And I see a condition, small I in parentheses.

5 A. Right.

6 Q. Which excludes from the scope of your present
7 authority transportation to or from the facilities of
8 Allentown Cement Company in Maiden Creek Township, Berks
9 county. Is that correct?

10 A. That's correct.

11 Q. And that is the supporting shipper in this
12 proceeding. Is that correct?

13 A. That is correct.

14 Q. Now, when this application was filed, it was also
15 an application filed for emergency temporary authority and a
16 corresponding application for temporary authority. Is that
17 correct?

18 A. That is correct.

19 Q. And by a tentative decision of the Commission at
20 public hearing held April 5, 1991, the Commission stated
21 that at Page 2 that Allentown Cement also noted five service
22 failures by the applicant C.T. Hertzsch?

23 A. That is correct.

24 Q. And while that may be true, is it not also
25 correct that you didn't have the authority to serve the

1 company?

2 A. That is correct.

3 Q. Does C.T. Hertzsch hold interstate authority and
4 intrastate authority from the state of Indiana?

5 A. That is correct.

6 Q. And have you caused to have prepared an exhibit
7 in exhibit form an abstract of those authorities?

8 A. Yes. Yes, we have.

9 MR. GRAF: I request that the interstate and
10 intrastate authority be marked for identification as
11 Exhibit A-4.

12 (Applicant's Exhibit No. 4 was produced and marked
13 for identification.)

14 JUDGE COHEN: Very well.

15 BY MR. GRAF:

16 Q. If we look at Exhibit A-4, at the top of the
17 exhibit, on your interstate authority, it permits the
18 transportation of general commodities except classes A and B
19 explosives and household goods between points in the United
20 States except Alaska and Hawaii. Is that correct?

21 A. That is correct under Sub 13.

22 Q. And the docket number is MC114241?

23 A. That is correct.

24 Q. Under that authority, do you have the right to
25 serve Allentown Cement Company?

1 A. Yes, sir.

2 Q. And have you served from the Interstate Commerce?

3 A. Yes, sir.

4 Q. Where are your Pennsylvania terminals located?

5 A. The only Pennsylvania terminal operated today is
6 in Northampton.

7 Q. And where are the rest of your terminals located?

8 A. We operate facilities in Indiana, Ohio, several
9 in Indiana, several in Ohio and several in West Virginia.

10 Q. All right. Now, where are they located in
11 Indiana?

12 A. Specifically? Speed, Indiana, S-p-e-e-d, and
13 Green Castle, Indiana, G-r-e-e-n, C-a-s-t-l-e.

14 Q. And your Ohio terminal is located where?

15 A. Fairborn, Ohio, F-a-i-r-b-o-r-n. Fairborn, Ohio
16 and South Point, Ohio.

17 Q. And in West Virginia?

18 A. West Virginia is Huntington, West Virginia,
19 H-u-n-t-i-n-g-t-o-n, and Nitro, N-i-t-r-o, West Virginia.

20 Q. What facilities do you maintain at your
21 Northampton, Pennsylvania terminal?

22 A. Northampton consists of a dispatch and executive
23 terminal manager office, a two-bay garage, maintenance
24 facility and parking for sufficient enough equipment to
25 staff the terminal.

1 Q. And you do operate certain equipment, do you not?

2 A. Yes, we do.

3 Q. And have you caused to have prepared a computer
4 printout listing the equipment that you have?

5 A. Yes, I have.

6 MR. GRAF: I request that that document be marked for
7 identification as A-5.

8 JUDGE COHEN: Very well.

9 (Applicant's Exhibit No. 5 was produced and marked
10 for identification.)

11 BY MR. GRAF:

12 Q. A-5 indicates that you have 22 tractors, 22 air
13 tanks, and 7 flatbed units. Is that correct?

14 A. That is correct.

15 Q. And how many units do you have stationed at
16 Northampton?

17 A. In addition to the 22 power units, 22 air tanks
18 and seven flatbeds, we have an additional three units
19 stationed at that facility, but they are not cement industry
20 related.

