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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: A-00108448 Application of Empire Wrecking Co. of Reading, Pa. Right to transport, as a common carrier, property, which because of its size or weight, requires the use of special equipment, between points in that part of Pennsylvania, on and east of U.S. Traffic Route 219. Initial hearing.

Harrisburg, Pennsylvania
July 26, 1989

Pages 1 to 50, inclusive

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JAN H. JOHNSTON
Suite 203, Cranberry Court
212 North Third Street
Harrisburg, Pennsylvania 17101

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BEFORE
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: A-00108448 Application of Empire Wrecking Co. of Reading, Pa. Right to transport, as a common carrier, property, which because of its size or weight, requires the use of special equipment, between points in that part of Pennsylvania, on and east of U.S. Traffic Route 219. Initial Hearing.

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

Wednesday,
July 26, 1989
at 10:00 o'clock a.m.

- - - - -

BEFORE

GEORGE KASHI, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

WILLIAM CHESNUTT, ESQUIRE
100 Pine Street
Harrisburg, Pennsylvania
Appearing on behalf of Daily Express, Inc.

KENNETH E. SANDS, JR., ESQUIRE
528 Elm Street
Reading, Pennsylvania 19601
Appearing on behalf of Empire Wrecking Company of Reading, Inc.

HOLBERT ASSOCIATES
JAN H. JOHNSTON
Suite 203, Cranberry Court
212 North Third Street
Harrisburg, Pennsylvania 17101

1 JUDGE KASHI: This is the time and place set for the
2 hearing in the application of Empire Wrecking Company,
3 Docketed to A-00108448 where the applicant seeks the right
4 to begin to transport, as a common carrier, property, which
5 because of its size, requires the use of special equipment,
6 between points in that part of Pennsylvania, on and east of
7 U.S. Traffic Route 219. Mr. Sands?

8 MR. SANDS: Yes, sir.

9 JUDGE KASHI: Do you wish to call your first witness,
10 sir?

11 MR. SANDS: Yes, sir. I call Harry O'Neill.

12 HARRY O'NEILL, called as a witness, having been duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. SANDS:

16 Q. Tell us your name and address, please.

17 A. Harry O'Neill. The address is Box 1593, R.D. 1,
18 Leesport.

19 Q. Are you affiliated in any way with Empire
20 Wrecking Company of Reading, Pennsylvania?

21 A. I'm the president of Empire Wrecking Company.

22 Q. And where is Empire Wrecking located?

23 A. In Reading. The address is 1420 Clarion Street.

24 Q. Does Empire Wrecking own any flatbed trailers for
25 hauling heavy equipment?

1 A. Lowboy trailers, yes, we do.

2 Q. And does Empire have any heavy equipment of its
3 own?

4 A. Yes, we do.

5 Q. And do you use your trailers for hauling your own
6 equipment?

7 A. Yes.

8 Q. From time to time, have you been asked by various
9 persons to haul equipment for them?

10 A. Yes, we have.

11 Q. And is that why you filed to procure these
12 rights?

13 A. Yes, it is.

14 Q. Do you have any -- is it your intention to only
15 engage in the moving of heavy equipment within the area that
16 the Judge specified?

17 A. Yes, it is.

18 Q. It would be basically a short haul kind of thing?

19 Q: ~~From~~ ^{Yes} From time to time, have Giles and Ransom
20 Corporation asked you to haul equipment?

22 A. Yes, they have.

23 Q. And Groff Tractor and Equipment?

24 A. Yes.

25 MR. CHESNUTT: I object and move that the answer be

1 stricken. It's a leading question and Groff Tractor and
2 Equipment has not been identified as a prospective witness
3 in this proceeding.

4 MR. SANDS: Groff Tractor and Equipment has a
5 verification on file with the application.

6 MR. CHESNUTT: I'm not aware of any verification and
7 I'm not aware of any Commission procedure that would relate
8 to the acceptance of verifications without a live witness
9 being presented in a contested matter.

10 JUDGE KASHI: Let's stay with what we have able, Mr.
11 Sands, in the hearing room.

12 MR. SANDS: Okay.

13 BY MR. SANDS:

14 Q. And Julius Simon from Simon Eastern, has he on
15 occasion asked you to haul various equipment?

16 A. Yes, he has.

17 Q. And you do haul, as you said, your own equipment?

18 A. Our operation requires the movement of equipment
19 after hours and so the lowboys are available and people are
20 available throughout the day.

21 MR. SANDS: Cross examine.

22 CROSS EXAMINATION

23 BY MR. CHESNUTT:

24 Q. Mr. O'Neill, how many lowboy trailers do you
25 have?

1 A. Four.

2 Q. Could you give me any idea of what the dimensions
3 of those trailers are or some information about them?

4 A. Their rating capacity is between 35 and 70 tons.

5 Q. How many of the 4 are 35 ton?

6 A. One.

7 Q. And how many are 70 ton?

8 A. One.

9 Q. What are the other two?

10 A. Fifty.

11 Q. Are any of them capable of having the well of the
12 trailer expanded?

13 A. No. I guess I don't know what you're asking, but
14 they are all fixed.

15 Q. They are all fixed?

16 A. Yes, fixed units.

17 Q. Fine. Are you and I in agreement that a lowboy
18 is a trailer with a bed low to the highway or ground and
19 then the rear axle generally is at a higher level?

20 A. Yes.

21 Q. Thus, there is a well created which is the
22 loading space on the trailer. Is that correct?

23 A. Right.

24 Q. Can you give me some indication of the length of
25 the well of these four trailers?

1 A. The two of them are 22 foot and --

2 Q. Are they the 50 ton capacities?

3 A. The larger trailer, the 70 ton, is a 22 foot.

4 The one 50 is a 22 foot and the other two are 20 foot, I
5 believe. Those I'm not a hundred percent sure, but the
6 other two I am.

7 MR. CHESNUTT: Those are the all the questions I have
8 of the witness.

9 BY JUDGE KASHI:

10 Q. Mr. O'Neill, do you hold any Pennsylvania Public
11 Utility Commission rights up to this point?

12 A. No, we don't.

13 Q. Do you hold any ICC common carrier authority?

14 A. No.

15 Q. Can you tell me --

16 A. Let me restate that. I guess we have no ICC.
17 The only rights we do have -- I don't know where they fall
18 under or they do not fall under -- are the hazardous waste
19 transportation rights.

