

ORIGINAL (16)
KDR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: A-00109244, F001 Am-A Application of Tad's Delivery Service, Inc. For amendment so as to permit the transportation of household goods and office furniture, in use, and new furniture uncrafted, from points in the City and County of Philadelphia. . . which is to be a transfer of the rights at A-00086551 to Domenic Cristinzio, Inc., subject to the same limitations and conditions. Initial hearing.

EXHIBIT
FOLDER

Philadelphia, Pennsylvania
November 4, 1992

RECEIVED
NOV 20 1992

Public Utility Commission
SECRETARY'S BUREAU
Information Control Division

Pages 1 to 141, inclusive

DOCKETED
NOV 23 1992

HOLBERT ASSOCIATES
AMY S. INTRIERI
2611 Doehne Road
Harrisburg, Pennsylvania 17110

HOLBERT ASSOCIATES
(717) 540-8110

CERTIFIED ORIGINAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: A-00109244, F001-Am-A Application of Tad's Delivery Service, Inc. For amendment so as to permit the transportation of household goods and office furniture uncrafted, from points in the City and County of Philadelphia. . . which is to be a transfer of the rights at A-00086551 to Domenic Cristinzio, Inc., subject to the same limitations and conditions. Initial hearing.

Stenographic Report of hearing held in Hearing Room 1, Philadelphia, Pennsylvania

Wednesday,
November 4, 1992
at 10:00 o'clock a.m.

BEFORE

MARLANE R. CHESTNUT, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

H. MARC TEPPER, ESQUIRE
MARGOLIS, EDELSTEIN, SCHERLIS & KRAEMER
The Curtis Center, Independence Square West
Philadelphia, Pennsylvania 19106
Appearing on behalf of Applicant

SCOTT A. PETRI, ESQUIRE
LIEDERBACH, HAHN, FOY & PETRI
892 Second Street Pike
Richboro, Pennsylvania 18954
Appearing on behalf of Protestant

1 JUDGE CHESTNUT: This is the hearing in the
2 application of Tad's Delivery Service Inc., at Docket Number
3 A-00109244 F001, Am A. I'm Administrative Law Judge Marlane
4 R. Chestnut. I'll note the following appearances for the
5 record, H. Mark Tepper, representing the Applicant and Scott
6 M. Petri representing the Protestant, J.C. Services, Inc.
7 Are there any preliminary matters aside from the one that
8 you just brought up?

9 MR. TEPPER: Not that I can think of unless Mr. Petri
10 has any.

11 JUDGE CHESTNUT: Mr. Petri?

12 MR. PETRI: No, Your Honor, I have no preliminary
13 matters.

14 JUDGE CHESTNUT: Okay. Mr. Tepper?

15 MR. TEPPER: The only matter that I would have
16 actually, Your Honor, is that it's my understanding that the
17 protest is involved on behalf of Mr. Petri. So therefore he
18 would have the burden of proof of offering any evidence as
19 to why the application should not be granted. And then if
20 necessary, we would offer rebuttal evidence to that.

21 JUDGE CHESTNUT: That's not true. You have the
22 burden of proof to establish the case.

23 MR. TEPPER: Okay. Well, in that case we can direct
24 Mr. Nelson to the stand and he can offer testimony
25 regarding this. I call Mr. David Nelson to the stand.

1 DAVID NELSON, called as a witness, having been duly
2 sworn, was examined and testified as follows:

3 JUDGE CHESTNUT: Give and spell your name for the
4 record.

5 THE WITNESS: My name is David B. Nelson. It's
6 N-e-l-s-o-n.

7 JUDGE CHESTNUT: Go ahead, Mr. Tepper.

8 DIRECT EXAMINATION

9 BY MR. TEPPER:

10 Q. Mr. Nelson, now that you stated your full name
11 for the record, what is your current title?

12 A. I'm President of Tad's Delivery which is
13 actually doing business on a daily basis.

14 Q. And for how long have you served as the
15 president of Tad's?

16 A. Since the start up which was March 1st, of
17 this year '92.

18 Q. And prior to March 1st of 1992, where were you
19 employed?

20 A. D. Cristinzio Incorporated.

21 Q. And what did you do for D. Cristinzio?

22 A. I was the vice president in charge of
23 marketing.

24 Q. And are you an officer of Tad's Delivery
25 Service?

1 A. Yes.

2 Q. Okay. Are there any other officers at your
3 corporation other than yourself?

4 A. There are. There are three others those being
5 Don Taddei --

6 JUDGE CHESTNUT: Could you spell that please?

7 THE WITNESS: T-a- double d e-i and Russell Taddei,
8 Jr., and Kenneth Taddei.

9 BY MR. TEPPER:

10 Q. And Russell Taddei, Jr., is not to be confused
11 with Russell Taddei, Sr. Is that correct?

12 A. That is correct.

13 Q. Okay. And is your operation currently
14 insured?

15 A. Yes.

16 Q. And what is the purpose of your operation?

17 A. Well, we're basically in the moving and
18 storage business. Our business consists of commercial
19 office moving, electronic moving, ATM which is the automatic
20 teller machine installation and rigging work and on occasion
21 household moves.

22 Q. Okay. And what is the location of your
23 principle place of business?

24 A. Cinnaminson, New Jersey.

25 Q. And in what general areas do you perform

1 services?

2 A. In Pennsylvania, Delaware and New Jersey.

3 Q. I want to show you an application for approval
4 of transfer of --

5 JUDGE CHESTNUT: Excuse me, before you get to that,
6 Mr. Tepper, who owns the stock of the Applicant?

7 THE WITNESS: The four individuals.

8 BY MR. TEPPER:

9 Q. And the corporation is a stock corporation,
10 correct?

11 A. Yes.

12 Q. I want to direct your attention to two
13 exhibits. One is the application for approval of transfer
14 of carrier rights and the second which is an addendum to
15 that and I would ask that these be referred to as Tad's 1
16 and 2.

17 JUDGE CHESTNUT: Which is which? Which is Exhibit 1
18 and which is 2?

19 MR. TEPPER: One would be the application and two
20 would be the addendum.

21 JUDGE CHESTNUT: So marked.

22 (Tad's Exhibits Nos. 1 and 2 were produced and marked
23 for identification.)

24 BY MR. TEPPER:

25 Q. Okay. Mr. Nelson, I would ask that you review

1 this document and I would direct your attention to what
2 appears to be marked Exhibit H to Tad's Delivery Service
3 which is approximately three quarters of the way through the
4 document. Are you familiar with the page to which I'm
5 referring to right now?

6 A. Yes.

7 Q. Would you state for the Court in your own
8 words and in general terms the scope of authority to be
9 transferred?

10 A. Well, basically what it says is that this
11 authority would allow me to move copiers, computers, x-ray
12 machines, etc., computer type equipment from various
13 counties listed here to those counties also listed or within
14 the counties.

15 Q. And those rights are being transferred from
16 Domenic Cristinzio, Inc. Is that correct?

17 A. Correct.

18 Q. And Exhibit 2 which is the addendum, what is
19 the purpose of the addendum to --

20 A. Well, basically, it's just some additional
21 authority that from my understanding was part of the docket
22 or part of that folder whatever which way the PUC refers to
23 it and that Rus Taddei did not want to break it up and sell
24 it off individually. He'd like to sell the entire package
25 at which time he had an agreement of sale, of the sale price

1 for the original authority he increased the price that he
2 was looking for the authority from 5,000 to 7,500. I read
3 through it and I agreed to it.

4 Q. And Rus Taddei would be Rus Taddei, Sr.,
5 correct?

6 A. Yes.

7 Q. I would ask that when you refer to Rus Taddei,
8 Sr., to so state for the Court so we're not confused with
9 Rus Taddei, Jr. Okay?

10 A. Okay.

11 Q. Are you registered to operate in Pennsylvania?

12 A. Yes.

13 (Tad's Exhibit No. 3 was produced and marked for
14 identification.)

15 BY MR. TEPPER:

16 Q. I'm going to show you a document which is a
17 certificate of public convenience and ask you to take a look
18 at that document and if you would for the Court could you
19 explain your understanding of that document?

20 A. Basically it's a certificate stating that
21 we're able to do business in the State of Pennsylvania.

22 Q. Okay. And you currently do do some business
23 in Pennsylvania. Is that correct?

24 A. Yes.

25 Q. Relative to the application --

1 JUDGE CHESTNUT: Excuse me for a second. Let me
2 see -- I'm fairly confused here. Who is Domenic Taddei in
3 terms of the transferrer?

4 THE WITNESS: Domenic Taddei was the owner of Tad's
5 Delivery Service which we purchased his corporation and
6 since have gotten approval to do business as T&N
7 Van Service.

8 JUDGE CHESTNUT: But this is not --

9 THE WITNESS: This is for Tad's Delivery but it has
10 since been cleared up with the PUC Office out of Harrisburg
11 and they have sent us this document that states it's owned
12 by T&N Van Service.

13 JUDGE CHESTNUT: But this isn't relevant to the
14 authority of seeking the transferal here?

15 THE WITNESS: No. This is basically our current
16 authority.

17 MR. TEPPER: And your corporation, T&N Van Services,
18 Tad's Delivery is in no way legally connected as an alter
19 ego or subsidiary of D. Cristinzio. Is that correct?

20 MR. PETRI: I would object because it calls for a
21 legal conclusion.

22 JUDGE CHESTNUT: Well, I understand that the witness
23 is answering it as a lay person.

24 MR. TEPPER: Let me show you a document which we will
25 mark as Exhibit Number 4 and I would ask that you review

1 that document.

2 (Tad's Exhibit No. 4 was produced and marked for
3 identification.)

4 BY MR. TEPPER:

5 Q. Has a question ever been raised relative to
6 your corporation and the D. Cristinzio Corporation as to the
7 exclusivity of the two entities?

8 A. Yes, there was questions.

9 Q. And could you generally expand on the
10 questions for the Court?

11 JUDGE CHESTNUT: Wait. Will you back up for a
12 second? I'm really confused about what entity is what. The
13 Applicant here is Tad's Delivery Service, right?

14 THE WITNESS: Um-hum.

15 JUDGE CHESTNUT: Has Tad's Delivery Service been
16 certificated by the Commission?

17 THE WITNESS: Um-hum, correct.

18 JUDGE CHESTNUT: Where?

19 THE WITNESS: What do you mean where?

20 JUDGE CHESTNUT: Where? That's not Exhibit 3, is it?

21 THE WITNESS: Yes.

22 JUDGE CHESTNUT: I thought that was Domenic Taddei
23 doing business as T&N Van Service.

24 THE WITNESS: Domenic Taddei owned the corporation
25 prior to us purchasing it from him.

1 JUDGE CHESTNUT: Who's the transferrer?

2 THE WITNESS: Of the authority in question?

3 JUDGE CHESTNUT: Yes.

4 THE WITNESS: D. Cristinzio Incorporated.

5 JUDGE CHESTNUT: Okay. Now what's -- is that owned
6 by the Taddei's or what's the relationship between that?

7 THE WITNESS: The owners of Domenic Cristinzio
8 Incorporated are Russell Taddei, Sr., and Don Taddei, Sr.

9 JUDGE CHESTNUT: Okay.

10 THE WITNESS: Domenic Taddei is the father of those
11 two that I just mentioned.

12 JUDGE CHESTNUT: Russell and Kenneth?

13 THE WITNESS: Russell and Don.

14 JUDGE CHESTNUT: Don is not the same as Dom?

15 THE WITNESS: No. Domenic is the father who owned an
16 entirely different corporation of which we purchased. When
17 I say we, meaning myself and Rus Taddei, Jr., Ken Taddei and
18 Don Taddei, Jr.