21 Q. I see. And the equipment shown on Exhibit A-5 is
22 cement industry?

23 A. That's correct.

24 Q. Do you have a safety program?

25 A. Yes, we do.

1 Q. And have you prepared certain exhibits which set
2 forth the nature of that exhibit?

3 A. Yes, I have.

4 Q. The first of these is headed safety program?

5 A. Safety program, that's correct.

6 MR. GRAF: May I have that exhibit marked for
7 identification as A-6.

8 (Applicant's Exhibit No. 6 was produced and marked
9 for identification.)

10 BY MR. GRAF:

11 Q. Does it basically set forth the details of your
12 safety program?

13 A. The safety program is in effect at all C.T.
14 Hertzsch operations.

15 Q. And that would include your Northampton terminal?

16 A. Correct.

17 Q. Now, does your company carry insurance?

18 A. Yes, we do with Liberty Mutual.

19 Q. And have you brought an endorsement which shows
20 the extent of that insurance?

21 A. Yes, I have.

22 MR. GRAF: I request that the endorsement of
23 insurance exhibit be marked for identification as Exhibit
24 A-7.

25 (Applicant's Exhibit No. 7 was produced and marked
for identification.)

1 BY MR. GRAF:

2 Q. According to Exhibit A-7, you have \$5 million
3 coverage. Is that correct?

4 A. That is correct, per occurrence.

5 Q. And that's across the border; right?

6 A. Yes.

7 Q. Now, have you received a satisfactory safety
8 rating from the Federal Department of Transportation?

9 A. Yes, periodically we are inspected and are -- I
10 brought documentations from our last inspection.

11 MR. GRAF: All right. I request that the letter of
12 notification to the applicant indicating satisfactory safety
13 rating is to be marked as Exhibit A-8 for identification.

14 (Applicant's Exhibit No. 8 was produced and marked
15 for identification.)

16 BY MR. GRAF:

17 Q. Do you have a summary of the type of inspection
18 which is conducted by your company as it relates to
19 trailers?

20 A. Yes, we do.

21 MR. GRAF: I request that the type inspection exhibit
22 for trailers be marked for identification as Exhibit A-9

23 (Applicant's Exhibit No. 9 was produced and marked
24 for identification.)

25 BY MR. GRAF:

1 Q. Exhibit A-9 appears to be fairly comprehensive.
2 Is that basically the story?

3 A. Yes.

4 Q. Do you have a similar inspection report for your
5 tractors?

6 A. Yes, all our PM and inspection forms are closely
7 related -- are closely related to our safety program, so I
8 have provided copies that --

9 Q. And does Exhibit A-10 set forth that maintenance
10 operation?

11 A. That's correct.

12 Q. I request that the tractor inspection be marked
13 for identification as Exhibit A-10.

14 (Applicant's Exhibit No. 10 was produced and marked
15 for identification.)

16 BY MR. GRAF:

17 Q. Have you caused to have prepared a list of the
18 employees that you have stationed at Northampton?

19 A. That is correct.

20 Q. May I have the employee list of Northampton
21 marked for identification as Exhibit A-11.

22 (Applicant's Exhibit No. 11 was produced and marked
23 for identification.)

24 BY MR. GRAF:

25 Q. Is the information shown on Exhibit A-11

1 self-explanatory?

2 A. Yes.

3 Q. Now, what type of service do you propose to
4 render if this application is approved?

5 A. C.T. Hertzsch, if it is granted authority from
6 this location, would assist Allentown Cement with deliveries
7 into local areas in the State of Pennsylvania. We would
8 have equipment available as per his requirements.

9 Q. Well, now, the application is not limited as to
10 type of equipment and if you are called upon to use tank
11 equipment, do you have them stationed there?

12 A. Yes, sir.

13 Q. And for bag material, do you have flatbeds?

14 A. We have flatbeds available, yes.

15 Q. What time in transit do you provide?

16 A. What kind of --

17 Q. How long would it take you to deliver a load from
18 Evansville, Maiden creek Township to, let's say, Pittsburgh,
19 for example?