20 Q. Can you tell me about the financial condition of
21 your company, sir?

22 A. Are we looking balance net worth? Is that what
23 you're asking?

24 Q. Yes.

25 A. Probably balancing net worth of about a million,

1 a million six to two million.

2 Q. Was your operation profitable last year, sir?

3 A. Yes.

4 Q. Do you have the financial ability to be able to
5 operate the rights that you're requesting?

6 A. Yes. Our gross sales last year were in excess of
7 10 million and will be in excess of 12 this year and growing
8 steadily.

9 Q. What do you have in way of drivers to be able to
10 carry this on?

11 A. We have about 22 drivers running steadily.

12 Q. Are they part time or full time?

13 A. Full time.

14 Q. Can you give me some information regarding your
15 facilities?

16 A. Our operation is set up on five acres. Shop
17 building is 8,000 square feet, newly constructed within the
18 last six months. Storage facilities at that location are
19 approximately 20,000 additional square foot and the office
20 facility is about 5,000 square feet. My office staff is
21 probably about 15 people. Overall staff is about 150.

22 Q. The 150, you told me you have 22 drivers and 15
23 office personnel. What do you have in the other hundred
24 people?

25 A. We have approximately 45 laborers, general

1 laborers. Mechanics, there are probably about 10 heavy
2 truck and heavy equipment mechanics and the remainder is in
3 heavy equipment operators.

4 Q. Do you conduct a safety program in your
5 operation, sir?

6 A. Yes. The insurance company comes in and we have
7 quarterly meetings.

8 Q. Is that with the drivers and the other operators?

9 A. Yes.

10 Q. Can you tell me how much insurance, in fact, you
11 carry, sir?

12 A. Our general liability is -- we are running with a
13 \$1 million general program and a \$5 million in excess
14 blanket.

15 Q. Have you ever been cited for violation of the
16 Public Utility Code?

17 A. No.

18 JUDGE KASHI: Thank you, Mr. O'Neill. Do you have
19 anything on redirect, Counsel?

20 MR. CHESNUTT: If Your Honor please, I have some
21 questions prompted by examination from the bench.

22 JUDGE KASHI: All right.

23 FURTHER CROSS EXAMINATION

24 BY MR. CHESNUTT:

25 Q. Where do you derive the \$2 million worth of the

1 revenues that you get every year? Who pays you money?

2 A. Excavating is our mainstay. We are an excavating
3 contractor for general commercial work and that's where the
4 equipment comes from. We have our own home building
5 division which will build 30 homes this year, demolition
6 operation. Building product sales is another portion and we
7 have a medical disposal service business, medical waste pick
8 up for hospitals and so sort of a mixed bag.

9 Q. How much of it is derived from the performance of
10 transportation services as such?

11 MR. SANDS: I'm sorry. I don't understand the
12 question.

13 BY MR. CHESNUTT:

14 Q. How much of your \$12 million is derived
15 performing transportation services?

16 A. I guess -- when I move dirt is that
17 transportation? When I move to an excavating job and I'm
18 moving the dirt from site to site that's transportation.

19 Q. How about transportation of tractors and dozers,
20 that sort of thing?

21 A. If it is -- we are one percent probably in that
22 category.

23 Q. About \$120,000.00 a year?

24 A. That's probably heavy. That's probably heavy.

25 Well, if we are going to go over -- if we start talking

1 transportation, I charge to move every piece of equipment to
2 a job site. If that's part of that \$100,000.00, you bet,
3 yeah.

4 But every piece I have, I have 40 pieces running
5 every day. On average none of those pieces stay on the job
6 site for more than two days. So a man is charged -- someone
7 is charged for that transportation every two days. So on
8 average I'm moving 25 pieces of equipment every evening and
9 so that revenue adds up in a whole lot of hurry.

10 Q. And that equipment is things like dozers?

11 A. Dozers, loaders, back hoe.

12 Q. Et cetera, et cetera?

13 A. Right.

14 Q. And those dozers and back hoes, who owns them?

15 A. The majority of them are ours. So, again, I've
16 got 40 pieces of my own out every day.

17 Q. And the ones that you don't own, who owns them?

18 A. Anyone off the street that has broke down. A guy
19 has his lowboy today, it goes in for brakes tonight. He
20 needs something moved tonight. We are going to be there.
21 We don't have -- it's someone that needs something done in
22 two hour's time.

23 Q. And you move their dozer or their back hoe or
24 whatever it is from one location to another and charge them
25 an appropriate amount of money?

1 A. Right.

2 Q. Now, the home building activities, excavating
3 contractor, the activities as a demolition company is all
4 conducted by a corporation called Empire Wrecking Co. of
5 Reading, Pennsylvania. Is that right?

6 A. Right.

7 Q. And it's into that corporate or that would be the
8 corporate entity that would be conducting the transportation
9 that you intend to perform here?

10 A. Um-hum.

11 MR. CHESNUTT: Thank you. That's all the questions I
12 have.

13 JUDGE KASHI: Redirect, Counsel?

14 MR. SANDS: No, sir.

15 JUDGE KASHI: Thank you. You are excused, Mr.
16 O'Neill.

17 MR. SANDS: I call Mr. Simon.

18 JULIUS SIMON, called as a witness, having been duly
19 sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. SANDS:

22 Q. Your name and address, sir?

23 A. My name is Julius M. Simon. I live at 113 Debray
24 Drive, Wyomissing Hills, Pennsylvania.

25 Q. And you are the owner of what company?

1 A. Simon Eastern Corporation.

2 Q. Where is Simon Eastern located?

3 A. Temple.

4 Q. Do you have any other sites?

5 A. No.

6 Q. And what business is Simon Eastern?

7 A. We are in the scrap metals recycling business.

8 Q. Do you own and operate and use heavy equipment?

9 A. I do.

10 Q. What types of heavy equipment do you own and
11 operate?

12 A. Cranes, wheel loaders, skid loaders. That's
13 essentially it.

14 Q. On occasion do you have any need to have them
15 moved?

16 A. Yes.

17 Q. Why would you need to have them moved?

18 A. Because from time to time we have to go to a site
19 nearby to pick up scrap.

20 Q. And are you always able to get someone to move
21 your heavy equipment when you need it moved?

22 A. Well, that's a little difficult because we
23 usually do it for a very short period of time and we also go
24 very short distances, five miles, three miles, one mile and
25 it's been difficult.