19 JUDGE CHESTNUT: Okay.

20 THE WITNESS: It was -- the corporate name was Tad's
21 Delivery and we have since got approval to do business as
22 T&N Van Service.

23 JUDGE CHESTNUT: All right. I think I have it.

24 BY MR. TEPPER:

25 Q. Okay. I would direct your attention to the

1 lower portion of the exhibit which is dated July 31st, 1992
2 and particularly the sentence which begins in view of the
3 lack of common ownership, I find no alter ego relationship
4 between D. Cristinzio and T&N. Could you again explain for
5 the Court the surrounding circumstances which gave rise to
6 the issuance of this letter?

7 A. Yeah, it could get kind of lengthy but I'll
8 try to cut it short. The local union had brought suit
9 against us stating that we were in somehow connected with D.
10 Cristinzio Incorporated that they were trying to run away
11 from bargaining with local 115 and that they still had some
12 connection with T&N to do business as a non-union
13 corporation. I went through probably a three hour interview
14 with the NLRB and this was the findings, Exhibit Number 4.

15 Q. And for the record, what were the findings?

16 A. They found that there was no connection at
17 all.

18 Q. Okay. Thank you. And currently to the best
19 of your knowledge, you're aware of no information which
20 would give rise to any evidence or situations which the
21 Court might find that you were not fit to carry on the
22 services as a carrier?

23 A. No.

24 MR. TEPPER: Okay. I have no further questions.

25 JUDGE CHESTNUT: Okay. Mr. Petri?

1 MR. PETRI: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. PETRI:

4 Q. Mr. Nelson, it's my understanding that you
5 became president of T&N the Applicant in this case on or
6 about March 1st of 1992?

7 A. Correct.

8 Q. And did I understand you to say in your direct
9 testimony that that's the date that T&N began operations?

10 A. Correct.

11 JUDGE CHESTNUT: Wait, T&N or Tad's?

12 THE WITNESS: Well, it's Tad's Delivery but it's
13 trading as T&N.

14 BY MR. PETRI:

15 Q. So T&N the corporation actually physically
16 commenced operations April 1st?

17 A. That's our official date.

18 Q. And prior to that you were an employee of D.
19 Cristinzio, Inc?

20 A. Correct.

21 Q. Which is the transferrer in this case?

22 A. Right.

23 Q. When did you stop or cease your employment
24 with D. Cristinzio?

25 A. It was sometime in February. I don't have the

1 exact date but it was mid to late February of '92.

2 Q. And was that the time when D. Cristinzio
3 ceased it's operations?

4 A. I don't know. Again, I don't know that exact
5 date but it was somewhere near the end of February or the
6 last date of February.

7 Q. So somewhere around the end of February D.
8 Cristinzio ceased all of its operations and closed down?

9 A. In Philadelphia.

10 Q. Okay. And when you say in Philadelphia, did
11 they have other locations?

12 A. Yes.

13 Q. And where was the other location?

14 A. Allendale, New Jersey.

15 Q. And did that operation cease?

16 A. No.

17 Q. Was that operation involved in any movements
18 other than ICC movements or New Jersey certificated
19 movements?

20 A. I'm not sure whether they're doing that
21 business now or not.

22 Q. So your understanding is that D. Cristinzio is
23 still operating out of New Jersey?

24 A. That is correct.

25 Q. And you are not aware of whether D. Cristinzio

1 is still performing operations that are PUC certificated?

2 A. That is correct.

3 Q. Now, you mentioned that the other Taddei's
4 being Donald, Russell Jr., and I think it was Kenneth are
5 also officers and shareholders of the business?

6 A. Correct.

7 Q. And you are related to the Taddei's as I
8 understand?

9 A. Through marriage only.

10 Q. You mentioned in your direct examination that
11 your business being T&N is functioning in the area of moving
12 and storage I believe you mentioned some commercial work I
13 believe you mentioned. Is that correct?

14 A. Correct.

15 Q. You also mentioned electronic movements?

16 A. Correct.

17 Q. So T&N is involved currently in the movement
18 of electronic goods?

19 A. Correct, from time to time.

20 Q. Okay. Now, I see from your application that
21 there are apparently 400 shares of stock issued and it looks
22 like it's 100 shares between each of you so that your equal
23 in ownership among the shareholders?

24 A. Correct.

25 Q. Do I understand from your application that

1 there are 5,000 total authorized shares?

2 A. Yes.

3 Q. Okay. I was somewhat confused. I gather than
4 when it says that the corporation holds 4,600 -- let me see
5 if I can't find a reference for you -- in your application
6 on Exhibit E this would be the document that's been marked
7 Applicant 1 --

8 A. Okay.

9 Q. -- at the bottom it indicates that the
10 corporation retains 4,600 shares.

11 A. Um-hum.

12 Q. I gather those are treasury shares?

13 A. Yes.

14 Q. Is there any particular reason that you and
15 your co-shareholders didn't simply buy a portion of the D.
16 Cristinzio business?

17 A. Well --

18 MR. TEPPER: I'm going to object just to the
19 relevancy for our purposes here today.

20 MR. PETRI: Well, I think it's relevant to the
21 fitness issue. We're trying to understand what the
22 organizational structure of the proposed transferee would be
23 and we're trying to understand what the possible purpose in
24 setting up a new corporation would be when you have people
25 who were all former employees of D. Cristinzio, the question

1 is simply why wouldn't there be a spin off and then the
2 seeking of authority through the PUC for the transfer of
3 ownership as opposed to a new corporation.

4 MR. TEPPER: I'm going to also object as far as
5 counsel's comments that tends to read into a situation which
6 there is no testimony to support and it's just not there.
7 Again, I think that those types of characterizations are
8 irrelevant and are beyond this application proceeding.

9 JUDGE CHESTNUT: I'll allow the question but it does
10 seem rather marginal. I assume you're not going to go into
11 it too much further.

12 BY MR. PETRI:

13 Q. Was there any particular reason or motivation
14 for not purchasing a portion of the existing D. Cristinzio
15 business as opposed to setting up a new corporation?

16 A. A couple of reasons come to mind. The
17 corporation to purchase cost us one dollar. So it was 25
18 cents each and it was that free.

19 Q. And when you say the corporation cost you one
20 dollar you bought this corporation from whom?

21 A. From our grandfather.

22 Q. Your grandfather. Okay.

23 JUDGE CHESTNUT: Who's your grandfather?

24 THE WITNESS: Domenic Taddei.

25 JUDGE CHESTNUT: Okay.

1 BY MR. PETRI:

2 Q. Now, earlier you mentioned that your company
3 currently does -- performs electronic shipments. Are those
4 intrastate or interstate shipments?

5 A. Both.

6 Q. Okay. So you currently perform both
7 interstate electronic good shipments and intra, i-n-t-r-a
8 state shipments?

9 A. Right.

10 Q. Under what authority do you transport
11 intrastate in the electronics area?

12 A. My present PUC authority which states that if
13 I originate out of Philadelphia, I can transport those goods
14 within 100 miles of Philadelphia. So, for example, if I
15 want to move from one building to another in Philadelphia
16 electronics goods which in most cases are part of a
17 commercial move, my authority allows me to do that.

18 Q. Do you have that existing authority with you?

19 A. No, I don't.

20 Q. Okay.

21 JUDGE CHESTNUT: Excuse me, is that the authority
22 that was granted by the terms of Applicant's Exhibit 3?

23 THE WITNESS: Yes.

24 BY MR. PETRI:

25 Q. Now, with regard to these shipments that we've

1 just been testifying -- that you've been testifying about,
2 are these intrastate PUC shipments part of commercial moves
3 or are they solely electronic moves?

4 A. They can be both.

5 Q. So you freely admit that you have as T&N made
6 shipments which were not connected to commercial moves which
7 were in the nature of electronic goods?

8 MR. TEPPER: Objection just to the characterization
9 of this question. I don't think that was his testimony
10 but --

11 JUDGE CHESTNUT: Well, if it isn't, he can answer it.

12 THE WITNESS: We have moved equipment solely from one
13 location to another location.

14 BY MR. PETRI:

15 Q. Can you give me examples of customers and
16 locations where you've made shipments of those nature?

17 A. I think my customers -- I don't know if I
18 should have. I shouldn't be asked to divulge my customer
19 base.

20 MR. TEPPER: I would ask for a ruling from the Court
21 that it seems to me that the customer base dealings with
22 competitors here that has a proprietary nature to them and I
23 don't think also that they should be divulged.

24 JUDGE CHESTNUT: Well, if you want a protective order
25 you can request one. Is there some way for him to answer

1 without --

2 MR. PETRI: Perhaps there is. I'll try to explore it
3 and see if we can get into some of this.

4 BY MR. PETRI:

5 Q. You testified and I want to deal with moves
6 that are not related to commercial moves. There are
7 electronic movements that you made which are solely that.
8 What type of equipment has your company moved that would be
9 classified as electronic goods? For instance, haven't you
10 moved mail equipment?

11 A. Yes, we have.

12 Q. And haven't you moved computers?

13 A. Correct.

14 Q. Tabulating machines?

15 A. Yes.

16 Q. You've also moved copying equipment?

17 A. Yes.

18 Q. And those movements have all been intrastate?

19 A. Not all.

20 Q. But there have been some?

21 A. Correct.

22 Q. What percentage of your current business would
23 you say constitute electronic movement of electronic goods
24 within Pennsylvania unconnected to commercial moves?

25 A. I really have no idea to be quite honest with

1 you.

2 Q. Well, you're one of the financial officers of
3 this corporation. Do you keep records of your sales and the
4 movements that you make?

5 A. Yes we do. But we don't break it out
6 percentage wise of this is that percent of our business
7 versus commercial or household or --

8 Q. Well, do you have any knowledge as to the
9 amount of monthly gross revenues that are generated from
10 customers in the nature of these movements that we've been
11 discussing?

12 A. It could be somewhere in the neighborhood of 5
13 to \$7,000.00 a month.

14 Q. So it's substantial?

15 MR. TEPPER: I'm going to object.

16 MR. PETRI: Let me strike that. I'll ask it this
17 way.

18 BY MR. PETRI:

19 Q. What are the current total amount of sales
20 that your company has on a monthly basis?

21 A. About \$125,000.00 a month.

22 Q. One hundred twenty-five thousand a month?

23 A. Yes, roughly.

24 Q. Now, I would ask you -- your testimony I
25 gather is that you have authority to make these movements

1 under the existing authority which is indicated in Applicant
2 3?

3 A. Right to my understanding.

4 MR. PETRI: Okay. I'd like to show you a document if
5 I may approach the witness, Your Honor?

6 JUDGE CHESTNUT: Is this a Cross-examination Exhibit?

7 MR. PETRI: Yes, Your Honor.

8 (Protestant Cross Examination Exhibit No. 1 was
9 produced and marked for identification.)

10 BY MR. PETRI:

11 Q. I've marked a document which I just handed to
12 you as Protestant Exhibit Number 1 and ask you if that is a
13 copy of part of your tariff filed with the PUC as pertains
14 to your current authority?

15 A. Yes.

16 Q. And this is the only PUC certificate that your
17 company now holds, correct?

18 A. Correct.

19 Q. Can you please point to the provision in this
20 certificate of authority which allows you to make the
21 movements that you've just been testifying with regard to?

22 A. It's not stated.

23 Q. So then you do not have authority to make the
24 movements that you have testified that you have been making
25 since you started operations in March of this year?

1 MR. TEPPER: If you know?

2 THE WITNESS: I guess -- according to this, I guess I
3 don't.

4 BY MR. PETRI:

5 Q. Now, in fact, you've made movements have you
6 not since March of '92 and to present for Konica business
7 machines, correct?

