

PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u> February 15, 1989	2. <u>BUREAU AGENDA NO.</u> MAR-89-T-238*
3. <u>BUREAU:</u> Transportation	
4. <u>SECTION</u> Technical Review	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u> Director: Ernst 7-2154 Supervisor: Bigelow/Marzolf 3-5945	March 9, 1989
7. <u>MONITOR:</u>	
8. <u>PERSON IN CHARGE:</u> Keener-Farley 7-4386	
9. <u>DOCKET NO.:</u> A-00108518	

DOCKETED

APR - 6 1989

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

(a) Application of James Ennis, Jr., t/d/b/a Ennis Trucking, for the transfer of all of the operating rights of James E. Ennis, Sr., and Dorothy E. Ennis, copartners, t/d/b/a Ennis Trucking, under the certificate issued at A-00093650 subject to the same limitations and conditions.

(b) Transferor proposes to transfer all of its PUC operating authority and other assets for a nominal consideration of \$1.00. This is a transfer from parents to son.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the transfer application and that the certificate issued to the transferor be cancelled by supplemental order and that a copy of the order be forwarded to the Department of Revenue.

LKF:kmb

DOCUMENT
FOLDER

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

CONTENT OF MOTION: Staff recommendation adopted.



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

March 21, 1989

IN REPLY PLEASE
REFER TO OUR FILE

A-108518

John D. Lewis; Esquire
1 Charles Street
Wellsboro, PA 16901

Application of James Ennis, Jr., t/d/b/a Ennis Trucking

To Whom It May Concern:

POCKETED

APR 21 1989

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.

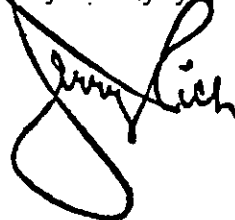
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of March 9, 1989 and dismiss the application without further proceedings.

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,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is stylized with a large, looping initial "J" and a cursive "Rich".

Jerry Rich, Secretary

lg

Enclosures
Certified Mail
Receipt Requested

cc:applicant
James Ennis, Jr.
P.O. Box 172
Wysox, Pa. 18854

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 9, 1989

Commissioners Present:

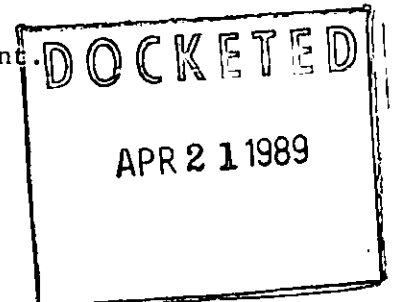
Bill Shane, Chairman
William H. Smith, Vice-Chairman
Joseph Rhodes, Jr.
Frank Fischl

Application of James Ennis, Jr., t/d/b/a Ennis
Trucking, for the transfer of all of the
operating rights of James E. Ennis, Sr. and
Dorothy E. Ennis, copartners, t/d/b/a Ennis
Trucking, under the certificate issued at
A-00093650 subject to the same limitations and
conditions.

A-00108518



Owlett & Lewis, P.C., by John D. Lewis, for the applicant.



O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed January 6, 1989. Public notice of the application was given in the Pennsylvania Bulletin of February 11, 1989. The unopposed application is certified to the Commission for its decision without oral hearing.

By a sales agreement executed January 1, 1989, James E. Ennis, Sr., and Dorothy E. Ennis, copartners, t/d/b/a Ennis Trucking (transferor), sold their business to their son, James Ennis, Jr., t/d/b/a Ennis Trucking (applicant), for a nominal consideration of one dollar (\$1.00). The applicant will assume all assets and liabilities of the business. As evidence of his financial capacity to begin operation, the applicant reports assets of \$57,315, with liabilities of \$3,500, leaving a net worth of \$53,815.

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):

1. To transport, as a Class D carrier, merchandise from mail-order house outlets of Sears, Roebuck and Company and from retail stores in the borough of Towanda, Bradford County, to their customers in said borough and within an airline distance of thirty-five (35) statute miles of the limits of said borough, and the return of rejected, refused or returned merchandise to the point of origin;
2. To transport, as a Class D carrier, household goods and office furniture and equipment, in use, from points within ten (10) miles by the usually traveled highways of Highway Route 220, between Dushore, Sullivan County, and the New York-Pennsylvania state line, near South Waverly, Bradford County, to points in Pennsylvania, and vice versa;
3. To transport, as a Class D carrier, property, for Masonite Corporation and Reliance Universal, Inc., between points in Bradford County, and from points in said county, to points in Pennsylvania, and vice versa;

with right no. 3 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport commodities in bulk, in tank or hopper-type vehicles;
- (b) That no right, power or privilege is granted to transport property from or to points in Erie County;

- (c) That no right, power or privilege is granted to transport such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, from or to points in York County;
 - (d) That no right, power or privilege is granted to transport property from the facilities of American Home Foods Division of American Home Products Corporation, located in the township of Turbot and the borough of Milton, Northumberland County;
- 4. To transport, as a Class D carrier, household goods, personal effects and property used or to be used in a dwelling when part of the furnishings, equipment or supplies of such dwelling as an incidental part of a removal by the householder from one domicile to another; furniture, fixtures, equipment and property of stores, offices, museums, institutions, hospitals or other establishments, when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, in connection with a removal from one location to another; and articles, in use, including objects of art, displays and exhibits which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods, between points in the county of Bradford, and from points in said county, to points in Pennsylvania, and vice versa;
 - 5. To transport, as a Class D carrier, property, for GTE Products Corporation, between points in Bradford County, and from points in said county, to points in Pennsylvania, and vice versa;

with right no. 5 subject to the following condition:

That no right, power or privilege is granted to transport property in bulk, in tank-type vehicles.

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 his 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 \$1.00 consideration paid by applicant for the rights and going concern value of the business be capitalized by applicant in Account 1550 - Other Intangible Property or in the alternative be charged off against applicant's ownership equity less any amount recorded under condition 2 above; provided the latter is sufficient in amount to absorb said charge off.
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 his 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.
6. That the certificate/permit holder shall not transfer, sell or in any way convey any of its his interest 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 he has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a tariff establishing just and reasonable rates.

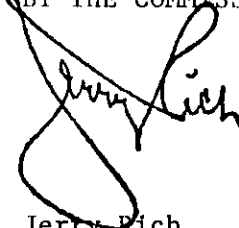
IT IS FURTHER ORDERED: That issuance of the certificate be withheld pending receipt of the 1988 Annual Report of the transferor.

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 James E. Ennis, Sr., and Dorothy E. Ennis, copartners, t/d/b/a Ennis Trucking, at A-00093650, be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", is written over a large, stylized, handwritten "X" or scribble.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 9, 1989

ORDER ENTERED: **MAR 21 1989**

0001
JAMES ENNIS JR
P O BOX 172
WYSOX PA 18854
SELF

0002
JOHN D LEWIS ESQ
1 CHARLES STREET
WELLSBORD PA 16901
APPLICANT

0003
JAMES E & DOROTHY E ENNIS
BOX 172
WYSOX PA 18854
TRANSFEROR