1 Q. And do you have to wait sometimes as much as two
2 weeks to get someone in to move it?

3 A. Oh, no, we can't do that. Usually, we get calls
4 like in the morning at 7:00 or 5:00 in the evening preceding
5 that we have to have a piece of equipment over there the
6 next day to perform the pick up of the scrap materials.

7 Q. And is there always someone available to do that
8 for you?

9 A. It's been very difficult. We sometimes have to
10 borrow or beg a trailer or use one of our tractors. It's
11 been very difficult.

12 Q. And you have had operations as far away as Tioga
13 County?

14 MR. CHESNUTT: I object. That's a leading question.

15 THE WITNESS: No.

16 MR. CHESNUTT: I'll withdraw the objection.

17 THE WITNESS: No. We have mining operations there,
18 but we don't move our equipment up there.

19 BY MR. SANDS:

20 Q. Do you have an opinion as to whether or not there
21 is a need for additional service in this particular area?

22 MR. CHESNUTT: I object to that.

23 JUDGE KASHI: Sustained. You can tell us what his
24 needs are, but I don't take his opinion.

25 BY MR. SANDS:

1 Q. If Mr. O'Neill is granted these rights, would you
2 use Mr. O'Neill?

3 A. Definitely.

4 MR. SANDS: I believe that's all I have of Mr. Simon.

5 JUDGE KASHI: Mr. Chesnutt?

6 CROSS EXAMINATION

7 BY MR. CHESNUTT:

8 Q. Mr. Simon, you indicated it's been very difficult
9 sometimes to meet the needs if you get a call at 7:00 in the
10 morning and have a piece of equipment somewhere the next
11 day?

12 A. The same day.

13 Q. No problem if it is the next day?

14 A. No. There is a problem because they want it out.

15 Q. And so the way you get that problem solved if
16 worse comes to worse is you get a trailer, lease a trailer
17 from somebody and pull it with your own tractor?

18 A. We try and avoid that sort of thing.

19 Q. But you do have a tractor with which you could
20 accomplish that task?

21 A. Well, our tractors are all busy every day, all
22 day either picking up or delivering scrap material. So for
23 us to borrow a trailer or rent a trailer or something like
24 that is most inconvenient because then we have to take them
25 off of what their schedule is to do and put them on

1 something else.

2 Q. Now, your business is located in Temple and Berks
3 County?

4 A. Correct.

5 Q. And that's where most of your business occurs, in
6 Berks County. Is that correct?

7 A. No. It's Berks and Lehigh and Lancaster, the
8 surrounding counties.

9 MR. SANDS: Mr. Simon, try to keep your voice up and
10 talk this way if you would.

11 THE WITNESS: Okay. Certainly.

12 BY MR. CHESNUTT:

13 Q. Maybe I could help you, Mr. Simon, by moving down
14 at this end of the table then you'd be less inclined if
15 you're looking toward me.

16 A. Okay.

17 Q. Now, Mr. O'Neill indicated that you've called him
18 on occasion when you've had a need to move these cranes,
19 wheel loaders, skid loaders, et cetera, around. Is that
20 right?

21 A. Um-hum.

22 Q. Has he been able to help you out?

23 A. Not very frequently.

24 Q. He just can't free up his own equipment?

25 A. No. I don't know what the reason is. I suppose

1 that's the purpose of this meeting today. I suppose that
2 he's just a little apprehensive.

3 Q. But occasionally he has been able to help you
4 out. Is that right?

5 A. Occasionally.

6 MR. CHESNUTT: Those are all the questions I have.
7 Thank you, sir.

8 JUDGE KASHI: Anything on redirect, Mr. Sands?

9 MR. SANDS: No, sir.

10 JUDGE KASHI: Thank you, Mr. Simon. You are excused,
11 sir.

12 MR. SANDS: Mr. Neubaum?

13 FRANK NEUBAUM, called as a witness, having been duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SANDS:

17 Q. Tell us your name and address, sir.

18 A. Frank Neubaum and I live at 1600 Lehigh Parkway
19 East, Allentown, Pennsylvania.

20 Q. And by whom are you employed?

21 A. I'm employed by Giles and Ransom, Incorporated.

22 Q. In what capacity?

23 A. I'm in their sales department.

24 Q. As a employee of Giles and Ransom, do you on
25 occasion have a problem of moving equipment from one point

1 to another?

2 A. On occasion.

3 Q. What kind of equipment is this?

4 A. It's construction and mining equipment.

5 Q. Is it equipment that you are selling?

6 A. Yes, and renting.

7 Q. And renting?

8 A. Yes.

9 Q. And if someone comes and buys this or rents it,
10 you have to see that it's delivered to where? Their job
11 site?

12 A. On occasion, yes. Other occasions they will haul
13 it themselves but, yes, I'd say the majority of the time we
14 do need to have it moved.

15 Q. And when you try to have it moved, can you always
16 have it moved when you need it moved?

17 A. No.

18 Q. Is there any delay until people or carriers can
19 take care of your needs?

20 A. At times, yes.

21 Q. And if Mr. O'Neill were granted these rights,
22 would you use Mr. O'Neill to move some of your short haul
23 equipment?

24 A. On occasion, yes.

25 Q. What area do you service? What area of

1 Pennsylvania?

2 A. Well, our company basically services Southeastern
3 Pennsylvania and Philadelphia Counties, Lehigh, Northampton,
4 Berks, Montgomery, Delaware, Chester, et cetera. That's
5 about it in Pennsylvania, Philadelphia County.

6 Q. And does Mr. O'Neill have the kind of trailers
7 that are needed to move the kind of equipment you need to
8 move?

9 A. Yes, he does.

10 Q. And do you have authority for Giles and Ransom to
11 find someone to move this equipment when you sell it or
12 lease it?

13 A. Yes, I do.

14 Q. And your employer, Giles and Ransom, knows you're
15 here today in support of this application?

16 A. Yes, they do.

17 Q. Does Giles and Ransom --

18 MR. SANDS: I'll withdraw that. Cross examine.

19 JUDGE KASHI: Mr. Chesnutt?

20 CROSS EXAMINATION

21 BY MR. CHESNUTT:

22 Q. Mr. Neubaum, you indicated an address in
23 Allentown. Is that where you live or is that where you
24 work?

25 A. That's where I live.

1 Q. Where do you work?

2 A. Basically, all the sales people are out of our
3 Philadelphia office which is 2790 Galloway Road, Bensalem.
4 We do have an operation in Allentown and in Fleetwood.