8 A. Correct.

9 Q. And those movements have not been in the
10 nature of being connected with commercial moves?

11 A. Correct.

12 Q. What have your monthly revenues been from
13 Konica business machines since March of 1992 to present for
14 electronic movements of the type of property we discussed
15 earlier; namely, tabulating machines, calculators, copiers,
16 computers and alike which were not connected with commercial
17 moves?

18 A. I don't have those figures available.

19 Q. Can you approximate for me?

20 A. No.

21 Q. What about with regard to Pitney Bowes, you do
22 similar movements for Pitney Bowes, do you not?

23 A. Um-hum.

24 Q. And can you tell this Court how much in
25 monthly revenues you've generated from Pitney Bowes since

1 March of 1992 for uncertificated movements?

2 A. No, I can't. But in regards to Pitney Bowes,
3 as a matter of fact all the equipment comes back into our
4 warehouses and is consolidated. So everything comes out
5 of -- it's picked up from a customer location and it's
6 brought back to Cinnaminson, New Jersey. Is that not an ICC
7 movement at that point.

8 Q. Well, it depends on how you do that. Let's
9 explore that a little bit. When you retrieve items from
10 Pitney Bowes, what type of equipment do you -- well, first
11 of all where do you go and what do you pick up?

12 A. Well, we go where ever we're asked to go.

13 Q. Give me examples.

14 A. Philadelphia, Delaware, Jersey.

15 Q. Pitney Bowes main location is here in the City
16 of Philadelphia, correct?

17 A. Correct.

18 Q. Would the majority of your pick ups be here in
19 the City of Philadelphia?

20 A. Pick up from their facility, no, it would not.

21 Q. Where are the majority of them?

22 A. From customer locations.

23 Q. Back to their facility?

24 A. Back to our facility.

25 Q. Now, isn't it true normally when you pick up

1 from Pitney Bowes you pick up one piece of equipment from a
2 customer and you return it to your location?

3 A. Well, there could be more than one piece of
4 equipment and it's brought back to our location, correct,
5 not to Pitney Bowes but to ours.

6 Q. Now, normally this customer would be an
7 in-user for Pitney Bowes so it might be in the case of
8 Pitney Bowes, would it not be in the nature of mail machine
9 and copiers and alike?

10 A. Uh-huh.

11 Q. So you would normally be going to the end user
12 of a Pitney Bowes product?

13 A. Correct.

14 Q. And they may have one piece of equipment,
15 correct?

16 A. Correct.

17 Q. And you may take that one piece of equipment
18 and take it back to your warehouse in New Jersey?

19 A. Correct.

20 Q. And then what do you do with the equipment?

21 A. Well, we consolidate it because we normally
22 have more than one pick up.

23 Q. And then what do you do with it?

24 JUDGE CHESTNUT: Wait, excuse me, when you say more
25 than one pick up, are you going to pick up from other

1 customers or are you returning equipment to Pitney Bowes?

2 THE WITNESS: We might pick up from 10 or 15 or 12 or
3 20 Pitney Bowes customers and users and bring the equipment
4 back to our warehouse.

5 JUDGE CHESTNUT: And then you make one movement from
6 the warehouse to Pitney Bowes?

7 THE WITNESS: Right. At our convenience. It doesn't
8 make sense to keep running back and forth.

9 MR. PETRI: Have you --

10 JUDGE CHESTNUT: How many did you say you do like ten
11 or fifteen?

12 THE WITNESS: It could be ten or fifteen or twenty,
13 it could be three.

14 JUDGE CHESTNUT: In what period of time? Like a
15 week, a day, a month?

16 THE WITNESS: Over the course of a week.

17 BY MR. PETRI:

18 Q. Then return these items to Pitney Bowes I
19 think you testified when you have a number that you feel is
20 sufficient?

21 A. Correct.

22 Q. Now, do you have regular weekly scheduled runs
23 to Pitney Bowes location?

24 A. No.

25 Q. And what location do you deliver these items

1 to?

2 A. Philadelphia.

3 Q. So they all go back into Philadelphia?

4 A. Yes.

5 Q. Then do you pick up equipment from Pitney
6 Bowes while you're there dropping off these mail machines
7 and other items and pick up?

8 A. Extremely rare. We have on occasion no more
9 than probably two which is actually a delivery of new
10 equipment going out.

11 Q. Going out to customers?

12 A. I would maybe say two. Maybe I'm lying, maybe
13 three.

14 Q. Within Pennsylvania?

15 A. No. To be quite honest with you, they have
16 either been to Atlantic City or Delaware.

17 Q. You have never taken --

18 A. Not to my knowledge. We have but it's rare
19 because most of the work is pick up.

20 Q. Were you concerned about whether you were
21 within your existing PUC certificated rights?

22 A. I was in my existing PUC authority.

23 Q. And what led you to believe that?

24 A. To be honest with you, I thought I could carry
25 within 100 miles of Philadelphia.

1 Q. You're looking at paragraph four of Exhibit
2 Protestant 1?

3 A. Um-hum.

4 Q. So you assumed that because it says to
5 transport as a Class C carrier -- no, I'm sorry, were you
6 looking at paragraph four or were you looking at paragraph
7 three?

8 A. Paragraph four really has nothing to do with
9 it.

10 Q. It would be paragraph three?

11 A. Yes.

12 Q. So you assumed because it says you have the
13 right to transport as a Class D carrier household goods and
14 office furniture, in use and new furniture uncrated from
15 points in the City and County of Philadelphia to points
16 within an airline distance of 100 statutory miles of
17 Philadelphia City Hall and vice versa that that gave you
18 authority to make intrastate PUC movements?

19 A. It was my understanding that I could handle
20 that type of office equipment within the 100 miles.

21 Q. Then why would your company pay \$7,500.00 for
22 the rights that it's seeking today?

23 A. To expand that authority.

24 Q. In what area?

25 A. Well, many areas. It's stated in Exhibit

1 Number 2 in the addendum.

2 Q. What specifically would your company be
3 interested in acquiring under Exhibit 2?

4 A. The entire exhibit?

5 Q. Well, you've just testified that your
6 interpretation of item three of your existing authority
7 evidenced by Protestant 1 --

8 A. Right.

9 Q. -- your belief was that you had the right to
10 transport electronic goods not connected to commercial moves
11 within a 100 mile radius of City Hall in Philadelphia --

12 A. Right.

13 Q. -- and vice versa?

14 A. Right.

15 Q. And you're saying that your company would be
16 interested in expanding it's authority under Applicant's 2
17 and the rights sought under there. What specific portion of
18 Applicant 2?

19 A. Well, if you look at all the different
20 counties that are mentioned here it would expand my
21 authority beyond 100 miles.

22 Q. Which item under that authority are you
23 pointing to or referring to?

24 MR. TEPPER: I want to object.

25 THE WITNESS: Scott, I'm pertaining to the entire

1 exhibit.

2 MR. TEPPER: I just want to object because the answer
3 was that he was expanding his authority and that answer in
4 and of itself states his intentions for the application
5 process. At this moment my concern is that counsel is
6 arguing with the witness and in that light, I will voice my
7 objection.

8 JUDGE CHESTNUT: Objection is overruled. I think
9 he's trying to clarify what the scope of the request for
10 authority is here.

11 THE WITNESS: Well, basically if you read through
12 this which I'm sure you have this expands my authority to go
13 from the counties listed to the counties listed.

14 MR. PETRI: Okay. Well, let's deal with it. Let's
15 break it down. Item one would you not agree that item one
16 deals with essentially authority to move for IBM?

17 JUDGE CHESTNUT: Well, wait. Before you get to item
18 one, shouldn't he look at the general grant of authority
19 which is the authority to move.

20 MR. PETRI: Certainly. Household goods and office
21 furniture in use.

22 JUDGE CHESTNUT: Within an airline distance of 100
23 statute miles of Philadelphia City Hall. That's the basic
24 authority you're seeking, isn't it?

25 THE WITNESS: No.

1 JUDGE CHESTNUT: And then it's itemized through
2 these, you know, sub-numbers. But these are all subject to
3 that 100 mile statute limitation, aren't they? I don't mean
4 to jump ahead of you.

5 THE WITNESS: I'm not sure what you're saying to me.

6 JUDGE CHESTNUT: You're looking at I assume Exhibit 2
7 which is the requested authority on this addendum.

8 THE WITNESS: Right.

9 JUDGE CHESTNUT: And there are seven specific types
10 of authority that you're seeking there?

11 THE WITNESS: Okay.

12 JUDGE CHESTNUT: Where you breakdown the authority
13 that you're seeking there.

14 THE WITNESS: Right.

15 JUDGE CHESTNUT: But it's all subject to the
16 requirement that it be within 100 miles under, you know,
17 statute miles of City Hall.

18 THE WITNESS: Is that all but number seven?

19 JUDGE CHESTNUT: No, it's on top of --- if you look at
20 the top right.

21 THE WITNESS: Um-hum.

22 JUDGE CHESTNUT: I just want to see what your
23 understanding is. But you want authority to move household
24 goods and office furniture in use from points in the City
25 and County of Philadelphia to points within an airline

1 distance of 100 statute miles of Philadelphia City Hall.

2 THE WITNESS: That's what we currently have now.

3 JUDGE CHESTNUT: Okay.

4 THE WITNESS: And then what it says is so as to
5 permit and then from there on is what I'm looking to
6 purchase.

7 JUDGE CHESTNUT: Okay. Go ahead.

8 BY MR. PETRI:

9 Q. Now, under number one, under Applicant's
10 Exhibit 2 it talks about tabulating office machines for IBM.

11 A. Um-hum.

12 Q. Do you currently do work for IBM?

13 A. We do some work for IBM.

14 Q. And is that intrastate work?

15 A. It's a combination of both.

16 Q. And does that equipment involve tabulating
17 machines and office machines?

18 A. Yes.

19 Q. Now, under number two that is also authority
20 cases for IBM Corporation?

21 A. Um-hum.

22 Q. From points within an airline distance of 25
23 miles of the City Hall in the City of Philadelphia,
24 Philadelphia County to points in the City and vice versa.
25 Do you currently perform that work?

1 A. Yeah. I mean, on occasion, yes.

2 Q. Now, under item 3 you have office machines and
3 electronic or mechanical equipment included but not limited
4 to copiers, computers, x-ray machines and inserting machines
5 from the warehouse of Domenic Cristinzio at 3328 Amber
6 Street. It is my understanding from your previous testimony
7 that Domenic Cristinzio or D. Cristinzio, Inc., no longer
8 has a location within the Commonwealth of Pennsylvania to
9 your knowledge. Is that correct?

10 A. They still own a warehouse in Philadelphia
11 that's correct but they're not located on Amber Street. Let
12 me clarify something here if you look at I guess Exhibit 1
13 where we were --

14 Q. Your application?

15 A. Our application for the original authority.
16 It not includes I believe one through six -- at this point I
17 have so many papers here but let's go back to the original.

18 MR. TEPPER: I believe it's right before Exhibit I.

19 THE WITNESS: Okay. And the price that Rus Taddei,
20 Sr., was asking for that was \$5,000.00. I guess after
21 reviewing a little bit more extensively he decided and I'm
22 only assuming this that he wanted to sell the entire Docket
23 or Folder as a whole and not sell it broken up in bits or
24 pieces. He then reviewed it and asked if we'd be interested
25 in buying the complete Folder for a sum of \$7,500.00 and I

1 agreed.

2 This number one, number two, number three, these
3 authorities are something that I wasn't even aware of that
4 really I don't even need -- that I don't request to purchase
5 them but it's part of a Folder that he's looking to sell.