20 A. I'd have to say about seven hours.

21 Q. You could do it overnight at least?

22 A. Yes, at least overnight.

23 Q. And will you make job site deliveries?

24 A. Yes, correct.

25 Q. And will you make sequential deliveries?

1 A. That's correct.

2 Q. And how about if somebody wants to load there,
3 say, 8:00 in the morning?

4 A. Absolutely no problem with the delivery schedule
5 provided we are called in advance of the shipment date,
6 shipment requirement.

7 Q. Have you caused to have prepared a balance sheet
8 of profit and loss statement?

9 A. Correct.

10 Q. For the period ended March 2, 1991, and for the
11 year 1990?

12 A. Correct.

13 MR. GRAF: I request that this document be marked for
14 identification as A-12.

15 (Applicant's Exhibit No. 12 was produced and marked
16 for identification.)

17 BY MR. GRAF:

18 Q. Turning your attention to Exhibit A-12 for
19 identification, the first page consists of the balance
20 sheet, and the second page consists of your income statement
21 for the period ended March 2, 1991, and the year of 1990?

22 A. That's correct.

23 Q. It would appear that your total -- current
24 liabilities have exceeded your total current assets in both
25 periods. Is that correct?

1 A. That's correct.

2 Q. And your cash position has covered around 36 or
3 \$37,000.00?

4 A. That's correct.

5 Q. And your retained earnings show a deficit even
6 considering that you had additional paid-in capital?

7 A. That's correct.

8 Q. Now, let's turn to the second page for a moment.
9 On your income statement for the 11 months ended March 2,
10 1991, you don't show a great deal of revenue. Why is that?

11 A. The General Cement Industry in most of the large
12 mills, Mr. Graf, we have been dealing with, are off in some
13 cases from 20 to as high as 40 percent.

14 This has affected our overall volume, and the overall
15 loss that we have suffered is -- could be attributed to the
16 economy, to lack of customer shipments and for high startup
17 initial startup costs for this operation here alone for new
18 equipment and for terminal facilities and such.

19 Q. What do you estimate your equipment costs were in
20 equipment --

21 A. We invested just here in Northampton probably
22 \$350,000.00.

23 Q. And how about your terminal in Northampton?

24 A. Terminal in Northampton is a rented facility.

25 Q. But it adds to your cost of operation?

1 A. Yes, sir, \$2900.00 per month.

2 Q. And do you feel that approval of this application
3 will enable you to substantially improve your position?

4 A. Yes. For the last several months this particular
5 operation has done extremely well and has operated on a
6 profit --

7 Q. And does the fact that you can serve in
8 interstate commerce, but not in intrastate commerce have
9 anything to do with your prediction?

10 A. Yes, it certainly is helpful to have a building
11 to operate within the state and the battle confounds of the
12 state.

13 Q. And are you in a position to institute service as
14 soon as the necessary tariff can be filed and upon grant?

15 A. Absolutely.

16 Q. And how many days per week will you operate?

17 A. Our operation is open five days, but available
18 five and a half days.

19 Q. So you will make Saturday deliveries?

20 A. If requested by the customer, yes, we will help.

21 Q. And will you spot any equipment at the customer's
22 facilities?

23 A. Yes, that can be arranged. We do that for other
24 accounts and other customers.

25 Q. How far is Northampton from --

1 A. I'm not familiar with the area. I'd say --

2 MR. BABIAK: Thirty-three miles.

3 THE WITNESS: Thirty-three miles.

4 JUDGE COHEN: From where?

5 MR. GRAF: From Evansville.

6 THE WITNESS: Our facilities to their facilities.

7 BY MR. GRAF:

8 Q. Thirty-two, 33 miles. It wouldn't take you very
9 long to get equipment?

10 A. Approximately within the hour if we're notified,
11 yes.

12 Q. Other than that, you can spot equipment?

13 A. We can spot it all in the property.

14 MR. GRAF: Thank you. I offer Exhibits A-1 through
15 A-12.

16 JUDGE COHEN: They may be admitted.

17 (Applicant's Exhibit Nos. 1 through 12 were admitted
18 in evidence.)