5 Q. Fleetwood is in which county?

6 A. Berks.

7 Q. And is it at those three locations Bensalem,
8 Allentown, and Fleetwood from which the construction and
9 mining equipment would move?

10 A. Yes, sir.

11 Q. And it would be moved either to a purchaser of
12 that equipment or to someone who is leasing it?

13 A. That's correct.

14 Q. And that's the type of service that you'd like to
15 have Mr. O'Neill's company available to perform for you?

16 A. Yes.

17 MR. CHESNUTT: Fine. Thank you, sir. Those are all
18 the questions I have.

19 BY JUDGE KASHI:

20 Q. How many sales of heavy equipment do you, say, on
21 a yearly basis have to move yourself?

22 A. Last year our company, our division sold just
23 slightly under 600 units. However, we do not move every one
24 of those pieces. To try to estimate the number of rentals
25 would be very, very difficult. I'd have to say roughly we

1 could make 200, 250 moves a year, and that's --

2 Q. How are you presently accomplishing those 250
3 moves?

4 A. We, out of our Philadelphia office, currently use
5 several carriers on local basis. We use different type
6 carriers for from factory to our facility haul and we have
7 several sources that we use and at the time we decide the
8 source that depends on where the move is coming from and
9 where it's going to and how expediently the move can be
10 made.

11 Q. Can you tell me the names of the carriers that
12 you presently are using?

13 A. Out of Philadelphia I think the main carrier that
14 we are using is Specialty Haulers. Basically, that's the
15 one that we use the most out of Philadelphia.

16 Q. Do you know of the protestant in this case, Daily
17 Express, Inc.?

18 A. Do I know of them?

19 Q. Yes.

20 A. Yes, I do.

21 Q. Have you ever tendered any moves to that company?

22 A. I'm sure we have. I've been with Giles and
23 Ransom two and a half years and with another company locally
24 14 years and, yes, I know that we have used them many times
25 over the years and I'm sure that Giles and Ransom has. I

1 can't cite any incidents but I know that -- I'm sure that we
2 have.

3 JUDGE KASHI: I have nothing further.

4 MR. SANDS: I have some follow up on that.

5 REDIRECT EXAMINATION

6 BY MR. SANDS:

7 Q. In fact, a representative of Daily called you
8 last Thursday, did they not?

9 A. Last week sometime. I don't know the exact day,
10 yes.

11 Q. And Daily hauls most of your things from the
12 factory to your Philadelphia plant -- your Allentown plant?

13 A. Daily does not haul most of our things. I'd have
14 to say that I don't know how much, if any, they do, but
15 Daily is the type carrier that we would have haul interstate
16 for us, long hauls that sort of thing, some of the larger
17 equipment, the specialized equipment that may weigh in the
18 area of 80,000, 90,000 pounds and above and that requires
19 specialized type lowboy equipment, high beam trailers, drop
20 side deck trailers and that sort of thing.

21 Q. Have you, yourself, ever called Daily to move
22 equipment?

23 A. Since I've been Giles and Ransom, no, but when I
24 was with Highway Equipment and Supply, yes, I did.

25 Q. And where does Daily dispatch from?

1 A. Certainly.

2 Q. The moves of the heavy equipment that you
3 occasionally find necessary, how many times on a yearly
4 basis is that? How many times do you require outside moves
5 for your heavy equipment?

6 A. You mean how many times a year?

7 Q. Yes, sir.

8 A. I would say at least 25 times a year.

9 Q. And how have you been accomplishing those moves
10 prior to this hearing?

11 A. It's been a very difficult situation for us
12 because while we, too, use Daily Express on long interstate
13 hauls we need to have equipment to be able to move our
14 equipment at a sort of a moment's notice, an hour's notice
15 or two hour's notice and in the Reading area there just
16 isn't anybody, to my knowledge at least, who has the Public
17 Utility rights to do this sort of thing and it's been,
18 frankly, catch as catch can. It's been a very difficult
19 time for us.

20 Q. You've used Daily in the past. Did you have any
21 problems with Daily?

22 A. We used -- we moved a crane from Texas to
23 Wadsworth, Ohio. We have used them for heavy hauls. We
24 moved another crane from Detroit to Wadsworth, then we
25 picked up the crane in Wadsworth, Ohio and moved it to

1 Temple. We picked up the other one and moved that from
2 Wadsworth, Ohio to Temple. We have used them.

3 Q. Have you used them on an intrastate basis?

4 A. No, sir. Intra, you mean within the state?

5 Q. Yes.

6 A. No.

7 JUDGE KASHI: I don't have anything further. Thank
8 you, Mr. Simon.

9 THE WITNESS: Certainly.

10 JUDGE KASHI: Do you have anything further, Mr.
11 Sands?

12 MR. SANDS: No, we have nothing further.

13 JUDGE KASHI: Mr. Chesnutt?

14 MR. CHESNUTT: Might we have a recess, Your Honor? I
15 would have to admit that I did not think this would move
16 this rapidly and I need to call over to my office to have
17 some exhibits brought over.

18 JUDGE KASHI: All right. Send the reporter to get me
19 when you are ready. We'll stand in recess.

20 (Whereupon, a brief recess was taken.)

21 JUDGE KASHI: Back on the record. Mr. Chesnutt, can
22 we hear from the protestant?

23 MR. CHESNUTT: Yes. Thank you for your indulgence as
24 well as that of counsel for applicant. If Your Honor might,
25 I'd like to make an opening statement or a preliminary

1 statement before the witness takes the stand.

2 Daily Express' appearance here this morning in
3 opposition to this transaction or this application is
4 premised on the provisions of 52 Pa. Code Section 41.14(C),
5 particularly the first clause of that provision which reads,
6 and I quote, the Commission will grant motor common carrier
7 authority commensurate with the demonstrated public need,
8 close the quote at that point.

9 Our purpose in presenting testimony is to reinforce
10 the proposition that the demonstrated public need here is
11 somewhat limited and we want to make the point that we do --
12 that Daily Express does handle traffic which if the
13 application is not confined to, in my judgment, an
14 appropriate territorial commodity scope that would allow
15 this applicant to provide service for the two entities who
16 have appeared in support of it.