6 BY MR. PETRI:

7 Q. You do not need that authority but you already
8 do that work, isn't that your testimony?

9 A. We do some work and I -- from my
10 understanding, we have the authority to do that work.

11 Q. So you're not concerned about whether you
12 really have PUC authority as to whether you take a job, you
13 just do it.

14 MR. TEPPER: I want to object. He's arguing with the
15 witness again.

16 JUDGE CHESTNUT: Objection sustained.

17 MR. PETRI: I think the testimony speaks for itself.

18 MR. TEPPER. Objection. I'd move to strike that last
19 question.

20 BY MR. PETRI:

21 Q. What item -- let's go back to the original
22 question -- what item in this authority that's depicted in
23 Applicant 2 does your company seek?

24 A. Numbers five through seven.

25 Q. So five through seven were important to you

1 under Applicant two. Five being uncrated office machines
2 and electronic or mechanical equipment including but not
3 limited to copiers, computers, x-ray machines and inserting
4 machines between the points in the Counties of Bucks,
5 Chester, Delaware, Montgomery, Philadelphia and from said
6 counties to points in Pennsylvania and vice versa?

7 A. Um-hum.

8 Q. When I asked you the original question about
9 Protestant 1 in that exhibit you told me that you thought
10 that under item three of that certificate of authority that
11 you had the right to do that work already, correct?

12 A. Correct.

13 Q. So of what value would item five be to you if
14 you honestly believe that?

15 MR. TEPPER: Objection. Again, you're arguing with
16 the witness and the application in its existent form which
17 are Exhibits 1 and 2 speak for themselves. There is no
18 request at this point in time to change the application and
19 the application remains all the papers which are part of
20 Exhibit 1 in addition to the addendum which is Exhibit 2.

21 JUDGE CHESTNUT: Objection is overruled. Answer the
22 question please.

23 THE WITNESS: Okay. This will allow me to make
24 moves, let's say, within the County of Montgomery if I want
25 to go from Montgomery County to Montgomery County or if --

1 BY MR. PETRI:

2 Q. That's your understanding of the value that's
3 added by five that's not included in item three of
4 Protestant 1?

5 A. Right.

6 Q. Well, Protestant 1 and item three we went over
7 says from the points in the City and County of Philadelphia
8 to points within an airline distance of 100 statutory miles?

9 A. Right.

10 Q. Isn't Montgomery County within 100 statutory
11 miles within the City of Philadelphia?

12 A. Yeah, but my understanding is that from points
13 in the City and County of Philadelphia doesn't list a
14 Montgomery or Bucks, etc.

15 Q. How many years of experience do you have in
16 this industry?

17 A. I've been in the industry --

18 MR. TEPPER: In what capacity?

19 BY MR. PETRI:

20 Q. In any capacity? How many years of
21 experience?

22 A. Twelve.

23 Q. And of those 12 years how many years have you
24 spent in management?

25 A. None really.

1 Q. You've testified --

2 A. I basically worked in sales and dispatch.

3 Q. You don't consider sales and dispatch
4 management?

5 A. If you're a good salesman, you don't have time
6 to actually manage the corporation.

7 Q. Well, let me put it to you this way. I don't
8 want to argue over semantics. How many years of that 12 did
9 you spend actually driving the vehicle as opposed to selling
10 and other functions?

11 MR. TEPPER: Objection. I don't know if there's any
12 testimony that he was a driver.

13 MR. PETRI: There isn't. I'm asking the question.

14 BY MR. PETRI:

15 Q. In other words, you spent 12 years in sales,
16 correct?

17 A. Basically between that and dispatch, correct.

18 Q. And the other three shareholders, how many
19 years of experience do each of them have in the industry?

20 MR. TEPPER: I'm going to object now to the
21 relevancy.

22 JUDGE CHESTNUT: Objection is overruled.

23 THE WITNESS: I don't know off the top of my head.
24 Basically they all worked -- Kenneth and Don also worked in
25 sales and Rus was again a dispatcher and their years of

1 experience vary. Don Taddei has four or five years maybe
2 and possibly the same for Rus and Ken. I don't have the
3 exact number of years of experience with me.

4 BY MR. PETRI:

5 Q. If you could look at Exhibit, Applicant 1 in
6 particular Exhibit L Statement of experience it's about the
7 third to last page of the packet. Is the statement under
8 Exhibit L the officers of the Applicant combined have over
9 30 years experience and involvement in the trucking industry
10 a truthful statement?

11 A. Yes, it is.

12 Q. And paging a moment to the Exhibit D statement
13 of charter purpose. Does it not say that the purpose of
14 your corporation is to engage in any lawful act or activity
15 for which corporations may operate in the Commonwealth of
16 Pennsylvania?

17 A. Yes.

18 Q. Is that a truthful statement?

19 A. To the best of my knowledge.

20 Q. Does your corporation engage in lawful
21 activity as defined by the Commonwealth?

22 A. To the best of my knowledge, it does.

23 Q. Despite the fact that you have freely admitted
24 that you have made movements within Pennsylvania not
25 connected to commercial moves of electronic goods, the very

1 item that your seeking for today?

2 MR. TEPPER: Objection asked and answered several
3 times.

4 JUDGE CHESTNUT: He can answer it.

5 THE WITNESS: Yes, and I believe at that time it was
6 within my authority to do so. And it is -- it is not really
7 for the authority that I'm requesting to purchase today. I
8 mean, this is the expanded authority. This goes well beyond
9 what I do today.

10 MR. PETRI: Now knowing as you state and not
11 previously knowing as you have stated before that you
12 currently do not have authority, will you cease immediately
13 in the operations of illegal movements?

14 MR. TEPPER: Objection to the characterization of
15 legality. The witness is not an attorney nor is he in
16 position to respond to that type of legal conclusion.

17 JUDGE CHESTNUT: Well, I think he can reword the
18 question.

19 BY MR. PETRI:

20 Q. Now knowing that you do not carry authority to
21 make the movements that we've been describing today, the
22 electronic movements which are intrastate for various
23 customers which are unconnected to commercial moves, will
24 you now cease immediately?

25 A. You're claiming that I don't have the

1 authority.

2 Q. No. You told me today that you see that you
3 don't have the authority unless I totally misunderstood the
4 last half hour.

5 A. I don't see it mentioned here but it was my
6 belief that we had the authority to move equipment.

7 Q. Do you still believe that?

8 A. Yeah, I do believe it, yes.

9 Q. And what portion of Protestant 1 gives you
10 that authority?

11 A. I don't see it stated here.

12 Q. Well, then how can you believe that you have
13 the authority if you don't see it stated?

14 MR. TEPPER: I'm going to object. Part of the
15 purpose that we're here today is to have these matters
16 determined by the Court. He's looking for legal conclusions
17 from the witness which I believe is unfair.

18 JUDGE CHESTNUT: Well, he's not looking for legal
19 conclusions. But on the other hand, state of mind and good
20 faith is certainly relevant to allegations of illegal
21 movement and it's important to probe what the witness's
22 state of mind is.

23 MR. TEPPER: And as to the testimony of good faith as
24 to what his state of mind was and we constantly hear
25 argumentative questions regarding state of mind and I'll

1 just let my objection stand on that.

2 JUDGE CHESTNUT: Well, your objection is overruled.
3 I lost track of what the question was but I'm not sure where
4 we were. But I think he was simply asking the witness to
5 explain his basis for which we have gone through and I think
6 it's getting to the point where it's getting a little
7 burdensome on the record. However, I think it's important
8 that the witness do have an full opportunity to explain for
9 the basis of his belief and that's why I'm allowing the
10 question. Do you want him to restate the question?

11 THE WITNESS: I basically know the question. It was
12 my belief that we had the authority to do electronic moves
13 within the mileage as listed here and I've been doing so
14 based on my belief.

15 MR. PETRI: And now what is your opinion having
16 re-examined Protestant 1, do you still believe that you have
17 that authority?

18 MR. TEPPER: And that's my same objection regarding
19 he's seeking -- he's asking for a legal conclusion.

20 JUDGE CHESTNUT: He's not seeking a legal conclusion.
21 He's just saying what is his response going to be.

22 THE WITNESS: I would like to sit down with my
23 consultant to find out if I have been operating legally or
24 not legally. I don't know if I can make that judgment at
25 this time.

1 BY MR. PETRI:

2 Q. Is there something in particular about
3 paragraph 3 of Protestant 1 that is confusing to you?

4 A. No.

5 Q. Okay. Now, going back to your Exhibit
6 Applicant 2 and item 6. Item 6 deals with business and
7 office machines, electronic manufacturing systems, parts and
8 supplies there of that are manufactured, sold, leased,
9 distributed or dealt in by international business machines
10 corporation for IBM between various points being points in
11 the area -- well, I'll just leave it at that being various
12 points as described.

13 A. All right.

14 Q. Does your corporation presently perform those
15 movements?

16 A. No.

17 Q. Do you do any work at all for IBM?

18 A. I've already answered that question.

19 Q. Okay. So you do do some?

20 A. Correct.

21 Q. Now, under number seven it states business in
22 office machines and electronic or mechanical equipment
23 including but not limited to copiers, computers, x-ray
24 machines and inserting machines and new office furniture
25 between points in the Counties of Luzerne, Lackawanna,

1 Monroe, Carbon, Northampton, Lehigh, Berks, Schuylkill,
2 Columbia and Montour and from said points in said counties
3 to points in Pennsylvania and vice versa. . Does your company
4 presently perform movements under that authority?

5 A. No.

6 Q. Do you have any intent to?

7 A. Yes, I'd like to.

8 Q. Do you have customers who would seek your
9 services?

10 A. Yes.

11 Q. Going back to the list earlier that we started
12 developing, does your company presently do work for Core
13 States?

14 A. Yes.

15 Q. And are those movements in the nature of
16 computer or electronic equipment --

17 A. Commercial office moving.

18 Q. -- within Pennsylvania unconnected to
19 commercial offices?

20 A. No.

21 Q. You do none of that work?

22 A. No, everything is always connected with office
23 moves.

24 Q. And when you say an office move, you mean a
25 relocation of a branch or a office?

1 A. Correct.

2 Q. What about ATM machines, you stated earlier
3 that your company was involved in moving ATM which I gather
4 is abbreviation for automatic teller machines?

5 A. Correct.

6 Q. Do you do movement of ATM for Core States?

7 A. Yes.

8 Q. And you presently do those moves?

9 A. Yes.

10 Q. And how are they connected with a commercial
11 move?

12 A. They aren't connected at all. But then again
13 it doesn't fall under anything that we are discussing here
14 today.

15 Q. Well, let me ask you what is your
16 understanding of what an ATM is?

17 A. It's an automatic money dispensing machine but
18 it involves rigging which really doesn't involve --

19 JUDGE CHESTNUT: It involves rigging.

20 THE WITNESS: Rigging it's special handling.

21 JUDGE CHESTNUT: So it's some kind of special
22 handling?

23 THE WITNESS: Correct.

24 JUDGE CHESTNUT: What kind of special handling?

25 THE WITNESS: There's special equipment that's

1 needed. There's a special knowledge.

2 JUDGE CHESTNUT: Special equipment on your part is
3 what I'm asking?

4 THE WITNESS: Correct, yes.

5 MR. PETRI: And what present authority do you hold
6 which allows you to make those movements?

7 THE WITNESS: Well, the machines are shipped into
8 Cinnaminson, New Jersey and from there they're in storage
9 for 60, 90, 30 days and then they're delivered and
10 installed.

11 JUDGE CHESTNUT: When you say Cinnaminson, is that
12 your warehouse?

13 THE WITNESS: Correct. So these are originating out
14 of Cinnaminson, New Jersey. I don't even know if that's in
15 question here.

