



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

MARCH 29, 1994

IN REPLY PLEASE
REFER TO OUR FILE

A-00111142

F.2

JOHN A PILLAR ESQUIRE
PILLAR & MULROY
SUITE 700
312 BOULEVARD OF THE ALLIES
PITTSBURGH PA 15222

Application of General Commodities Warehouse and
Distributing Company, L.P.

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

A Contract Carrier Permit 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 with the Commission a Form E as evidence of
public liability and property damage insurance coverage as
shown on the back of this sheet.
- II. File a bilateral contract, if required by the order.
- III. Prepare and file a schedule of minimum rates and charges
according to the enclosed instructions.

DOCUMENT
FOLDER

APR 21 1994

CONTRACT

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 shall conform to 75 Pa. C.S. §§1701-1798 (relating to Motor Vehicle Financial Responsibility Law).
- First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa. C.S. §1171 (relating to required benefits).
- 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.
- Insurance coverage of motor carriers of property shall meet the requirements of 75 Pa. C.S. §1701-1798 (relating to Motor Vehicle Financial Responsibility Law).
- 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 contract carrier permit has been issued authorizing actual operations. Motor carriers 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 days will cause the Commission to rescind the action of MARCH 24, 1994 and dismiss the application without further proceedings.

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

Insurance Filings: Mr. William Hoshour-Insurance Section
(717) 783-5933

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

Contract Filings: Mr. Peter Marzolf-Technical Review Section
(717) 783-5945

Very truly yours,



John G. Alford
Secretary

Enclosure^{smk}
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING COMPANY LP
499 NIXON ROAD
CHESWICK PA 15024

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held March 24, 1994

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice-Chairman
John M. Quain
Lisa Crutchfield
John Hanger

DOCUMENT
FOLDER

Application of General Commodities Warehouse
& Distributing Company, L.P., for the
transfer of all of the operating rights of General
Commodities Warehouse & Distributing Co., Inc.
under the permit issued at A-00101312, F. 3
subject to the same limitations and conditions.

A-00111142
F. 2

Pillar and Mulroy by John A. Pillar for the applicant.

DOCKETED

APR 21 1994

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed November 18, 1993. Public notice of the application was given in the Pennsylvania Bulletin of January 1, 1994. The unopposed application is certified to the Commission for its decision without oral hearing.

General Commodities Warehouse & Distributing Company, L.P. (applicant, transferee or General Commodities, L.P.) is a newly formed partnership, a limited partnership, consisting of a general partner, Shear Investment, Inc., and a limited partner; namely, Herbert S. Shear. The general partner is a corporation owned entirely by Herbert S. Shear. Mr. Shear individually is a limited partner. Applicant intends to purchase the PUC operating rights of General Commodities Warehouse & Distributing Co., Inc. which holds operating rights from this Commission at Docket No. A-00101312. The stock of the transferor corporation is owned by Herbert S. Shear.

The transferor corporation has been engaged in the transportation of property for many years and Mr. Shear has owned and managed this operation and is familiar with the equipment, service and facilities of the transferor corporation. Applicant intends to assume all of the transportation previously performed by the transferor. Since Mr. Shear will continue to manage, applicant will have the benefit of the experience and knowledge of Mr. Shear, in addition

to the same support personnel. Basically, the service and operations will remain the same.

Applicant will have the same safety program that was put into place by Mr. Shear as the owner of the transferor operation. The safety program includes the direction of a safety director who will see to compliance of the rules and regulations of this Commission and PennDot. Periodic safety meetings will be held. The equipment will be inspected as to both pre-trip and post-trip conditions, and all drivers will be required to be familiar with, and to comply with, the rules and regulations of the Commission and the DOT.

In addition to acquiring the operating rights of General Commodities Warehouse & Distributing Co., Inc., applicant also intends to acquire the PUC operating rights of GTS Trucking, Inc. GTS Trucking, Inc. is a contract carrier and is also owned entirely by Herbert S. Shear. Two of the permits will be transferred to the partnership by GTS, specifically the permit authorizing service for Giant Eagle, Inc., and the permit authorizing service for Distribution Resources, Inc. and General Commodities Warehouse and Distributing, Inc. The remaining contract carrier rights of GTS Trucking, Inc. will be discontinued.

Since the operating rights of transferor consist of common carrier rights (with one exception), the applicant will be engaged in business as a common carrier and, therefore, it has filed simultaneously with this application, a petition to convert the contract carrier permits of GTS Trucking, Inc. to be transferred to applicant to a common carrier certificate, without any change in the scope of said operating rights. Applicant will not acquire any new authority from GTS Trucking, Inc.

Pertinent to the instant application, there is one minor exception to the common carrier operating rights of General Commodities Warehouse & Distributing Co., Inc., to be transferred to the applicant. At Folder 3, General Commodities Warehouse & Distributing Co., Inc. holds a contract carrier permit to provide service for the Liquor Control Board of Pennsylvania. General Commodities Warehouse & Distributing Co., Inc. was granted an exception to the usual prohibition of a common carrier holding both common and contract carrier authority simultaneously. It is the intent of applicant to acquire the operating rights of General Commodities Warehouse & Distributing Co., Inc. in the exact same form that they presently exist, which includes both the common carrier authority and the single contract carrier permit, (as pertinent herein) without any change in these rights. However, as to the operating rights of GTS Trucking, Inc. to be transferred to applicant, it is these rights that the applicant seeks to have converted to common carrier authority so as to avoid any conflict with 66 Pa. C.S.A. § 2504.

As a contract carrier, it is necessary that the applicant submit a bilateral contract as required by 66 Pa. C.S. 2506 and in accordance with the Commission's regulations at 52 Pa. Code §31.45. The contract must place specific obligations upon the shipper and carrier, and must state a specified number of shipments during a stated period of time. The contract must state the authority granted by the instant order. Said contract must be submitted to this

Commission for its review before service may be initiated under the contract carrier authority granted.

The nominal consideration for the rights is \$1.00. No tangible assets are involved. The sales agreement requires the consideration to be paid as follows: The closing shall take place within thirty (30) days after the date of the final order of the PUC approving the transfer application.

We find:

1. The applicant is fit, willing and able to perform the service as a contract carrier and that approval of the application is in the public interest and will not interfere with the safety and regulation of common carriers; THEREFORE,

IT IS ORDERED: That the transfer application be and is hereby approved and that a permit be issued granting the following right:

To transport, as a contract carrier by motor vehicle alcohol and alcoholic beverages, for the Pennsylvania Liquor Control Board, between points in Pennsylvania.

subject to the following 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/or rights to be acquired by applicant from the present permit 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 the applicant record in its Utility Account 1321 - Franchises, the actual cost of such rights recorded by the original holder thereof.
3. That the applicant charge to Account 1341 - Other Intangible Property, any amount of the consideration paid for the rights and going concern value attributable thereto in excess of the amounts recorded under condition No. 2 above.
4. 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.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

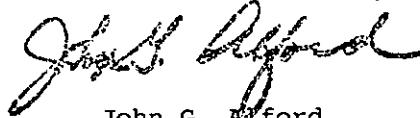
1. Form E evidence of Bodily Injury and Property Damage liability insurance.
2. a schedule of minimum rates.
3. a lateral contract in compliance with 52 Pa. Code §31.45.
4. 1993 annual report of the transferor.

IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a permit 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, General Commodities Warehouse & Distributing Co., Inc., at A-00101312, F. 3 be cancelled and the record be marked closed.

BY THE COMMISSION,



John G. Rifford
Secretary

(SEAL)

ORDER ADOPTED: March 24, 1994

ORDER ENTERED: **MAR 29 1994**