17 That it is that prospect that Daily wishes to
18 address, the failure to confine the application to the
19 demonstrated public need. It is not an attempt to fulfill
20 the burden of 41.14(C) to the extent that it requires a
21 protestant to show that it would be endangered or impaired
22 by the grant of the application so long as it is
23 appropriately confined. With that introduction, I would
24 like to call Mr. Larry Jones to the stand.

25 JUDGE KASHI: Mr Jones?

1 LARRY JONES, called as a witness, having been duly
2 sworn, was examined and testified as follows:

3 JUDGE KASHI: Please be seated, sir.

4 DIRECT EXAMINATION

5 BY MR. CHESNUTT:

6 Q. State your name and business address, Mr. Jones.

7 A. My name is Larry Jones. I work for Daily
8 Express, P.O. Box 39, Carlisle, Pennsylvania.

9 Q. What do you do for Daily Express?

10 A. I am presently director of marketing.

11 Q. How long have you been with the company?

12 A. Nearly 20 years.

13 Q. Have you been in other capacities with the
14 company such that you're familiar with its operating
15 authority, equipment, and operations?

16 A. I am. I have served in various capacities
17 including supervision of the rate department, billing and
18 settlement departments, customer service, and sales
19 administration.

20 Q. Are you authorized to appear in opposition to
21 this application by the corporation?

22 A. I am.

23 MR. CHESNUTT: If Your Honor please, I have
24 distributed to the opposing counsel, yourself, and two
25 copies to the Reporter a series of three exhibits that will

1 be sponsored by Mr. Jones. The first is a single page
2 document that on its face appears to be from a tariff on
3 file with this Commission. I'd like to have that marked as
4 Exhibit Number 1.

5 JUDGE KASHI: So marked for purposes of
6 identification.

7 (Exhibit No. 1 was produced and marked for
8 identification.)

9 MR. CHESNUTT: The next is a single sheet document
10 having some schematic diagrams apparently of trailer
11 equipment down the right-hand side of it, but I'd like to
12 have it marked for identification as Exhibit Number 2.

13 JUDGE KASHI: So marked for purposes of
14 identification.

15 (Exhibit No. 2 was produced and marked for
16 identification.)

17 MR. CHESNUTT: The final exhibit is a multi-page
18 document which is arranged in columnar fashion containing
19 information concerning, on the first page, Bethlehem Steel
20 Company, Steelton; Taylor-Wharton, Harrisburg; et cetera.
21 Exhibit Number 3.

22 JUDGE KASHI: So marked for purposes of
23 identification.

24 (Exhibit No. 3 was produced and marked for
25 identification.)

1 BY MR. CHESNUTT:

2 Q. Mr. Jones, is Exhibit Number 1 the operating
3 authority of Daily Express in Pennsylvania Intrastate
4 Commerce on which the protest here is premised?

5 A. Yes, sir, it is.

6 Q. Turn if you will to Exhibit Number 2 and indicate
7 for us, first of all, what are the numbers that appear in a
8 column, the top number of which is 450 and the bottom number
9 of which is 24. Which do those numbers represent?

10 A. This page is a menu of the types of equipment we
11 have in our fleet. The numbers to the left that you refer
12 to are the approximate quantities of that particular trailer
13 type.

14 Q. And for purposes of your testimony here can we
15 ignore the numbers that appear to the right of some of those
16 trailers?

17 A. Yes, sir, we can.

18 Q. Now, were you present in the hearing room this
19 morning when the applicant testified about the four trailers
20 that it maintains and operates?

21 A. Yes, I was.

22 Q. Does Daily Express have equipment of that type?

23 A. Yes, we do.

24 Q. Would you indicate for the Judge which units by
25 the descriptions that appear to the left of the numbers that

1 you referred to that would fall within the category of
2 equipment suitable for transportation of contractors'
3 machinery and that type of commodity?

4 A. We have three types on here that generally are
5 represented of the types of equipment that was given in
6 testimony previously. The first one is the one that's
7 marked with an 18 in the column about halfway down called
8 detachable gooseneck lowboy. Further down, third from the
9 bottom, is I-Beam detachable gooseneck lowboy and then the
10 bottom one, low height platform trailer.

11 Q. What does the detachable gooseneck feature allow
12 Daily Express to do in terms of handling contractors'
13 equipment and units described as cranes, wheel loaders, skid
14 loaders and that sort of construction and mining equipment?

15 A. By removing the gooseneck where it attaches to
16 the bed it facilitates the ease in loading and unloading of
17 self-propelled vehicles.

18 Q. Both of the witnesses that testified this morning
19 indicated there is no use by them of Daily Express on
20 Pennsylvania intrastate traffic. So far as you know, is
21 that correct?

22 A. Yes, sir.

23 Q. On the other hand, are the types of equipment
24 that you've just pointed out and other units that are shown
25 on Exhibit 2 used to transport products similar to those

1 moved by Giles and Ransom and Simon Eastern Corporation?

2 MR. SANDS: Objection as to the other types of
3 equipment shown on the exhibit. He's only testified as to
4 three specific types.

5 JUDGE KASHI: Sustained.

6 BY MR. CHESNUTT:

7 Q. Mr. Jones, are you familiar with a commodity
8 description called commodities which because of size or
9 weight require the use of special equipment?

10 A. Yes, I am.

11 Q. When that commodity description is used, are the
12 special equipment trailers that are implicit in that
13 description confined to those that you pointed out on
14 Exhibit Number 2?

15 A. No, they are not.

16 Q. What other types of trailers come within the
17 description special equipment?

18 A. Any type of trailer that is generally described
19 as lowboy equipment, that is, other than a standard flatbed
20 height, could include single drops, double drops, level
21 decks, various nomenclatures.

22 Q. You understand that the application on file here
23 which you are opposing is framed in terms of the description
24 commodities which because of size and weight require the use
25 of special equipment?

1 A. Yes, I am.

2 Q. Turn, if you will, to Exhibit Number 3. Would
3 you tell us what the various pieces of information shown on
4 there are. Let's start with the first page and look at the
5 digit that appears to the far left-hand column. It looks
6 like it is about seven digits long. What is that?

7 A. That's our load number or load control number,
8 whatever you want to refer.

9 Q. Ignoring the material that has been stricken out
10 of this exhibit, let's turn to the next column, the first
11 entry of which appears to be Bethlehem Steel Company. What
12 is that?