16 BY MR. PETRI:

17 Q. And then the shipments go from there to points
18 in Pennsylvania?

19 A. For Core States Bank it does, correct. But
20 not always Core States does own New Jersey National and
21 First Peoples Bank so not in total.

22 Q. And does your company presently hold any New
23 Jersey authorities?

24 A. Yes, we do. We have a New Jersey number which
25 is -- do you have a copy?

1 JUDGE CHESTNUT: Does the Pitney Bowes equipment that
2 you transfer require special handling?

3 THE WITNESS: No. We do have a copy here of our New
4 Jersey PN number.

5 BY MR. PETRI:

6 Q. Okay. Do you know when you got that
7 authority?

8 A. Off the top of my head, no.

9 Q. How long have you been doing work for Core
10 States?

11 A. Since I've been in business since March and
12 I've dealt with Core States over a lot of years.

13 Q. When was the first time you made a movement
14 from your facility in Cinnaminson to a point in New Jersey?

15 A. I couldn't be certain.

16 Q. Was it in April?

17 A. To be honest with you, I'm not sure. I don't
18 have that information with me.

19 MR. TEPPER: Your Honor, I believe I have a photocopy
20 of the New Jersey number. I only have three copies of it
21 but I will give one to the Court.

22 JUDGE CHESTNUT: Not unless it's going to be an
23 exhibit.

24 MR. PETRI: I wasn't intending to mark it.

25 BY MR. PETRI:

1 Q. I had asked you earlier and I think your
2 answer was that you do not recall when you received your New
3 Jersey authority. I would request that the record reflect
4 that his counsel, the Applicant's counsel has just handed
5 him a copy of the document I'm looking at and that the
6 witness is examining it and refreshing his recollection. I
7 do not intend to mark this document as an exhibit. Do you
8 recall when you received your New Jersey authority?

9 A. No, I don't not. Off the top of my head, I do
10 not.

11 Q. Did you have your New Jersey authority as of
12 July of 1992?

13 A. It's possible. Again, I really don't know. I
14 mean, I can't answer the question. I don't have that
15 information.

16 Q. Okay. Earlier you testified that you
17 essentially consolidate shipments from Pitney Bowes return
18 items into your warehouse. Does Pitney Bowes request make
19 any instructions with regard to the breakdown and return of
20 those items?

21 A. Can you be more specific?

22 Q. Isn't it true that the request that Pitney
23 Bowes makes to you as the vendor or as the shipper that you
24 immediately return all returned items?

25 A. No.

1 Q. That is not the practice?

2 A. No, we do not have to have it back there
3 immediately. We can bring it back and consolidate it at our
4 place.

5 Q. At your leisure?

6 A. We take it back right, that's correct within a
7 reasonable amount of time.

8 Q. And what would be considered reasonable?

9 A. To be honest with you, they never stated that.

10 Q. Now, were they a customer when you were an
11 employee of D. Cristinzio, Inc?

12 A. No.

13 Q. Pitney Bowes was never a customer and D.
14 Cristinzio never did any work for Pitney Bowes?

15 A. Well, he did but it was many, many years ago.

16 Q. Is it your testimony that your company does
17 not take returned items and has not taken returned items
18 from Pitney Bowes and delivered them directly out to a
19 company in an intrastate PUC shipment?

20 A. Which means from one customer to another?

21 Q. Yes.

22 A. We have never done that.

23 JUDGE CHESTNUT: Let me just ask you something. You
24 pick up the Pitney Bowes equipment and then do you take it
25 to your office in Philadelphia or do you take it to

1 someplace else?

2 THE WITNESS: We take it to the facility in
3 Philadelphia.

4 JUDGE CHESTNUT: It's always the same place that you
5 take it to?

6 THE WITNESS: Yes.

7 BY MR. PETRI:

8 Q. Are you familiar with the documentation as the
9 president of the Applicant that Pitney Bowes generates with
10 regard to the work that you do for them?

11 A. Yes.

12 Q. Are you familiar with the document called a
13 pick list?

14 A. No.

15 Q. No. You've never seen a pick list?

16 A. No, I have not.

17 Q. When you retrieve an item from Pitney Bowes,
18 do they supply you with any documentation with regard to the
19 machinery and the shipment?

20 A. Yes.

21 Q. What documentation do they supply to you?

22 A. They Fax over information pertaining to where
23 it's coming from, the customer name and address, phone
24 number and a contact to be contacted and the equipment model
25 serial number.

1 Q. Is there any follow-up writings that document
2 that information?

3 A. Follow-up writings no. We just receive Faxes
4 that's all.

5 Q. So you receive a Fax and that Fax contains
6 some information on it?

7 A. Correct.

8 Q. And then you fulfill the shipment based upon
9 that facts request?

10 A. That is correct.

11 Q. And do you know is that document called a pick
12 list?

13 A. To my knowledge, I do not know that. They may
14 refer to it as a pick list.

15 Q. Okay. Is your company, T&N, part of any
16 moving and storage associations?

17 A. Yes, we are.

18 Q. What moving and storage associations are you
19 parties with?

20 A. I don't have that right at my finger tips.

21 Q. Do you know whether your part of the
22 Pennsylvania Moving and Storage Association?

23 A. Yes, we are.

24 Q. And do they send out publications periodically
25 that describe certificates of authority and operating

1 authority what's allowed and what's not?

2 A. Um-hum.

3 Q. And do you read that information?

4 A. From time to time I do read it.

5 (Protestant Cross Examination Exhibit No. 2 was
6 produced and marked for identification.)

7 BY MR. PETRI:

8 Q. I'm going to show you a document I've marked
9 as Protestant 2 and can you tell me is that the document
10 that you testified to earlier that Pitney Bowes Faxes to you
11 giving you instructions?

12 A. No, that is not it.

13 Q. That's not the type of documentation you get?

14 A. No that is not.

15 Q. Have you ever seen this document before the
16 one I'm showing you right now?

17 A. No.

18 Q. Do you have any reason -- strike that.
19 Looking at the document, if you will, in the ship to portion
20 are you familiar with Vanderveer Group in the Annex Building
21 in Fort Washington?

22 A. Am I familiar with it, no.

23 MR. TEPPER: I'm going to object again, Your Honor,
24 on relevancy grounds.

25 JUDGE CHESTNUT: I'm sorry. What did you say your

1 objection was?

2 MR. TEPPER: Relevancy. We seem to be going on and
3 not focusing on our primary purpose for the hearing.

4 JUDGE CHESTNUT: Objection overruled.

5 BY MR. PETRI:

6 Q. You'll notice under carrier it has the letters
7 TNN. Is that your company?

8 A. Yes, that's a mistake. They probably meant to
9 put T symbol N.

10 Q. And doesn't this document indicate that the
11 transportation that you made of the item identified under
12 item code with the serial number went from the Annex
13 Building at 555 Virginia Drive, Fort Washington to
14 Philadelphia? I take that back it says ship from account
15 Philadelphia 0002 Philadelphia and then shipped to
16 Vanderveer Group.

17 A. Okay.

18 Q. So you picked up an item from Pitney Bowes in
19 Philadelphia and you shipped it to Vanderveer Group in the
20 Annex building in Fort Washington. Okay. And that item was
21 an A530. Do you know what an A530 is?

22 A. No, I couldn't tell you what it is off the top
23 of my head.

24 Q. Okay. It says recond, r-e-c-o-n-d.

25 A. Reconditioned equipment.

1 Q. Reconditioned equipment installable serial
2 number 1811. And it also says weight only so this is a
3 single item. Correct?

4 A. Correct.

5 Q. And it's not a commercial move?

6 A. Right.

7 Q. And it's from Philadelphia to Fort Washington,
8 correct?

9 A. Um-hum.

10 Q. Now, under partial shipment it says no so it's
11 the entire shipment you didn't pick up anything else?

12 MR. TEPPER: I'm going to object. He's asking this
13 witness to interpret this document and on grounds of hearsay
14 and best evidence whoever manufactured this document would
15 be the individual most capable of interpreting the document.

16 MR. PETRI: Your Honor, it's his instructions.

17 JUDGE CHESTNUT: Well, I'm a little unclear. I
18 thought he said he has never seen this document before.

19 THE WITNESS: I have never seen this type of document
20 before.

21 JUDGE CHESTNUT: But is this similar information?

22 THE WITNESS: Well, first of all, this is not a pick
23 up order. This is -- apparently it's a ship to order.

24 Okay. I don't visually inspect every Fax that comes over
25 the Fax. But no, I have never seen this list. And what we

1 receive is just a sheet of paper and it has the customer's
2 name, contact phone number for pick up orders and the
3 equipment.

4 MR. PETRI: Your Honor, if I may have some latitude,
5 I am prepared to offer evidence to this tribunal indicating
6 that this shipper actually moved this piece of goods and
7 that this is a document that was sent to them.

8 THE WITNESS: Well, I'm not disputing that it may
9 have been sent to us. That's not what I'm trying to do
10 here. But I've never seen it.

11 MR. PETRI: I really have one more question that I --

12 JUDGE CHESTNUT: I consider that there be an adequate
13 foundation for you answering questions concerning the
14 information on this document. If you feel you can answer
15 them, that's fine.

16 THE WITNESS: Well, I answered it to the best of my
17 ability. I've never seen this document. I'm not stating
18 that it never came over our Fax. This is not the usual
19 sheet that we receive from Pitney Bowes.

20 JUDGE CHESTNUT: Okay.

21 MR. PETRI: I'd like to ask one more question if I
22 might, Your Honor. Under the column direct to customer you
23 see the word yes. Do you have an understanding of what that
24 word means?

25 MR. TEPPER: I'm going to object. He can ask a

1 question independent of the document, that's fine. But to
2 use a document, I think we have --

3 JUDGE CHESTNUT: Well, he's asking if he knows what
4 it means and if you don't know, you don't know. If you do
5 know, you do know.

6 THE WITNESS: Well, it says direct to customer.
7 Obviously, they would like it picked up and delivered
8 directly to the customer.

9 MR. PETRI: That's the shipper's instructions?

10 THE WITNESS: And it's obvious.

11 JUDGE CHESTNUT: You're speculating.

12 THE WITNESS: I'm speculating because I don't know if
13 that's what was done or not. I mean, I'm not familiar with
14 this particular shipment.

15 MR. PETRI: Is that something that a president of the
16 company should properly be concerned about?

17 MR. TEPPER: Objection.

18 JUDGE CHESTNUT: Objection is overruled.

19 THE WITNESS: Be more specific. What do you mean
20 that I should be concerned about? I don't involve myself
21 with every order that is taken, no.

22 BY MR. PETRI:

23 Q. Should a president of a company be concerned
24 with whether shipments are authorized or not?

25 A. Yes, I should. And I would think that this

1 was in within my scope of authority.

2 Q. Your present authority?

3 A. Of my present authority.

4 Q. Is that correct?

5 A. That's my belief. That's what I have stated a
6 number of times.

7 Q. Have you ever asked the transferrer for an
8 explanation of what your -- strike that. Have you ever
9 asked Mr. Domenic Cristinzio the nature of your present
10 authority?

11 A. Mr. Domenic Taddei?

12 Q. Your grandfather?

13 A. Taddei.

14 Q. I'm sorry.

15 A. Have I ever specifically asked him, no, I have
16 not.

17 Q. With regard to Pitney Bowes, is your company
18 currently I think you testified earlier and correct me if
19 I'm wrong that your company does perform movements in the
20 nature of mail machines for Pitney Bowes?

21 A. Yes.

22 Q. Now, can you explain to the Judge and this
23 tribunal the circumstance upon which Pitney Bowes would hire
24 your company to transport mail machines?

25 A. Under the circumstances that they would?

1 Q. Um-hum. Why would they want to transfer? Why
2 would they want to have you move mail machines and from
3 where to where would you move those machines?