19 MR. GRAF: Do you have any questions?

20 JUDGE COHEN: No questions.

21 MR. GRAF: I call Mr. Miller.

22 JUDGE COHEN: He can testify from where he's seated.

23 MR. GRAF: What?

24 JUDGE COHEN: He can testify from where he is
25 seated. Raise your right hand, sir.

1 masonry?

2 A. Portland cement is primarily used in the
3 construction industry: Bridges, roadways, foundations.
4 Masonry cement is primarily used on block, brick, and tile
5 for building any kind of --

6 Q. Manufacturing those --

7 A. Manufacturing, yes, and also for homeowner's
8 consumption.

9 MR. HOHLEFELDER: Excuse me. Your Honor, may I be
10 excused for five minutes to make a call? Thank you.

11 BY MR. GRAF:

12 Q. To what type of customers do you sell?

13 A. We sell ready to mix operations, building block
14 plants, prestressed plants, concrete products which make
15 septic tanks and concrete steps and so forth.

16 Q. Do you sell to contractors?

17 A. We also sell to contractors who do road jobs.

18 Q. And do you have requirements for job site
19 deliveries?

20 A. Yes, very much so.

21 Q. Do you ship both into Pennsylvania and to points
22 beyond Pennsylvania?

23 A. Yes, we do.

24 Q. And on your shipments beyond Pennsylvania, have
25 you used the applicant?

1 A. Yes, I have.

2 Q. And how has their service been?

3 A. I find them to be very reliable within the hour
4 or within an hour and a half. I can usually get a piece of
5 equipment to our plant and service our customer on time.

6 Q. Have you classed to have prepared a list showing
7 your customer locations in Pennsylvania?

8 A. Yes, I have.

9 MR. GRAF: I request that the customer list be marked
10 for exhibit -- for identification as Exhibit A-13.

11 (Applicant's Exhibit No. 13 was produced and marked
12 for identification.)

13 BY MR. GRAF:

14 Q. With reference to Exhibit A-13, which -- a copy
15 which I have placed before you. I would like to have you
16 explain the first column which shows some names of points.
17 Are these all in Pennsylvania?

18 A. Yes, these are all areas that we service in the
19 State of Pennsylvania.

20 Q. And the second column, PA designates
21 Pennsylvania?

22 A. That's correct.

23 Q. And the third column, what does the abbreviation
24 EV stand for?

25 A. It stands for Evansville.

1 Q. And Evansville is the plant that you're speaking
2 about?

3 A. That's correct. That's our manufacturing
4 facility.

5 Q. And it's located in Maiden Creek Township, Berks
6 county?

7 A. That's correct.

8 Q. Now, part way down opposite Bellefonte, the
9 abbreviation AT appears. What does that mean?

10 A. The AT stands for Altoona, which is a facility
11 which we serve as customers in the State of Pennsylvania.

12 Q. And wherever AT appears in this exhibit, it means
13 that there was a delivery to Altoona and from Altoona
14 somewhere?

15 A. That's correct.

16 Q. But I note that Bellefonte shows deliveries both
17 from Evansville and Altoona?

18 A. That's correct. We are capable of delivering
19 either from our manufacturing facility or our storage
20 facility.

21 Q. And down further, opposite Chester, there is a
22 second time Chester appears there is an abbreviation BO.
23 What does that stand for?

24 A. That stands for Bowie, which is our facility in
25 Bowie, Maryland.

1 Q. And below that, also opposite Chester, is the
2 abbreviation NO. What does that stand for?

3 A. NO stands for Northaven, which is in Northaven,
4 Connecticut.

5 Q. And that means that Chester is served by three
6 locations?

7 A. That can be, yes, served by three locations.

8 Q. Wherever those initials appear throughout this
9 exhibit, the same explanation would prevail. Is that
10 correct?

11 A. That's correct.

12 Q. Now, opposite Philadelphia on, I guess the fourth
13 page or fifth page, there is an abbreviation JC. What does
14 that stand for?

