

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: May 19, 1994	2. BUREAU AGENDA NO. JUN-94-T-536*
3. BUREAU: Transportation	
4. SECTION(S): Technical Review	5. PUBLIC MEETING DATE: June 16, 1994
6. APPROVED BY:  Director: Ernst 7-2154 Supervisor: Marzolf 3-5945	DOCKETED JUL 01 1994
7. PERSONS IN CHARGE: Keener-Farley 7-4386	
8. DOCKET NO.: A-00111:144	

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

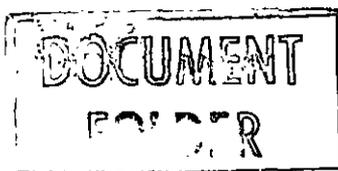
(a) Application of Dispatch Trucklines, Inc., Sioux City, Iowa, a corporation of the State of Delaware for the transfer of all of the operating rights of Direct Transit, Inc., t/d/b/a NorthEast Division of Direct Transit, Inc. under the certificate issued at A-00108694 subject to the same limitations and conditions.

(b) The applicant has filed an application with the Interstate Commerce Commission (ICC) under 49 C.F.R. §11341(a) a petition to specifically exempt the carriers involved from state intervention over the consolidation, merger and acquisition of the interstate and intrastate authority. The applicant has submitted proof of filing of the application before the Interstate Commerce Commission.

(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.

10. MOTION BY: Commissioner Chm. Rolka Commissioner Quain - Yes
 Commissioner Crutchfield - Yes
 SECONDED: Commissioner Rhodes Commissioner Hanger - Yes

CONTENT OF MOTION: Staff recommendation adopted.





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

JUNE 22, 1994

IN REPLY PLEASE
REFER TO OUR FILE

A-00111144

JAMES W PATTERSON ESQUIRE
PELINO & LENTZ PC
ONE LIBERTY PLACE 32ND FLOOR
PHILADELPHIA PA 19103

DOCUMENT
FOLDER

DOCKETED

JUL 15 1994

APPLICATION OF DISPATCH TRUCKLINE, INC.
A CORPORATION OF THE STATE OF DELAWARE

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.

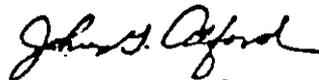
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of JUNE 16, 1994 and dismiss the application without further proceedings.

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

~~SEK~~losures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DISPATCH TRUCKLINE INC
2515 EAST SOLWAY
SIOUX CITY IA 51104

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held June 16, 1994

Commissioners Present:

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

DOCUMENT
FOLDER

Application of Dispatch Trucklines, Inc.,
a corporation of the State of Delaware,
for the transfer of all of the operating
rights of Direct Transit Inc., t/d/b/a
North East Express Division of Direct
Transit, Inc., under the certificate
issued at A-00108694 subject to the
same limitations and conditions.

A-00111144

DOCKETED
JUL 15 1994

James W. Patterson for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed November 19, 1993. Public notice of the application was given in the Pennsylvania Bulletin of January 1, 1994.

The applicant has filed an application with the Interstate Commerce Commission (ICC) under 49 C.F.R. §11341(a) which encompasses the rights and carriers here involved. When applications are approved by the ICC under 49 C.F.R. §11341(a), the Federal Code specifically exempts the carriers involved from state intervention over the consolidation, merger and acquisition of the control transaction before the ICC unless it can be shown that the ICC exemption proceeding was a "sham" intended to circumvent state regulatory authority. North Alabama Express, Inc. v. I.C.C. 971 F.2d 661 (11th Circuit 1992), modified 996 F.2d 1092(1993). The applicant has submitted proof of filing this application with the ICC. Upon review of the facts in the ICC proceeding, it appears that the ICC exemption was not used to avoid state regulatory authority. However, we will condition approval of this application upon the filing of a copy of the ICC approval of this transaction.