4 A. Well, I indicated that they send us pick up
5 orders. We pick up from various locations. We take them
6 back to Cinnaminson, New Jersey whereupon we consolidate
7 those shipments and we make a trip back to Philadelphia to
8 deliver those returns.

9 Q. Are there times that these mail machines are
10 being returned by customers where there are still certain
11 postage available on the machine?

12 A. I have no idea.

13 Q. You don't really understand how the equipment
14 works or --

15 A. No, I do not.

16 (Protestant Cross Examination Exhibit No. 3 was
17 produced and marked for identification.)

18 MR. PETRI: I'm going to show you a document that's
19 been marked as Protestant 3 and ask you if you have seen
20 anything similar to that before?

21 THE WITNESS: No, I have never seen it.

22 MR. TEPPER: And I would have my same objections to
23 this document.

24 JUDGE CHESTNUT: Well, there's no questions
25 outstanding at this point. He was only asked if he has seen

1 it.

2 THE WITNESS: No, I have never seen a document like
3 this before.

4 MR. PETRI: Okay.

5 BY MR. PETRI:

6 Q. Now, when you were with D. Cristinzio, Inc.,
7 did you have any monthly or quarterly or other sales
8 meetings when you talked about your existing authority and
9 accounts?

10 A. When I was with D. Cristinzio?

11 Q. Um-hum.

12 A. Yes, we had sales meetings.

13 Q. And did discussions ever revolve around at
14 those sales meetings the authority that D. Cristinzio, Inc.,
15 held and various customers' needs?

16 A. No, never involved the authority.

17 Q. You never sat down and discussed what
18 authority D. Cristinzio had I gather?

19 A. No.

20 Q. As a salesman for D. Cristinzio, did you have
21 a copy of the authority?

22 A. No.

23 Q. Well, if a customer called and asked you to
24 make a shipment, how would you ascertain whether or not you
25 had the authority to make the shipment?

1 A. Basically, if we did not have the authority to.
2 do a shipment that we were requested to do, either Rus
3 Taddei, Sr., or Don Taddei, Sr., would indicate to us that
4 at that time we do not have the authority. We cannot
5 perform that service.

6 Q. Are you saying that Rus Taddei, Sr., or Don
7 Taddei would review each and every sale that was made by you
8 as a salesman?

9 MR. TEPPER: I want to object. He's
10 mischaracterizing his testimony at this point.

11 JUDGE CHESTNUT: Objection is overruled.

12 THE WITNESS: No, they would not.

13 BY MR. PETRI:

14 Q. So they did not review each and every sale
15 that you made, how would you as a salesman determine whether
16 or not your firm had the authority to make the movement?

17 A. Well, because basically all the work that I
18 had sold for them I knew we were within our scope of the
19 authority. I did not know the total extent of the authority
20 but I knew that my work that I was quoting on and being
21 given was within the authority.

22 Q. And did you do quotes in the nature of
23 intrastate electronic movements not connected to office
24 relocations or commercial work?

25 A. For D. Cristinzio Incorporated?

1 Q. Yes.

2 A. Yes.

3 Q. And how long did you do that? Was that the
4 full twelve years?

5 A. I was in sales for about five years.

6 Q. For about a five year time period you made
7 those determinations, correct?

8 A. Yes.

9 Q. Did you ever ask for assistance in making a
10 determination when you had a question or you had a concern?

11 A. Yes, there were times. I don't remember
12 specifics.

13 Q. And did you receive explanations?

14 A. Yes.

15 Q. And did you understand those explanations?

16 A. When they were explained to me, yes.

17 (Protestant Cross Examination Exhibit No. 4 was
18 produced and marked for identification.)

19 BY MR. PETRI:

20 Q. I'm going to show you a document which I
21 marked as Protestant 4 and ask if you can identify that?

22 A. Yes.

23 Q. And what is that document?

24 A. Now, this is a bill of lading where we picked
25 up an 1863 folder in Atlantic City, New Jersey.

1 Q. And where did you deliver it to?

2 A. We brought it back to our warehouse in
3 Cinnaminson with consolidation with probably other shipments
4 to go back to Pitney Bowes.

5 Q. Now, how do you know that you brought this
6 particular item into your warehouse in Cinnaminson?

7 A. Because they all come back to the warehouse
8 for the most part as far as I'm aware of for consolidation.
9 The trucks report to our facility at the close every day.
10 They do not go to Pitney Bowes. When they're finished their
11 work each and every day they return back to our terminal.

12 Q. I notice in the upper right-hand corner you
13 have certain authorities specified and I see that there's no
14 number for New Jersey?

15 A. The bill of lading that we had printed were
16 prior to us getting our New Jersey PUC number?

17 Q. So as of -- is your testimony then that as of
18 7/13/92 the date of this order you did not have New Jersey
19 authority?

20 A. I'm not certain of that.

21 Q. I see that it also has an ICC number. Is that
22 ICC authority that T&N holds?

23 A. Yes.

24 Q. And I see that it has a Pennsylvania PUC
25 number on there.

1 A. Correct.

2 Q. And is that the existent authority that your
3 company holds?

4 A. Correct.

5 Q. Is Atlantic City within the commercial zone of
6 the ICC?

7 A. No.

8 Q. And how do you know that?

9 MR. TEPPER: Your Honor, again, on grounds of
10 relevancy I would object. We're getting into ICC in New
11 Jersey areas which I think are well beyond the scope once
12 again of this particular proceeding.

13 JUDGE CHESTNUT: Maybe geographically beyond the
14 scope but I think the question of potential illegality and
15 legality is certainly within the scope of this proceeding.
16 And if that's why he's asking it, then it's a relevant
17 question.

18 MR. PETRI: That's exactly why I'm asking it, Your
19 Honor.

20 THE WITNESS: I believe that the ICC exempt zone is a
21 40 mile radius

22 BY MR. PETRI:

23 Q. And how did you become familiar with that?

24 A. Because from day one they had an ICC exempt
25 zone map hanging on the dispatch wall.

1 Q. Do they have any similar type map with the
2 outline of their authority of PUC?

3 A. No.

4 Q. Do you? Does your firm currently have such
5 maps available?

6 A. No, we do not.

7 Q. Who are your salesmen?

8 A. Me and Don Taddei and Ken Taddei.

9 Q. So you're familiar with the commercial zone
10 provisions as they relate to the ICC. Are you also familiar
11 with the interpretations and the varying interpretations
12 between Pennsylvania PUC provisions and the ICC provisions
13 as they deal with the term household goods?

14 MR. TEPPER: I'm going to object. Again, Your Honor,
15 we're getting into legal conclusions as well as the same
16 relevancy objections.

17 JUDGE CHESTNUT: Objection is overruled.

18 BY MR. PETRI:

19 Q. Do you want me to restate the question?

20 A. Please.

21 Q. You've just testified that you're familiar
22 with the definition of commercial zone as promulgated by the
23 ICC and is interpreted. And your understanding is I think
24 that it's a 40 mile range?

25 A. Approximately a 40 mile range.

1 Q. Did there come a point in time throughout your
2 employment in this industry when you came to learn that
3 there was a difference between the way the ICC interpreted
4 the language of household goods and the way the PUC has
5 interpreted that term with respect to electronic goods?

6 A. Well, I guess my understanding is that the ICC
7 when they speak of household goods, it involves not only
8 household goods but office furniture and equipment, office
9 equipment.

10 Q. And would that be electronic equipment?

11 A. To my best knowledge, yes.

12 Q. And is it your understanding that in an ICC
13 context that you do not need any additional authority other
14 than the household in order to move electronic equipment by
15 itself?

16 A. That is correct.

17 Q. Is it your understanding that the PUC has a
18 different interpretation with regard to electronic goods?

19 A. Well, I'm not quite sure. I guess that they
20 do. I'm not certain as to that.

21 Q. Do you know whether any of the other
22 shareholders in T&N have some understanding in that regard?

23 MR. TEPPER: I'm going to object, calls for a hearsay
24 response.

25 MR. PETRI: Well, I think it's a business exception.

1 JUDGE CHESTNUT: I don't think it's an objectable
2 question. He can answer the question.

3 THE WITNESS: I can't speak for those files.

4 MR. PETRI: I have no further questions of this
5 witness.

6 JUDGE CHESTNUT: Why don't we take a break before we
7 do redirect. Let's take a ten minute break.

8 (Whereupon, a brief recess was taken.)

9 JUDGE CHESTNUT: Mr. Tepper, do you have any
10 questions on redirect?

11 MR. TEPPER: I just have a a few questions, Your
12 Honor.

13 REDIRECT EXAMINATION

14 BY MR. TEPPER:

15 Q. Mr. Nelson, has there ever been any
16 intentional conduct on your personal behalf to violate your
17 understanding of the scope of the PUC authority?

18 A. No. Like do I believe that I was acting
19 within the scope of my authority in everything I was doing?

20 Q. And everything you've been doing has been in
21 good faith. Is that correct?

22 A. As far as I know.

23 MR. PETRI: Objection. Good faith is the test that
24 we're here to determine.

25 JUDGE CHESTNUT: He can use the term.

1 BY MR. TEPPER:

2 Q. And isn't it also true that the application
3 which is the subject of this hearing is a transfer of PUC
4 authorities and not a new application?

5 A. Correct.

6 Q. There was a question raised as to Exhibit L
7 which is a few pages from the end of Exhibit 1 here today
8 that the offices of the Applicant have over 30 years of
9 experience. Could you just clarify for the Court the
10 support for that statement?

11 A. Well, if you combine all the years that the
12 four of us have been in the moving and storage industry, it
13 totals 30 years or better at present.

14 Q. Thank you. And as far as the statement of the
15 purpose which is contained in the beginning of the
16 application, the purpose of the corporation is to engage in
17 any lawful act or activity for which the corporation be
18 operated in the Commonwealth of Pennsylvania including but
19 not limited to transportation services. Isn't it true that
20 you have always been in good faith --

21 MR. PETRI: Objection, leading.

22 JUDGE CHESTNUT: That's an awfully leading question
23 for your own witness but I'll let it go we've been kind of
24 informal here.

25 THE WITNESS: To the best of my knowledge, I've

1 acted within the scope of my authority like I stated
2 previously.

3 BY MR. TEPPER:

4 Q. And as to Protestant Exhibits Number 2 which
5 is the pick list and Number 3 which is the request for
6 postage meter check out and Number 4 which is the Pitney
7 Bowes document, isn't it true that you did not personally
8 prepare any of those documents or were you involved in the
9 preparation of any of those documents?

10 A. That is correct. I was not.

11 Q. And isn't it true that the paperwork which you
12 might receive from Pitney Bowes would strictly be to and
13 from the warehouse, your warehouse?

14 A. What do you mean? Can you be more specific?

15 Q. Well, can you explain to the Court the
16 circumstances in which you receive any paperwork if at all
17 from Pitney Bowes?

18 A. All paperwork from Pitney Bowes is via Fax and
19 they'll come over one or two at a time or ten at a time
20 depending on their work load. And it will indicate like I
21 spoke of earlier, it doesn't look like this but I've seen
22 the orders and it just has the customer location and the
23 name of the customer, the contact and the phone number at
24 which time our office is to call to verify that the
25 equipment is ready for pick up and if it is, then we

1 schedule it for pick up.

2 Q. Do you know if there are any former employees
3 of D. Cristinzio which currently are employed by the
4 Protestant, J.C. Van Lines?

5 A. Yes.

6 MR. PETRI: Objection, relevance.

7 JUDGE CHESTNUT: I don't see the relevance either.

8 MR. TEPPER: Well, the relevance would be by way of
9 an offer of proof to attempt to establish some of the bad
10 feelings between J.C. Van Lines and his former employer, D.
11 Cristinzio and some of the motivation for this protest.