15 A. That is our facility in Jersey City, New Jersey.

16 Q. So Philadelphia is served from both Evansville
17 and Jersey City?

18 A. That's correct.

19 Q. The fourth column reflects certain figures, and I
20 take it they're the mileage that would prevail between
21 Evansville and the destination point listed in the first
22 column?

23 A. That's correct.

24 Q. And the final exhibit shows the county in which
25 the first column destination is located?

1 A. That's correct, yes.

2 JUDGE COHEN: By way of explanation, the seconds to
3 Pennsylvania served the, what I was thinking was you have
4 to -- Chestnut is in Rowie county.

5 THE WITNESS: All three are in Rowie County, yes.

6 BY MR. GRAF:

7 Q. Now, do you feel that you need service to cover
8 all of these points?

9 A. Yes, we do.

10 Q. And why is that?

11 A. Primarily, at the moment we are unable to get
12 sufficient carriers to service the needs of our customers.

13 Q. Well, are you served by Chemical Leaman Tank?

14 A. Yes, we are.

15 Q. And what percentage of their volume to
16 Pennsylvania points are they presently handling?

17 A. I'd say approximately 60 percent.

18 Q. And have you not also supported another carrier
19 known as Vanezia?

20 A. Yes, I have.

21 Q. And are they now final authority? Venesia Hollan
22 is the final authority --

23 A. Yes, they have received final authority.

24 Q. And what percentage are they handling?

25 A. They're handling approximately 30 percent of our

1 volume of business.

2 Q. And have you supported another carrier from your
3 Western Pennsylvania Altoona location?

4 A. Yes, we have.

5 Q. And is that up before the Commission?

6 A. I'm not exactly sure if it's up before the
7 Commission now, or has been. I haven't heard at this point.

8 Q. Well, despite the fact that you have Chemical,
9 Leaman, have you had any service there by using that company
10 in the month of May?

11 A. Yes, we have.

12 Q. And part of June?

13 A. Yes, we have.

14 Q. And have you prepared a customer's tracking
15 report which sets forth those complaints?

16 A. I have.

17 MR. GRAF: I request that this document be marked for
18 identification as Exhibit A-14.

19 (Applicant's Exhibit No. 14 was produced and marked
20 for identification.)

21 JUDGE COHEN: These are Chemical Leaman's service
22 failures?

23 MR. GRAF: Well, yes, and I note that there's one on
24 here for the letter carrier, too. This exhibit we'll need a
25 little bit of an explanation and I would appreciate if you

1 would bear with me for a moment.

2 BY MR. GRAF:

3 Q. The first column shows a Code 1 and 3 and they're
4 explained at the bottom of the exhibit. Is that correct?

5 A. That's correct.

6 Q. And the second is the date of delivery which was
7 called for?

8 A. That's right.

9 Q. And the third has customer name, but in some
10 places it doesn't have the customer location. Beginning
11 with the first line, would you tell us where Rock Hill
12 Quarry is located?