13 A. That is the shipper's name.

14 Q. And what is the next entry, Steelton, indicate?

15 A. That is the location of the origin of the load.

16 Q. What is the next entry, Taylor-Wharton Company?

17 A. That is the consignee's name.

18 Q. What is the next entry, Harrisburg?

19 A. The location of the delivery site.

20 Q. What is the next column, billets?

21 A. That is the commodity transported.

22 Q. What is the next column?

23 A. The weight transported.

24 Q. What is the next column?

25 A. The line haul revenue.

1 Q. Now, do you have the shipping documents in which
2 the summary has been prepared here in the hearing room with
3 you?

4 A. Yes, I do.

5 Q. For what period of time is this summary covering?

6 A. This is the month of May.

7 Q. And has any effort been made to confine the
8 territorial scope of the presentation?

9 A. Yes. The exhibit was entirely every PUC movement
10 for the month of May. I've stricken those which are
11 territorially beyond the realm of this hearing.

12 Q. And when you say beyond the realm of this
13 hearing, you're talking about the territory as framed in the
14 application as filed. Is that correct?

15 A. Yes, sir, I am.

16 Q. Now, if you turn to the second page of what you
17 have presented here today, the first entry that is not
18 stricken is 3733300. Do you see that?

19 A. Yes, sir.

20 Q. There is a little mark to the left of that
21 number. Who put that mark on there?

22 A. I did.

23 Q. Why?

24 A. That denotes that a lowboy trailer was used in
25 the transport of that load.

1 MR. SANDS: I'm sorry. Which mark is that?

2 THE WITNESS: The little tick mark to the left of the
3 left column. There is none on the first page.

4 BY MR. CHESNUTT:

5 Q. And would it be correct to a reader of this
6 exhibit wherever that mark appears to the left of the seven
7 digit number printed on the exhibit that indicates use of a
8 lowboy trailer of the type utilized for transportation of
9 construction machinery and equipment?

10 A. Yes, sir.

11 Q. And so looking at those entries will the reader
12 be able to discern the names of shippers, consignees, and
13 revenue associated with moves that Daily has performed
14 during the month of May between points in Pennsylvania?

15 A. Yes, they would.

16 Q. Is Daily concerned and interested in retaining
17 the revenues attributable to loads such as you've just
18 described?

19 A. Yes, we are.

20 Q. During the hearing this morning at which you were
21 present did you hear any of the shippers or consignees that
22 are listed on Exhibit 3 come forward to present evidence of
23 a need for the service of this applicant?

24 A. No, I have not.

25 Q. In light of those answers, would you explain

1 briefly to the Judge what the position of Daily Express is
2 with respect to this application?

3 A. We generally want to protect the revenues and the
4 authority that we presently hold. We are fit and able to
5 service the State of Pennsylvania.

6 MR. SANDS: I object to that. That's an opinion that
7 he's not qualified to give.

8 JUDGE KASHI: We know you are a carrier. Just go on
9 from there.

10 THE WITNESS: We protest the intrusion of another
11 carrier with a general application of authority. We harbor
12 no concerns about restricting an authority to the applicant
13 that would enable him to transport products for the
14 witnesses that he's brought with him.

15 MR. CHESNUTT: The protestant rests its presentation.

16 JUDGE KASHI: Thank you, Mr. Chesnutt. Cross
17 examine, Mr. Sands?

18 MR. SANDS: Yes, sir.

19 CROSS EXAMINATION

20 BY MR. SANDS:

21 Q. Mr. Jones, you indicated in Exhibit Number 2 the
22 number on the left-hand side in front of the pictures of the
23 various types of trailers is the number of trailers that
24 Daily has in its fleet?

25 A. Of that type trailer, yes, sir.

1 Q. And the numbers to the right and behind the
2 trailers, are what?

3 A. They were relative to another schematic that
4 showed types of trailers in use under load.

5 Q. Do those numbers have any bearing on this case?

6 A. Not at this point, they do not.

7 Q. Now, where is Daily's fleet located?

8 A. The home office is domiciled in Carlisle,
9 Pennsylvania. The fleet is distributed throughout primarily
10 Eastern United States.

11 Q. Does Daily have ICC rights?

12 A. Yes, sir, we do.

13 Q. For what area?

14 A. Points in the continental states.

15 Q. Forty-eight states?

16 A. Yes, sir.

17 Q. So that your fleet can be at any point and
18 anywhere within those 48 states at any given time?

19 A. That's true.

20 Q. Can you tell us here today how many of the
21 detachable gooseneck lowboys are in your yard or in your
22 home office yard in Carlisle today?

23 A. No. I would only be guessing at that point.

24 Q. So you don't know whether there are any there
25 available for service or not on today's date?

1 A. A general day there are two or three guys at the
2 terminal or in immediate vicinity.

3 Q. Now, are these trailers all owned by Daily
4 Express or are they owner operator leased?

5 A. The trailers are owned by Daily Express.

6 Q. How many tractors does Daily own?

7 A. We own -- company owned equipment, 55.

8 Q. Fifty-five tractors?

9 A. Yes, sir.

10 Q. Well, I note just on the first trailer alone you
11 say that Daily owned 450 of those trailers?

12 A. Yes, sir.

13 Q. But you only own 55 tractors?

14 A. We do, but we do have owner operator tractors
15 under lease, permanent lease.

16 Q. So that it's a fair assumption to say that three
17 quarters of your loads are pulled by owner operators?

18 A. Yes, sir. That's true.

19 Q. Or a greater percentage?

20 A. Yes.

21 Q. So that you don't just have drivers working for
22 Daily that report to Daily every morning at 8:00 and take
23 loads out? When you have a load to go somewhere, you have
24 to call an owner operator and find one that's available to
25 take a load for wherever you happen to want it to go?

1 A. That's right. Our owner operators being on a
2 permanent lease are not running for other carriers as well
3 so they are effectively operating their tractor as if it
4 were Daily's.

5 Q. Well, now, Mr. Jones, you say they are not
6 running for other carriers because they are on a permanent
7 lease. You haven't found any of your owner operators
8 moonlighting on your time ever?

9 A. They are permitted to trip lease to other
10 carriers, yes, sir.

11 Q. Which they do quite regularly?

12 A. Very infrequently in our company.

13 Q. You always have a back haul?

14 A. Not always.

15 Q. And they trip lease whenever there is no back
16 haul. Is that correct?

17 A. They do that.

18 Q. Going to Exhibit Number 3 if you look at the
19 first page -- well, let's skip that because you don't have
20 that marked with any of your little dots.