12 JUDGE CHESTNUT: That's more of an appropriate
13 subject for rebuttal, isn't it?

14 MR. TEPPER: Well, I have Mr. Taddei here and I can
15 bring that up.

16 JUDGE CHESTNUT: Because I don't see any questions
17 that were even remotely related to that that were brought
18 out on cross-examination.

19 MR. TEPPER: Well, I think it's relevant to the mere
20 fact that this is a transfer application and the mere fact
21 of a circumstance that a protest was filed why that would be
22 filed that goes to the aggressive type of relationship
23 between the parties.

24 MR. PETRI: If I might respond to that, Your Honor, I
25 always thought that filing a protest was a matter of right

1 and it would only be based upon whether there was a finding
2 of appropriate transfer. First the burden being on the
3 Applicant and then subsequently being on the Protestant to
4 establish -- certainly the Protestant can't come in here
5 without good intentions or without a basis for objecting. I
6 think we made our basis for objecting to this protest
7 abundantly clear in our question.

8 JUDGE CHESTNUT: I'm a little confused as to what
9 relevance to motivation would have to file a protest. If
10 you felt the protest was improper, you could at least strike
11 it for whatever reason.

12 MR. TEPPER: Okay. I'll withdraw the question.

13 JUDGE CHESTNUT: Like I said, you will have a chance
14 to put rebuttal on if you feel it is appropriate.

15 MR. TEPPER: Okay. I have nothing further.

16 JUDGE CHESTNUT: Okay. I have a question for you,
17 Mr. Nelson, which I probably should have asked before your
18 redirect. So if you want to ask a question about it you'll
19 have that opportunity. Looking at Exhibit i which is the
20 original application and the projected cash flow which would
21 be I guess part of Exhibit I, second page. Do you have that
22 page that I'm talking about?

23 THE WITNESS: Yes.

24 JUDGE CHESTNUT: The entertainment expenses that you
25 have on there, \$1,500.00 for the first quarter, I should say

1 for the quarter ended 2/28/92 I assume. Why is that so
2 high? Is that a normal level of expense and then I see it's
3 3,000 for the second quarter, 2,500 for the third quarter
4 and 2,500 for the fourth quarter. That seems very high to
5 me.

6 THE WITNESS: That's not really a lot.

7 JUDGE CHESTNUT: Can you tell me what that is for?

8 THE WITNESS: Flyers tickets, Phillies tickets,
9 things of that nature.

10 JUDGE CHESTNUT: And is that standard in the
11 industry?

12 THE WITNESS: Very much so.

13 JUDGE CHESTNUT: And I assume that these tickets are
14 given to customers to induce them to place business with the
15 company?

16 THE WITNESS: No, they are used as -- we don't try to
17 induce -- we don't try to bribe someone.

18 JUDGE CHESTNUT: No, I'm not talking about bribe.

19 THE WITNESS: You have to realize here that I've been
20 dealing with my customer base for five years and we've
21 established a relationship over those years and yes, they
22 act as gifts to customers.

23 JUDGE CHESTNUT: Okay.

24 THE WITNESS: But it's not out of the ordinary.

25 JUDGE CHESTNUT: Do you want to ask any redirect on

1 that?

2 MR. TEPPER: No, I think that's been answered
3 sufficiently. I think it's common practice of any --

4 MR. PETRI: Objection. Counsel is testifying.

5 JUDGE CHESTNUT: Yes, you can't testify. Do you have
6 any recross?

7 MR. PETRI: Yes, Your Honor, I apologize I have to.

8 REXCROSS EXAMINATION

9 BY MR. PETRI:

10 Q. You're saying that since we left off with this
11 issue of entertainment that it would be normal to spend at
12 least according to your projections --

13 A. And that's all they are is projections to keep
14 in mind.

15 Q. -- ninety-five hundred dollars a year in
16 entertainment in gifts to various potential customers?

17 A. Again, yeah, that is correct. Now, you have
18 to realize that not all tickets are used for customers. We
19 reward some of our employees with tickets to various games.

20 Q. What percentage goes to customers and what
21 percentage goes to employees as reward?

22 A. I don't have those figures available.

23 Q. And of course that portion that goes to reward
24 is 1099 or compensated to the employee as compensation?

25 MR. TEPPER: Your Honor, I think we're getting so far

1 beyond the scope of this hearing.

2 JUDGE CHESTNUT: No, it's not.

3 BY MR. PETRI:

4 Q. Going back to -- on redirect, your counsel
5 developed some information with regard to your intentions.
6 And it's my understanding that you've testified and are
7 testifying that you have never intended purposely to violate
8 or to perform shipments for which you were not certificated?

9 A. That's correct.

10 Q. Did you ever consult with an attorney before
11 you made any of these shipments?

12 A. No, I did not.

13 Q. Did you ever contact the PUC to inquire as to
14 an interpretation?

15 A. No.

16 Q. Did you ever speak to any of the employees of
17 the transferrer in order to obtain an understanding of the
18 authority that you were seeking or the authority that you
19 currently held?

20 A. No.

21 Q. And why didn't you?

22 A. Well, because my understanding was that I
23 could handle -- I could perform the work that I had been
24 performing under this authority within 100 miles of
25 Philadelphia that was my understanding.

1 Q. Do you also believe that ignorance of the law
2 is an excuse?

3 MR. TEPPER: Objection.

4 JUDGE CHESTNUT: Objection sustained.

5 MR. PETRI: Okay. So you believed that you had the
6 authority but you did not inquire?

7 MR. TEPPER: Objection, asked and answered.

8 JUDGE CHESTNUT: Yeah, it has been a lot or I should
9 say numerous times asked and answered.

10 MR. PETRI: Okay. I have no further questions.

11 JUDGE CHESTNUT: Any redirect?

12 MR. TEPPER: No, Your Honor.

13 JUDGE CHESTNUT: Okay. Thank you very much, Mr.
14 Nelson. You're excused. Do you want to move in your
15 exhibits?

16 MR. TEPPER: I would move all of my exhibits in, Your
17 Honor.

18 JUDGE CHESTNUT: Any objection?

19 MR. PETRI: I have no objection to any of the
20 exhibits and I would also move for the admission of the
21 Protestant's exhibits.

22 JUDGE CHESTNUT: Any objection?

23 MR. TEPPER: I would object.

24 JUDGE CHESTNUT: Okay. Before you do that,
25 Applicant's Exhibits 1 through 4 are admitted.

1 (Applicant's Exhibits Nos. 1 through 4 were admitted
2 in evidence.)

3 JUDGE CHESTNUT: And which are you objecting to? How
4 about Exhibit 1 that's the current authority?

5 MR. TEPPER: I don't have any objection to Exhibit
6 Number 1.

7 JUDGE CHESTNUT: Exhibit P-1 is admitted.

8 (Protestant Exhibit No. P-1 was admitted in
9 evidence.)

10 MR. TEPPER: As to P-2 and P-3 -- well, first, let's
11 take P-2 and P-3 my objections of hearsay and best evidence
12 I will renew.

13 JUDGE CHESTNUT: Mr. Petri?

14 MR. PETRI: Well, Your Honor, as to hearsay, the -- I
15 think the testimony as to each document stands on its own as
16 to the Applicant's responses to various questions I asked.
17 As to best evidence, I guess -- I don't know if the
18 objection is really best evidence or if it's authenticity
19 but I can certainly authenticate the documents at a later
20 time.

21 JUDGE CHESTNUT: I'll admit them. But I'm not sure
22 if they're entitled to any probative weight whatsoever and
23 Exhibit 4 is admitted.

24 (Protestant Exhibits Nos. 2, 3 and 4 were admitted in
25 evidence.)

1 MR. TEPPER: I would just object to the relevancy of
2 Exhibit 4.

3 JUDGE CHESTNUT: Do you want to respond, Mr. Petri?

4 MR. PETRI: Is there now another objection?

5 JUDGE CHESTNUT: Yes to Exhibit 4 on the basis of
6 relevancy. I don't think it's necessary for you to respond.
7 I'll admit it. Mr. Tepper, do you have anything further to
8 present?

9 MR. TEPPER: Not at this time.

10 JUDGE CHESTNUT: Well, this is the only time to get
11 your direct case on.

12 MR. TEPPER: Well, I would reserve my right to call
13 Mr. Russell Taddei, Sr., as a rebuttal. I only have a few
14 questions of Mr. Taddei if you think now would be the
15 appropriate time to ask the questions of him. Mr. Taddei is
16 the former employer of Mr. Nelson.

17 JUDGE CHESTNUT: Are you calling him as a witness?

18 MR. TEPPER: He would be called as a witness, yes.

19 JUDGE CHESTNUT: Are you doing it now or are you
20 doing it later?

21 MR. TEPPER: Well, your instructions previously were
22 that by way of an offer of proof it would go to the
23 relationship between Mr. Nelson's former employer, D.
24 Cristinzio and you said that would be proper for rebuttal.
25 And I would just reserve my right to call him as a rebuttal.

1 witness if necessary.

2 MR. PETRI: Your Honor, at this time I would move for
3 the dismissal of this application. I don't think the
4 Applicant has met his burden of proof in particular with
5 regard to the fitness issue. In fact, the testimony adduced
6 so far indicates that the Applicant did not seek inquiry,
7 did not make any reasonable attempt to inquire and the
8 Applicant collectively has 30 years of experience in the
9 business and certainly understands the distinctions and the
10 plain meaning of very easy to read, simple to understand
11 authorities.

12 Quite frankly, this Applicant has demonstrated in its
13 testimony an indifference and a lack of caring and has
14 blatantly gone out and made transportations which it knows
15 very well that it does not have legal authority to make and
16 therefore this application should be immediately dismissed.

17 MR. TEPPER: Your Honor, can I respond?

18 JUDGE CHESTNUT: Sure.

19 MR. TEPPER: I would vehemently oppose the request of
20 the Protestant. The law is clear in Pennsylvania that even
21 if there was a situation where there maybe actions which are
22 evidence of conduct which is not proper, that evidence per
23 se does not serve as to obviate the granting of the
24 application.

25 I would direct the Court's attention to at least two

1 cases one which is Hercik, H-e-r-c-i-k versus Public Utility
2 Commission and the second case which is B.B. Motor Carriers
3 versus Commonwealth of Pennsylvania. In the B.B. motors
4 case, the Court held that the mere fact that a carrier
5 operated without a proof of PUC is not per se prohibiting
6 the subsequent acquisition of authority by a carrier.

7 And further in the Hercik versus Public Utility
8 Commission case, the Court held that in situations where
9 there is an operation of service without authority before
10 the application for certificate of public convenience was
11 filed, that act did not stand alone preclude the PUC from
12 granting the application. There seems to be a situation
13 where Your Honor has discretion and I would ask that the
14 request of the Protestant not be granted.

15 JUDGE CHESTNUT: I'm going to take it under
16 advisement and you can discuss it in your briefs. In the
17 meantime, why don't you put your case on.

18 MR. PETRI: Okay. I would call as of
19 cross-examination Mr. Taddei, Sr.

20 JUDGE CHESTNUT: So you're calling him as a hostile
21 witness?

22 MR. PETRI: Yes, Your Honor.

23 RUSSELL TADDEI, SR., called as a witness, having been
24 duly sworn, was examined and testified as follows:

25 JUDGE CHESTNUT: Okay. Give and spell your name for

1 the record.

