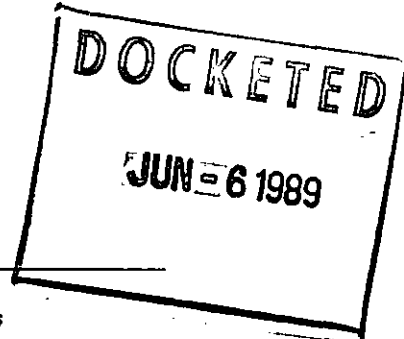


PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u>	:	2. <u>BUREAU AGENDA NO.</u>
April 17, 1989	:	
3. <u>BUREAU:</u>	:	MAY-89-T-464*
Transportation	:	
4. <u>SECTION</u>	:	5. <u>PUBLIC MEETING DATE:</u>
Technical Review	:	
6. <u>APPROVED BY:</u>	:	
	:	May 11, 1989
Director: Ernst 7-2154	:	
Supervisor: Marzolf 3-5945	:	
7. <u>MONITOR:</u>	:	
	:	
8. <u>PERSON IN CHARGE:</u>	:	
Tim Zeigler 3-5946	:	
9. <u>DOCKET NO.:</u>	:	
A-00108557	:	



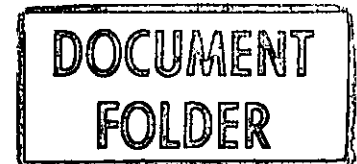
10. (a) CAPTION (abbreviate if more than 4 lines)
(b) Short summary of history & facts, documents & briefs
(c) Recommendation

(a) Application of A.R. Oliastro, Inc., a corporation of the Commonwealth of Pennsylvania, Ellwood City, Lawrence County, for the transfer of all of the operating rights of John D. Aiken, under the certificate issued at A-00084442, subject to the same limitations and conditions.

(b) The application for transfer is unopposed. The transferor seeks to retire from business and to sell and have transferred all his operating authority to the applicant for the total consideration of \$1,000. No tangible assets are involved.

(c) The Bureau of Transportation recommends the Commission adopt the proposed order approving the transfer application; and cancelling the certificate issued to the transferor by supplemental order.

TZ:np



11. MOTION BY:	Commissioner Chm. Shane	Commissioner Rhodes - Yes
		Commissioner Fischl - Yes
' SECONDED:	Commissioner Smith	Commissioner

CONTENT OF MOTION: Staff recommendation adopted.



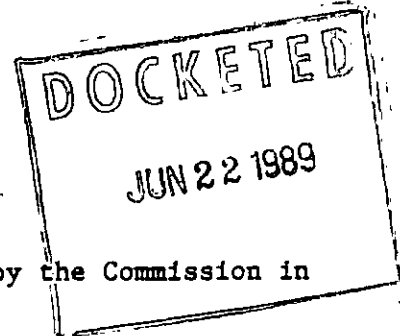
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

May 18, 1989

IN REPLY PLEASE
REFER TO OUR FILE
A-00108557

Thomas W. Minett, Esquire
780 Longvue Drive
Ellwood City, PA 16117

Application of A.R. Oliastro, Inc., a corporation of the Commonwealth of Pennsylvania



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

A Certificate of Public Convenience evidencing the Commission's approval of the right to operate will not be issued until the applicant has complied with the following insurance and tariff requirements:

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

Minimum Limits for PA Public Utility Commission Authorized Service

Passenger Carriers:

15 passengers or less: \$35,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$25,000 first party medical benefits, \$10,000 first party wage loss benefits and \$1,500 first party funeral benefits for all passengers and pedestrians.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits for drivers (PA registered vehicles only).

16 to 28 passengers: \$1,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

29 passengers or more: \$5,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

Property Carriers:

Common or Contract: \$300,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits (PA registered vehicles only).

Common only: \$5,000 per accident per vehicle for loss or damage to cargo.

No motor carrier shall operate or engage in any transportation until compliance with all of the above requirements and a certificate has been issued authorizing actual operations. A motor carrier operating without complying with the above requirements will be subject to the penalty provisions of the Public Utility Code.

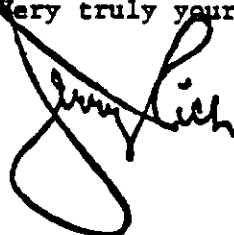
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of May 11, 1989 and dismiss the application without further proceedings.

