



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

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

DOCUMENT
FOLDER

APR 21 1994

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

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 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 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.

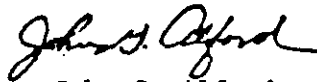
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of MARCH 24, 1994 and dismiss the application without further proceedings.

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

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

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

Very truly yours,



John G. Alford
Secretary

Enclosures

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
all of the operating rights of General
Commodities Warehouse & Distributing Co., Inc.
under the certificate issued at A-00101312,
F.2 subject to the same limitations and
conditions.

A-00111142

APR 21 1994

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

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. As pertinent herein, applicant intends to purchase all of the PUC common carrier operating rights of General Commodities Warehouse & Distributing Co., Inc. held at Docket No. A-00101312, F. 2. The stock of the transferor corporation is owned by Herbert S. Shear.

The transferor corporation has been engaged in 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., the 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.

There is one minor exception to the common carrier operating rights of General Commodities Warehouse & Distributing Co., 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, 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.

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.

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 Superior 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 rights:

1. To transport, as a Class B carrier, property, excluding household goods in use, between points in the city of Pittsburgh, Allegheny County.
2. To transport, as a Class D carrier, property, excluding household goods in use, from points in the city of Pittsburgh, Allegheny County, to points in the county, and vice versa.
3. To transport, as a Class D carrier, property in pickup and delivery service moving under railroad bills of lading from railroad sidings and/or freight terminals in the borough of McKees Rocks, Allegheny County, to points in the said borough and within five (5) miles of the limits of the said borough, and vice versa.
4. To transport, as a Class D carrier, property from bona fide storage in the warehouse facilities of General Commodities Warehouse & Distributing Company, Inc., in the county of Lebanon, to points in Pennsylvania;

with right No. 4 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport household goods and commodities in bulk.
- (b) That no right, power or privilege is granted to transport commodities which, because of

size or weight, require the use of special equipment.

5. To transport, as a Class D carrier, property from the facilities of General Commodities Warehouse & Distributing Company, Inc., located in the county of Allegheny, to points in Pennsylvania, and vice versa;
6. To transport, as a Class D carrier, property, from the facilities of Distribution Resources, Inc., located in the county of Westmoreland, to points in Pennsylvania, and vice versa;

with rights numbered 5 and 6 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport commodities in bulk.
 - (b) That no right, power or privilege is granted to transport household goods in use.
 - (c) That no right, power or privilege is granted to transport commodities which, because of size or weight, require special equipment.
 - (d) That no right, power or privilege is granted to provide transportation to and from the facilities of Fisher Scientific Company located in the borough of Blawnox and the township of O'Hara, Allegheny County.
- (7) To transport, as a Class D carrier, property, from the facilities of Distribution Resources, Inc., located in the county of Butler, to points in the county of Butler and to other points in Pennsylvania, and vice versa;

with right No. 7 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport commodities in bulk.
- (b) That no right, power or privilege is granted to transport household goods in use.
- (c) That no right, power or privilege is granted to transport commodities which, because of size or weight, require the use of special equipment.

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 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 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:

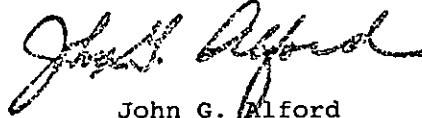
1. Form E evidence of Bodily Injury and Property Damage liability insurance.
2. Form H as evidence of cargo liability insurance.
3. a tariff establishing just and reasonable rates.
4. 1993 annual report of the transferor.

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, General Commodities Warehouse & Distributing Co., Inc., at A-00101312, F. 2 be cancelled and the record be marked closed.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: March 24, 1994

ORDER ENTERED: **MAR 29 1994**