21 A. Okay.

22 Q. Of this multi-page document, however many pages
23 it is, you have a total of 425 records listed that shows at
24 the end. Is that correct?

25 A. That's correct.

1 Q. And of that 425, 41 have the little check mark in
2 the front?

3 A. Okay.

4 Q. Less than 10 percent?

5 A. Yes, sir.

6 Q. For the month of May?

7 A. Yes, sir.

8 Q. May, June, July are some of your busiest months
9 for hauling construction equipment?

10 A. The spring months are generally busier than
11 others, yes.

12 Q. So this should be one of your peak months?

13 A. I would say so.

14 Q. And I believe I saw in here only two places where
15 you picked up work in Berks County and hauled it to another
16 county. Is that right?

17 A. I would have to review it.

18 Q. Well, haven't you reviewed this?

19 A. I was reviewing it in the context of the
20 application on points east of U.S. 219.

21 Q. 219, Johnstown?

22 A. Yes, sir. Specifically for Berks County, if you
23 said there are two, I'd have to agree with that, sir.

24 Q. And both those jobs went from Reading to York?

25 A. Okay.

1 Q. Is that right?

2 A. Which page are you looking at?

3 Q. Page 11 and 13.

4 A. Reading to York and, yes, Reading to York.

5 Q. Do you know where Reliance Drilling is located?

6 A. Not explicitly, no, sir.

7 Q. You don't know where their office is?

8 A. No, sir.

9 Q. Both those loads were for an American 5 which was
10 80,000 pounds and Manitowoc, 108,000 pounds. Is that right?

11 A. Yes, sir.

12 Q. Now, you've heard the testimony of Empire this
13 morning. Their maximum is 70,000? I'm sorry. Seventy ton,
14 140 thousand?

15 A. Yes, sir.

16 Q. Are any of these shippers or consignees as you
17 have them here contractors of the ones that you have
18 checked?

19 A. Yes, there are some.

20 Q. And where are they?

21 A. There are numerous references. For instance, on
22 page 13 Transco being consignee is a pipeline installation
23 contractor. On page 11 the shipper is Plum Contracting.

24 Q. So you have one shipper on page 11 that's a
25 contractor?

1 A. Also on page 11, I.A. Construction. They are a
2 contractor. Also on page 11 near the top is Joe Kuperavage
3 Coal Company in the coal business as was one of the
4 supportants here today.

5 Q. That's a consignee. That's not a shipper.

6 A. Okay. The load could have been controlled by the
7 consignee as well.

8 Q. Well, then why isn't the consignee named as a
9 shipper then?

10 A. Well, the shipper is the actual -- the name of
11 the location that it is shipped from, not necessarily who
12 booked the load with us.

13 Q. You mean to tell me here today that you prepared
14 this list and you can't tell us who booked the load with
15 you?

16 A. Not from this document I can't.

17 Q. Not from this document?

18 A. No. As far as contractors go, that pretty much
19 is the extent of those that are on the exhibit.

20 Q. So out of the 41 loads that used these lowboys
21 only two and possibly three, you're not sure, were booked by
22 contractors for the movement of equipment?

23 A. Yes, sir.

24 Q. And you are opposing the application of Empire to
25 use four trailers to haul within the territory outlined?

1 A. Bear in mind that our exhibit is one month's
2 study and a 12-month review would give you an entirely
3 different array of shippers and consignees and this was only
4 to be representative of our annual menu of loads.

5 We do do business with numerous contractors as well
6 as new construction equipment, new and used construction
7 equipment dealers who would be shipping to their customers
8 or between customers job sites.

9 Q. But, sir, you did say that May is one of your
10 busiest months. It's busier than many of the other months
11 and that it's only 2 of the 41 things that you have marked
12 were done by contractors which means that what you are
13 opposing here is less --

14 MR. CHESNUTT: I object.

15 JUDGE KASHI: You are arguing with the witness. I
16 would like, for the record, counsel is saying -- Mr. Sands
17 you're saying there were only two moves or three moves on
18 this document. He listed three shippers. That does not --
19 from the document does not say there were only three moves.

20 MR. SANDS: The witness testified that only three of
21 the 41 things that he has marked on this document were
22 shipped by contractors. That's his testimony.

23 JUDGE KASHI: That's not what he said, sir. I'm
24 sorry. I think the record will speak for itself on that.
25 That's not what he said.

1 BY MR. SANDS:

2 Q. Are there more than three contractors that
3 shipped heavy machinery on the 41 that you have marked?

4 MR. CHESNUTT: I'll interpose an objection to this
5 entire line of cross examination now because I don't see
6 where it has any relevance. The application is not confined
7 to movement over contractors. The application seeks
8 authority to transport commodities which because of size and
9 weight require special equipment.

10 JUDGE KASHI: Sustained.

11 MR. SANDS: May it please the Hearing Examiner, that
12 it goes to show that from their own exhibit less than four
13 tenths of a percent in this given month is what we propose
14 to move and --

15 JUDGE KASHI: The exhibit speaks for itself.

16 MR. CHESNUTT: And I object to that characterization
17 on the record because it's inaccurate.

18 BY MR. SANDS:

19 Q. Does your company haul construction equipment for
20 contractors when they need to move from one site to another?

21 A. Yes, we do.

22 Q. How many of such hauls are represented here in
23 this document that you've prepared for May?

24 A. If you'll bear with me for a moment.

25 Q. Certainly.

1 A. Am I to limit myself only from job site to job
2 site or from equipment dealership to dealership, something
3 like that?

4 Q. I would limit you from job site to job site or
5 dealership to job site.

6 A. Okay. I would have to categorize 13 shipments on
7 my exhibit in that respect.

8 Q. And could you identify those for us, please?

9 MR. CHESNUTT: Why don't you give the page number
10 first.

11 MR. SANDS: Yes, please. That would be the easiest
12 way.

13 THE WITNESS: Beginning on page number 10 near the
14 bottom the ones identified as Forke Brothers Auction there
15 are four shipments. All four that are tick marked were
16 construction equipment from a purchase site to the job site
17 or the dealers facility. Next page, 11, the first tick
18 called Blaschak Coal Company was also from one construction
19 site or coal yard site to another which would fall in the
20 general --

21 BY MR. SANDS:

22 Q. Which is this?

23 A. The very first one with the tick mark, Blaschak
24 Coal Company, and then down beyond the middle of that page
25 H.C. Price to Transco, Effort that was to a job site. On

1 down to one identified as job site to Reliance Drilling in
2 York. That was a movement between the job site and the
3 storage yard for the equipment.