13 A. Rock Hill Quarry is located in Perryville,
14 Pennsylvania.

15 Q. And the next two are related to Bethesda,
16 Maryland and are not here pertinent. Is that correct?

17 A. That's correct.

18 Q. The fourth one is related to Hummelstown, which is
19 in Pennsylvania?

20 A. Yes, it is.

21 Q. And there's one strike out and then a Marinelli.
22 Where are they located?

23 A. They're located in Hamorton, Pennsylvania.

24 Q. And the next line, C. Strunk. Where are they
25 located?

- 1 A. Sinking Spring, Pennsylvania.
- 2 Q. That's in Berks County?
- 3 A. That's in Berks County, yes, sir.
- 4 Q. And the next one Superior something --
- 5 A. Precast.
- 6 Q. Precast. Where are they located?
- 7 A. They're located in Pottstown, Pennsylvania.
- 8 Q. And Geppert Lumber?
- 9 A. They're located in Rosslyn, Pennsylvania.
- 10 Q. And Pennsy Supply is located in Harrisburg?
- 11 A. Yes, that's a Harrisburg location.
- 12 Q. Ampro is Oreland. That's in Pennsylvania?
- 13 A. That's also in Pennsylvania.
- 14 Q. And Wysox Sand is in Pennsylvania?
- 15 A. That's in Wysox, Pennsylvania.
- 16 Q. And R.P. Smith is in?
- 17 A. Ledgewood, New Jersey. That's out of state
- 18 delivery.
- 19 Q. And Entwistles, where is that?
- 20 A. That's in Salisbury, Maryland.
- 21 Q. So that's not pertinent, either. The next column
- 22 CMTL stands for what?
- 23 A. Chemical Leaman Tank Lines.
- 24 Q. Now, have you experienced other problems with
- 25 Chemical Leaman Service in the recent past?

1 A. Just recently we have, yes.

2 Q. What's the nature of that?

3 A. If I may go back to the year 1990, when we were
4 serviced primarily, 80 percent by Chemical Leaman Tank
5 Lines. At that time we also had a fleet of our own trucks
6 which we serviced our customers. At that time we were
7 approximately servicing 10 percent of our customers with our
8 own fleet of trucks and approximately 10 percent of -- with
9 Venezia at that time who had temporary operating authority
10 and also outside carriers.

11 In 1991 we negotiated a new working agreement,
12 contractual agreement with Chemical Leaman Tank Lines. We
13 negotiated in March and I was promised to have a total of 21
14 drivers which is the same amount of drivers we had the
15 previous year on their fleet to service our customers.

16 As it turned out, we were in a situation at the
17 moment where Chemical Lehman now has 12 drivers on their
18 active driver list, which is one of the reasons why they're
19 only delivering 60 percent of our loads and I had to
20 increase the percentages to our other carriers.

21 Q. Has the decline in Chemical Leaman's driver and
22 equipment availability required you to use this applicant to
23 a greater extent in interstate commerce than --

24 A. Yes, it has. Very much so.

25 Q. And have they met your needs?

1 A. Yes, they have. For instance, just the other day
2 we had a delivery, as Dale, our manager, can testify. I
3 called him late in the day and asked him if he could
4 possibly take five loads into Stanford, Connecticut and he
5 said sure, no problem. And the loads were delivered without
6 any failure.

7 Q. To what extent would you use the service if this
8 application is approved?

9 A. On average I would say anywhere from three to
10 five loads daily.

11 Q. To Pennsylvania?

12 A. To Pennsylvania.

13 Q. And do you feel that the approval is necessary to
14 your company?

15 A. At this point in time, yes, I feel that it is
16 necessary to be a high competitor in the cement industry.

17 Q. Is the cement industry currently highly
18 competitive?

19 A. Very much so.

20 Q. What effects does that have on your business?

21 A. Primarily it puts Allentown Cement in a position
22 where we're going to have to be forced to go out and find a
23 carrier who's still going to be able to service our
24 customers.

25 And it's going to have to be a carrier who can meet

1 our needs, which means we need carriers that can deliver the
2 product at a cost that's affordable to us as producer of
3 cement.

4 MR. GRAF: I think that's all I have, and I offer
5 Exhibits A-13 and 14.

6 JUDGE COHEN: Admitted.

7 (Applicant's Exhibit Nos. 13 and 14 were admitted in
8 evidence.)

9 MR. GRAF: May this witness be excused?

10 JUDGE COHEN: Yes.

11 MR. GRAF: On the matter of a brief, I presume the
12 initial decision form will be satisfactory, will it not?

13 JUDGE COHEN: Yes, a proposed -- proposed decision in
14 other words?

15 MR. GRAF: Yes. All right. We'll get that in as
16 soon after the arrival of the testimony.

17 JUDGE COHEN: The Court Reporter won't have it done
18 until about three weeks.

19 MR. GRAF: All right. Thank you.

20 JUDGE COHEN: Thank you, Mr. Graf.

21 (Whereupon, at 11:30 a.m., the hearing adjourned.)


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1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me
3 during the hearing of the within cause, and that this is a
4 true and correct transcript of the same.

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KATHY J. OWENS
Court Reporter

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