We find that approval of the transfer application is in the public interest; 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:

1. property from the facilities of Certainteed Corporation, Insulation Group, in the township of Wright, Luzerne County, to points in Pennsylvania, with the right to return refused, rejected or damaged shipments to the point of origin;
2. foodstuffs, not frozen and not in bulk, advertising materials, displays and display racks, dispensing equipment, premiums, office equipment and supplies, packing materials, machinery and foodstuff ingredients, from the facilities of Wise Foods, a Division of Borden, Inc., in the borough of Berwick, Columbia County, to points in the said borough and to other points in Pennsylvania, and vice versa;

with right no. 2 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport household goods in use.
 - (b) That no right, power or privilege is granted to transport office equipment and supplies from points in the borough of Berwick, Columbia County, to points within an airline distance of twenty (20) statute miles of the limits of said borough and vice versa.
3. wall covering, and equipment, supplies and materials used in the distribution, manufacture and installation of wall coverings, for L. E. Carpenter & Co., from points in the township of Hazle, Luzerne County, to points in Pennsylvania, and vice versa;

with right no. 3 subject to the following condition:

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

- (4) property for Fitchburg Coated Products, Inc., from its facilities in the borough of Moosic, Lackawanna County, to points in Pennsylvania, and vice versa;

with right no. 4 subject to the following condition:

That no right, power or privilege is granted to transport petroleum and petroleum products in bulk.

- (5) property from points in the city of Scranton, Lackawanna County, and within an airline distance of fifty (50) statute miles of the limits thereof, to points in the counties of Washington, Allegheny, Beaver, Butler, Lawrence, Mercer, Venango, Crawford, Erie and Westmoreland, and vice versa; excluding the transportation of commodities in dump trucks or hopper-type vehicles; household goods, in use, materials which, because of its size and weight, requires the use of special equipment; and excluding the transportation of garments and materials, supplies and trimmings incidental to the manufacturer of said garments between manufacturers and processors and contractors;

with right no. 5 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport iron and steel and iron and steel articles, to or from the plantsites or other facilities of Wheeling-Pittsburgh Steel Corporation, in the city of Monessen, Westmoreland County, and the borough of Allenport, Washington County, and points within an airline distance of five (5) statute miles from the limits of said city and borough.
- (b) That no right, power or privilege is granted to transport from Petrolia, Butler County, Karns City, Butler County, Emlenton, Venango County, and vice versa.
- (c) That no right, power or privilege is granted to transport property, in bulk, in tank vehicles, from points within an airline distance of thirty-five (35) statute miles of the limits of the city of Pittsburgh, Allegheny County, to points in that portion of Monroe County on and south of U.S. 209, including East Stroudsburg and Stroudsburg; points in Lehigh and Northampton Counties and that portion of Carbon County on and south of U.S. 209, including Jim Thorpe and Lehigh, and east of the Northeast Extension of the Pennsylvania Turnpike and vice versa; except that transportation may be performed for Binney & Smith to or from its facilities in Northampton County.

subject to the following general conditions:

1. 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.
2. 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.
3. That the applicant record in its Utility Account 1321 - Franchises, the actual cost of such rights recorded by the original holder thereof.
4. 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. 3 above.
5. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any other entity, without the prior filing of an application and approval thereof by the Commission under Section 1102(a)(3) of Title 66, PA C.S.A.

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:

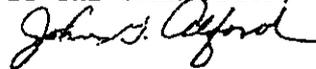
1. Form E evidence of Bodily Injury and Property Damage liability insurance.
2. Form H as evidence of cargo liability insurance.
3. a tariff establishing just and reasonable rates.
4. 1993 annual report of the transferor.
5. a copy of the ICC approval of this transaction.

IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a certificate issued 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, Direct Transit, Inc., t/d/b/a North East Express Division of Direct Transit, Inc., at A-00108694 be cancelled and the record be marked closed.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: June 16, 1994

ORDER ENTERED: JUN 22 1994