4 And the next one was identified as Mifflin County
5 Solid to Cleveland Brothers in Harrisburg. Again, that's
6 between a job site and the dealer's facility. The next one
7 is Plum Contracting to Plum Contracting. That was between
8 two job site locations.

9 The next page, 12, near the top identified as Taylor
10 Amoco Service to Transco in Effort, two loads there are
11 delivering to a job site and on page 13 near the middle of
12 the page identified as job site Reading to Reliance Drilling
13 in York. That's, again, one that's moved between a job site
14 and the last one was Taylor Amoco Service to Transco in
15 Effort, specifically a Cat 583. That is, again, to a job
16 site.

17 Q. Where is Tyrone?

18 A. Tyrone is on Route 219 in Huntingdon County, I
19 believe it is.

20 Q. So that would be within this area?

21 A. Yes.

22 Q. You're sure of that?

23 A. Yes. That specific yard where that auction was
24 held was East of 219 because I physically visited it.

25 Q. Ordinarily I believe you'll find Tyrone is

1 outside --

2 A. The City of Tyrone is West of 219, I'm aware.
3 The yard and job site was east of the highway.

4 Q. From the initial inception of a telephone call to
5 your office, what length of time would it take me to get a
6 lowboy trailer to Reading, Pennsylvania to haul a bulldozer
7 or something? If I called you today, could I have it
8 tomorrow morning?

9 A. We generally prefer 24 hour notice. Call today
10 for tomorrow's pick up, yes, sir.

11 Q. But you have no idea whether you even have a
12 trailer in the yard that could handle that today?

13 A. We would be able to assess the likelihood today
14 of our being able to handle it for you tomorrow based upon
15 prior commitments.

16 Q. And then if you couldn't, you'd call me back and
17 say I can't handle it tomorrow? I'll handle it next week?

18 A. Yes, sir.

19 Q. So that the likelihood of giving two or four hour
20 service is what?

21 A. Possible, but not likely.

22 MR. SANDS: I have nothing further for this witness.

23 JUDGE KASHI: Redirect?

24 MR. CHESNUTT: I have nothing on redirect, Your
25 Honor.

1 JUDGE KASHI: Thank you, sir. You are excused.

2 MR. CHESNUTT: I would move for the admission of
3 Exhibits 1 through 3.

4 JUDGE KASHI: Without objection, they will be
5 received into the evidentiary record.

6 (Exhibits Nos. 1 through 3 were admitted in
7 evidence.)

8 JUDGE KASHI: Do you have anything further, Mr.
9 Chesnutt?

10 MR. CHESNUTT: Your Honor, I would like to have an
11 opportunity to file a brief. I would also like to make one
12 inquiry of counsel for applicant. I have in my records, Mr.
13 Sands, a document which seems to be an amendment to the
14 scope of this application as it was originally filed. Do
15 you acknowledge that an amendment has been filed or am I
16 wrong?

17 MR. SANDS: To the best of my knowledge, an amendment
18 has been filed eliminating four or five other protestants
19 which restricts the rights in that no right or privilege is
20 granted to transport household goods and office furniture in
21 use.

22 No right or power or privilege is granted to
23 transport petroleum products in bulk within the Commonwealth
24 and, thirdly, no right or power or privilege is granted to
25 transport iron and steel products from Lukens Steel Company

1 in Coatesville, Chester County, Pennsylvania or Bethlehem
2 Steel Corporation in Lehigh and Northampton Counties.

3 MR. CHESNUTT: May I inquiry of His Honor whether he
4 is aware of that document or not?

5 JUDGE KASHI: Yes, I am. It is not in my file. It
6 was given to me from Judge Solomon, but it is in the
7 official record of the Commission. It's dated received on
8 January 30, 1989.

9 MR. CHESNUTT: And could I go back to inquire of
10 counsel for the applicant, is this filed on behalf of Empire
11 Wrecking because I notice at the bottom it indicates a
12 submission by Kelly Freight Lines, Inc.?

13 MR. SANDS: That's a typographical error. I think
14 you'll find it says restrictive amendment to application of
15 Empire Wrecking Company of Reading, Pennsylvania. I didn't
16 even see that myself. That was some other work that we were
17 doing at the time I guess.

18 MR. CHESNUTT: That was the source of my confusion.

19 MR. SANDS: I think counsel was served with that back
20 in January as well as Mr. Loftus, A. Duie Pyle, and Kennedy
21 Transfer.

22 JUDGE KASHI: Thirty days from receipt of the
23 transcript for briefs?

24 MR. CHESNUTT: That's fine, sir.

25 JUDGE KASHI: Mr. Sands, do you have any problem with

1 that time?

2 MR. SANDS: I quite frankly can't tell you. It
3 depends on when the transcript comes out.

4 JUDGE KASHI: Well, it would be 30 days from the
5 receipt of transcript.

6 MR. SANDS: That may or may not be good for me
7 because, first of all, I'm going to be away the first week
8 in September and sometime in the middle of September I'm
9 going to start a products liability helicopter crash case in
10 Berks County Court of Common Pleas and if I'm in the middle
11 of that, I can't tell you if it's going to go two or three
12 weeks or what. Ordinarily, 30 days is not a problem.
13 Depends on when it hits. If it is a problem, I will be
14 touch with you.

15 JUDGE KASHI: If it is a problem, you can ask for an
16 extension. Thirty days from receipt of transcript. We'll
17 inform the parties by letter when the briefs are due.
18 Anything further, gentlemen?

19 MR. CHESNUTT: Nothing. Thank you, Your Honor.

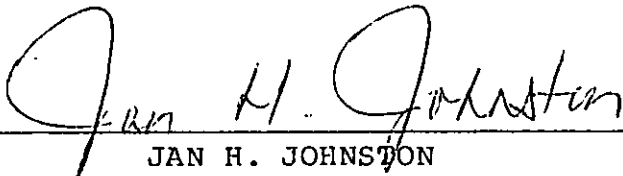
20 JUDGE KASHI: We stand adjourned. Thank you very
21 much.

22 (Whereupon, at 11:55 a.m., the hearing was
23 concluded.)

24

25

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

5
6 
7 _____
8 JAN H. JOHNSTON
9 Court Reporter

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11 reproduction of the same by any means unless under the
12 direct control and/or supervision of the certifying
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