If you foresee problems in meeting these requirements, please direct your questions to the following contact persons:

Insurance Filings: Mr. James McCarthy-Insurance Section
(717) 783-5933

Tariff Filings: Mr. Joseph Machulsky-Tariff Section
(717) 787-5521

Very truly yours,



Jerry Rich, Secretary

cc: A.R. Oliastro, Inc.
1690 Windover Avenue
P.O. Box 148
Ellwood City, PA 16117

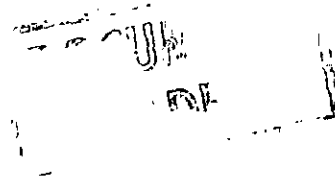
fao
Enclosures
Certified Mail
Receipt Requested

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held May 11, 1989

Commissioners Present:

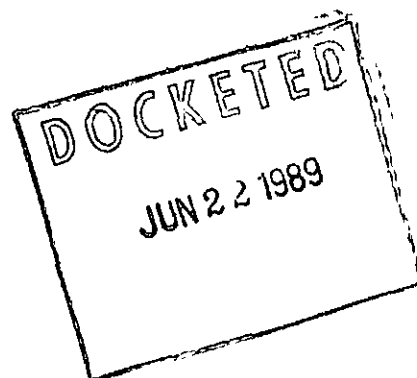
Bill Shane, Chairman
William H. Smith, Vice-Chairman
Joseph Rhodes, Jr.
Frank Fischl



Application of A.R. Oliastro, Inc., a corporation of the Commonwealth of Pennsylvania, for the transfer of all of the operating rights of John D. Aiken under the certificate issued at A-00084442, subject to the same limitations and conditions.

A-00108557

Thomas W. Minett for the applicant.



O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed December 15, 1988. Public notice of the application was given in the Pennsylvania Bulletin of February 18, 1989. The unopposed application is certified to the Commission for its decision without oral hearing.

John D. Aiken, the transferor in this proceeding, desires to retire from business and transfer all his authority to the applicant. A.R. Oliastro, Inc. is a Pennsylvania corporation domiciled at 1690 Windover Avenue, Ellwood City. The applicant does not now hold authority from the Commission or the Interstate Commerce Commission. The corporation sets forth assets of \$337,679 with total liabilities of \$73,361.

The total consideration for the rights is \$1,000. No tangible assets are involved. The sales agreement requires the consideration to be paid when the transfer application is approved by the Commission.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly,

440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.
2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the transfer application be and is hereby approved and that a certificate be issued granting the following right(s):

To transport, as a Class D carrier, coal from mines or stripping operations in the counties of Butler, Beaver and Lawrence to railroad sidings or tipples in the said counties, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.

To transport, as a Class D carrier, building materials, in bulk in dump trucks, between points in the counties of Butler, Beaver and Lawrence, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.

subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$1,000, being the amount of the consideration payable by

it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.

4. That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its utility accounts any amounts representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
5. That the operating authority granted herein, or now held or subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.
7. That the certificate/permit holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 PA C.S.A. §1102(a)(3).

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a tariff establishing just and reasonable rates.

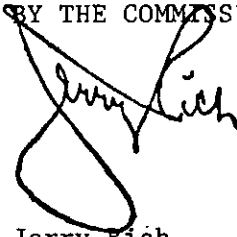
IT IS FURTHER ORDERED: That issuance of the certificate be withheld pending receipt of the 1988 Annual Report of the transferor.

IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a certificate issue evidencing the Commission's approval of the right to operate as above-determined.

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor, John D. Aiken at A-00084442 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is written in a cursive style with a large loop at the bottom.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: May 11, 1989

ORDER ENTERED: **MAY 18 1989**

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "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: <i>A108557 O</i> <i>John B. Aiken</i>	4. Article Number 44190
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
5. Signature - Address <i>X John B. Aiken</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent <i>X</i>	
7. Date of Delivery <i>5-20-89</i>	

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "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: <i>A108557 O</i> <i>Thomas W. Minnett,</i> <i>Esq.</i>	4. Article Number 44191
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
5. Signature - Address <i>X Thomas W. Minnett Esq.</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent <i>X</i>	
7. Date of Delivery MAY 24 1989	

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

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