

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

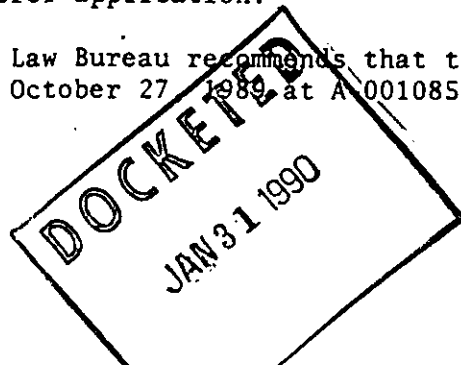
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| 1. <u>REPORT DATE:</u> December 12, 1989 | 2. <u>BUREAU AGENDA NO.</u> |
| 3. <u>BUREAU:</u> Law | DEC-89-L-541* |
| 4. <u>SECTION(S):</u> Motor Carrier | 5. <u>PUBLIC MEETING DATE:</u> |
| 6. <u>APPROVED BY:</u> Director: Povilaitis 7-5000 Supervisor: House 3-3713 | December 21, 1989 |
| 7. <u>MONITOR:</u> | |
| 8. <u>PERSON IN CHARGE:</u> 3-3713 Rhonda L. Daviston | |
| 9. <u>DOCKET NO:</u> A-00108519, F.1, F.2 | |

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

(a) Ace Moving and Storage Corporation, Larksville, PA; Letter-Petition for Reinstatement.

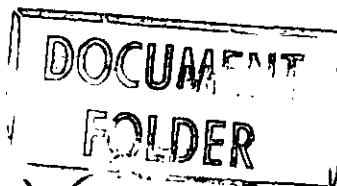
(b) On May 18, 1989, the Commission entered an Order at A-00108519, approving the transfer application of Ace Moving and Storage Corporation (Ace) for a transfer of part of the operating rights issued at A-00101687. The Order was conditioned on the filing and acceptance of evidence of insurance, a tariff and the 1988 Annual Report of the transferor within sixty days from the date of service of the Order. By Secretarial Letter dated October 20, 1989, the Commission notified Ace that its cargo insurance had not been filed and that its application had been dismissed. October 27, 1989, Ace filed a Letter-Petition to Reinstate the transfer application.

(c) The Law Bureau recommends that the Petition for Reinstatement filed on October 27, 1989 at A-00108519, F.1, F.2 be granted.



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| 11. <u>MOTION BY:</u> Commissioner Chm. Shane | Commissioner Fischl - Yes Commissioner Smith - Yes |
| <u>SECONDED:</u> Commissioner Rhodes | Commissioner Rolka - Abstaining |

CONTENT OF MOTION: Staff recommendation adopted.



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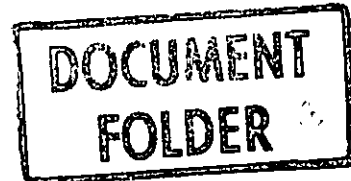
PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held December 21, 1989

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice Chairman
Joseph Rhodes, Jr., Commissioner
Frank Fischl, Commissioner
David W. Rolka, Commissioner, Abstaining
Ace Moving and Storage Corporation;
Larksville, PA; Letter-Petition
for Reinstatement.

David H. Radcliff
for Petitioner



Docket No.
A-00108519, F.1, F.2

O R D E R

BY THE COMMISSION:

On May 18, 1989, the Commission entered an Order at A-00108519, approving the transfer application of Ace Moving and Storage Corporation (Ace) for a transfer of part of the operating rights issued at A-00101687. The Order was conditioned on the filing and acceptance of evidence of insurance, a tariff and the 1988 Annual Report of the transferor within sixty days from the date of service of the Order. By Secretarial Letter dated October 20, 1989, the Commission notified Ace that its cargo insurance had not been filed and that its application had been dismissed. On October 27, 1989, Ace filed a Letter-Petition to Reinstate the transfer application.

Decisions whether to grant a petition to reinstate are left to the Commission's discretion and will be reversed only if that discretion is abused. Hoskins Taxi Service v. Pennsylvania Public Utility Commission, 87 Pa. Commonwealth Ct. 30, 486 A.2d 1030 (1985). In ruling upon a petition to reinstate, the Commission will examine all relevant factors to reach an equitable result. Medical Transportation, Inc., 57 Pa. P.U.C. 79 (1983).

The Commission has identified three factors that are particularly relevant to the determination of a petition to reinstate: (1) the amount of time elapsed between the cancellation of the authority or the dismissal of the compliance order and the filing of the petition to reinstate; (2) the petitioner's record of compliance with the Public Utility Code

and the rules and regulations of the Commission, and (3) the reasonableness of the excuse given for the violation which caused the authority to be cancelled. See Re Bishop, 58 Pa. P.U.C. 519 (1984).

The first factor to be considered is the amount of time elapsed between the dismissal of the application and the filing of the petition to reinstate. In the present case, Ace filed its Petition approximately one week after dismissal of the application. This weighs in favor of reinstatement.

The second factor is whether Petitioner has a record of habitually violating the Public Utility Code. Ace has no history of violations.

The third factor is the reasonableness of the excuse given for the violation that caused the dismissal of the application. Ace alleges that it is not responsible for the improper filing of its cargo insurance. Ace stated that its insurance broker filed the cargo insurance in the name of the partnership instead of the corporate transferee. Ace's insurance has now been filed in the corporate name. The fact that acceptable and proper evidence of insurance is now on file weighs in favor of reinstatement. Overall, Ace's Petition appears to have merit and should be granted; THEREFORE,

IT IS ORDERED:

1. That the Petition to Reinstate an Order filed by Ace Moving and Storage Corporation at A-00108519, F.1, F.2 on October 27, 1989 is hereby granted.

2. That the Commission's letter dated October 20, 1989, dismissing Ace's application is hereby rescinded.

3. That the May 18, 1989 Order at A-00108519 approving Ace's application for a certificate of public convenience is hereby reinstated.

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: December 21, 1989

ORDER ENTERED: DEC 26 1989

A 108519 F.1, F.2 Q

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| <p>SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.</p> <p>1. <input type="checkbox"/> Show to whom delivered, date, and addressee's address. (Extra charge) 2. <input type="checkbox"/> Restricted Delivery (Extra charge)</p> | |
| 3. Article Addressed to: <i>David H Radcliffe</i> | 4. Article Number <i>044656</i> |
| 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 | |
| Always obtain signature of addressee or agent and DATE DELIVERED. | |
| 5. Signature - Address X | 8. Addressee's Address (ONLY if requested and fee paid) |
| 6. Signature - Agent X <i>K. Beed</i> | |
| 7. Date of Delivery | |