2 THE WITNESS: Russell Taddei, Sr., R-u-s-s-e double
3 l, G. T-a-d-d-e-i.

4 JUDGE CHESTNUT: Okay.

5 CROSS EXAMINATION

6 MR. PETRI:

7 Q. Mr. Taddei, it's my understanding that you are
8 and have for a long time been the owner of D. Cristinzio,
9 Inc?

10 A. That's correct.

11 Q. And how long have you been in the industry?

12 A. About 35 years.

13 Q. And in those 35 years have you been involved
14 as an expert witness in any proceedings before the
15 Commission?

16 A. Well, I'm not sure about the term expert but
17 I've been a witness.

18 Q. Do you recall the proceeding involving Fisher
19 Hughes Transportation where you were called as an expert
20 witness and allowed to testify by the Administrative Law
21 Judge, Herbert Smolen?

22 A. I remember the case. I don't remember being a
23 witness but it's possible.

24 Q. Okay. Let me try and refresh your
25 recollection. Do you recall taking the stand and testifying

1 about the understanding within the industry with regard to
2 household mover's rights and the PUC interpretations as you
3 were familiar with them with regard to electronic movements
4 within Pennsylvania?

5 A. I do recall that I believe.

6 Q. And when you entered into the agreement of
7 sale or even prior to entering into the agreement of sale,
8 did you discuss with the Applicant and its officers your
9 understanding of the interpretation of intrastate
10 electronics moves and the authority that is necessitated to
11 make those movements?

12 A. No, I didn't. They told me they were looking
13 to expand the scope of operation and have more authority for
14 points between counties. And this authority was a natural
15 for that scenario and I agreed to sell it. I didn't feel an
16 obligation to explain anything.

17 Q. Now, Domenic Taddei is your father, correct?

18 A. Domenic Taddei is my father.

19 Q. And he's been involved in business with you
20 for a number of years as well?

21 A. No, my father was never a partner at D.
22 Cristinzio Incorporated.

23 Q. But he had his own --

24 A. He was in business independently. He had his
25 own company. As a matter of fact he had several companies

1 over the past 15 years.

2 Q. And some of those companies also had
3 authority?

4 A. Yes.

5 Q. Now, when -- and if I recall correctly you've
6 been the president of D. Cristinzio for quite some time?

7 A. Yes.

8 Q. And you're familiar certainly with your three
9 sons who are now shareholders of T&N and also your
10 son-in-law who's seated to your left and is testifying on
11 behalf of the Applicant?

12 A. It's actually two sons but yes.

13 Q. Oh, it is, okay. Now during your tenure as
14 president and their employment underneath you, did you ever
15 have opportunities at sales meetings or other meetings to
16 discuss the nature of your authority and your rights as
17 exist under this proposed transfer application?

18 A. The operating authority at D. Cristinzio
19 Incorporated was so broad and so inclusive that we rarely
20 had an issue on what you can or cannot do. Consequently, it
21 was not a normal topic at a sales meeting.

22 Q. Was it ever a topic?

23 A. I don't know about a sales meeting topic. I
24 mean, it was a topic between my brother and I if we were
25 talking to a consultant or to a tariff person or to an

1 attorney concerning operating authority, yes but it was
2 never an issue for our sales people because we were blessed.
3 And I say blessed because I realize it's a privilege with
4 great operating authority with moving of storage, ICC, PUC,
5 New York, New Jersey. So consequently it was not an issue.

6 Q. So is it your testimony then that you did not
7 discuss it with the four shareholders of T&N and you did not
8 really provide them with any information as sales people on
9 your behalf for your rights in the nature?

10 A. As they represent, T&N I had no reason to
11 discuss operating authority.

12 Q. I'm speaking of the time period when they were
13 with you as employees.

14 A. They were certainly around when operating
15 authority was discussed occasionally. Whether or not they
16 were paying attention it was not their area of authority.
17 It was not their area of responsibility. We did discuss it
18 at sales meetings. We didn't have discussions on can we do
19 this or can we do that because we had such inclusive
20 operating authority at the company that there was a -- a
21 restriction was really rare.

22 Q. Now, with regard to your operation in
23 Pennsylvania it's my understanding that you closed down D.
24 Cristinzio's operation in Pennsylvania in or about was it
25 March or April of this year?

1 A. It was March of this year and the -- we did
2 not close the company down. We are functioning. We don't
3 do PUC transportation work.

4 Q. Okay. When did you cease doing PUC
5 transportations?

6 A. Well, March -- February the 28th, we laid off
7 our drivers. We've had some transportation functions in and
8 out of our warehouse of an ICC nature. We have office
9 people working in the office. We are booking work. We have
10 a van line affiliation and we provide all our maintenance
11 functions at that terminal. And consequently, the operation
12 continues.

13 Q. But that wasn't my question. My question was
14 simply when did you cease doing PUC transportations?

15 A. No it wasn't. Your question was when did we
16 cease operations.

17 Q. Well --

18 A. And I answered that question.

19 Q. Okay. Well, let me ask you this question.
20 When did you stop making PUC shipments as Domenic
21 Cristinzio, Inc?

22 A. The end of February, early March.

23 Q. So since that time nobody at D. Cristinzio has
24 engaged in any PUC shipments?

25 A. Well, that's not totally correct. We've done

1 some household moves and we've done some interstate military
2 work.

3 MR. TEPPER: Your Honor, I just want to at this point
4 in time this line of questioning appears to me to be against
5 D. Cristinzio and the Applicant here is not D. Cristinzio.
6 I don't know how much further he wants to go with this
7 foundation but he doesn't appear to be going anywhere which
8 has a bearing on the Applicant.

9 JUDGE CHESTNUT: Well, I think you raise a good point
10 that it is the transferee's fitness that is at issue here.
11 But on the other hand, the officers of the transferee were
12 all employed by the transferrer and I think to extent that
13 there's some overlap there then it's relevant.

14 MR. TEPPER: And I agree with that. We appear to be
15 getting even beyond that and that's my concern.

16 JUDGE CHESTNUT: Well, let's see where it goes.

17 MR. PETRI: Okay, Your Honor. So I gather then from
18 your testimony while your company has continued to make
19 household intrastate movements, you have not engaged in any
20 electronic intrastate movements since February of 1992?

21 THE WITNESS: That's correct.

22 MR. PETRI: I have no further questions.

23 JUDGE CHESTNUT: Any questions, Mr. Tepper?

24 (Tad's Exhibit No. 5 was produced and marked for
25 identification.)

DIRECT EXAMINATION

1
2 BY MR. TEPPER:

3 Q. Mr. Taddei, I want to show you a document
4 which is dated March 4th and ask you to take a look at that
5 document. And I ask you to -- have you had a chance to look
6 at this document sir?

7 A. Yes, I have.

8 Q. And it states in the first paragraph that you
9 had requested that Domenic Cristinzio, Inc., be placed in
10 voluntary suspension. Is that correct?

11 A. Yes.

12 Q. And was this request granted?

13 A. Yes, it was. As a matter of fact, this letter
14 confirms the grant of that request.

15 Q. And would you elaborate on the granting of
16 that request?

17 A. Yes. Our tariff and operating authority
18 consultant in my discussion with him about the lay off of
19 the employees and the shut down of certain aspects of
20 operations suggested that it would be proper to notify the
21 PUC and to request that our operating authority not be
22 rendered null and void but that we be given a period of time
23 to restart the operation, provide new insurance information
24 and start operating or sell or transfer some of the
25 operating authority through sale.

1 Q. And when does that period of time come to an
2 end?

3 A. According to the letter, March 31st, 1993.

4 Q. Okay. I have nothing further with regard to
5 that March 4th, 1992 letter.

6 Q. Sir, do you know of any former employees of
7 yours who are currently employed by the Protestant?

8 MR. PETRI: Objection as to relevance.

9 JUDGE CHESTNUT: Well, I think I know where you're
10 trying to go here which is trying to show some kind of ill
11 will on the part of the Protestant.

12 MR. TEPPER: On motivation for the filing of the
13 protest.

14 JUDGE CHESTNUT: Well, that's not a relevant issue.
15 It's not an appropriate issue. They have an absolute right
16 to file a protest.

17 MR. TEPPER: Have you ever been involved in any legal
18 dispute with J.C. Van Lines?

19 MR. PETRI: Objection, relevance.

20 JUDGE CHESTNUT: Can you do this really briefly?

21 MR. TEPPER: Yes.

22 JUDGE CHESTNUT: I'll let it on. There's no jury
23 here. But on the other hand, I really don't think it's
24 relevant but I'll let you do it just to get it out of the
25 way.

1 BY MR. TEPPER:

2 Q. And could you very briefly describe for the
3 Court those disputes that you've had over the years?

4 A. Well, we've had protests on our operating
5 authorities that we've initiated. We had a suit where
6 employees were leaving our firm, going to J.C. using
7 privileged information.

8 MR. PETRI: Objection to the use of the terminology
9 privileged information. There was never a judicial
10 determination of that, in fact, the case was dismissed with
11 prejudice by agreement of the parties I might add.

12 THE WITNESS: So there was more than a PUC protest
13 there was other action taking place.

14 MR. TEPPER: And how would you characterize the
15 working environment between D. Cristinzio and J.C. Van Lines
16 before this --

17 MR. PETRI: Objection, that's very vague.

18 MR. TEPPER: I'm just trying to make this brief for
19 the Court.

20 MR. PETRI: I'll withdraw the objection then.

21 JUDGE CHESTNUT: You know you're obviously going to
22 keep trying. Let's just do it.

23 MR. TEPPER: This is my final question.

24 JUDGE CHESTNUT: Can't you just stipulate that
25 there's been a lot of bad feeling for whatever reason? Can

1 you stipulate to that? Is that what you're talking about?

2 MR. TEPPER: I think I would like the Court to hear
3 what was going on.

4 THE WITNESS: Yes, it's been a very intense, very
5 competitive over the years. From the sale from the initial
6 purchase of the company to periods of time with the original
7 owners to the scope of what they are supposed to do with
8 their side agreement at the initial purchase.

9 JUDGE CHESTNUT: I have no idea what you're talking
10 about. What company are you talking about first of all?

11 THE WITNESS: The relationship between J.C. Van and
12 D. Cristinzio has been strained from the initial outset of
13 the purchase of the company D. Cristinzio, Incorporated.

14 JUDGE CHESTNUT: Your purchase?

15 THE WITNESS: Yes. And has continued even with the
16 absence of the principles of the original deal to the
17 current owner of J.C. Van and there have been many problems.

18 MR. TEPPER: I have nothing further, Your Honor.

19 JUDGE CHESTNUT: Redirect?

20 MR. PETRI: I have none.

21 JUDGE CHESTNUT: Okay. Thank you very much, Mr.
22 Taddei. You're excused.

23 MR. TEPPER: And I would move in the exhibit as
24 evidence.

25 JUDGE CHESTNUT: Any objection?

1 MR. PETRI: I assume it's authentic and I have no
2 reason to believe that it's not.

3 JUDGE CHESTNUT: Okay. It's admitted.

4 (Tad's Exhibit No. 5 was admitted in evidence.)

5 MR. PETRI: I would call Carol McGary to the stand.

6 MR. TEPPER: Your Honor, can we take a one minute
7 break? Mr. Taddei would like to leave. I don't need him
8 for anything further if counsel has no further questions.

9 MR. PETRI: I don't have anything further.

10 MR. TEPPER: Is that all right?

11 JUDGE CHESTNUT: Sure. Please give and spell your
12 name for the record.

13 THE WITNESS: Carol A. McGary, M-c-G-a-r-y.

14 JUDGE CHESTNUT: Go ahead.

15 DIRECT EXAMINATION

16 BY MR. PETRI:

17 Q. Mrs. McGary, are you affiliated with the
18 Protestant, J.C. Services, Inc?

19 A. Yes.

20 Q. And how are you affiliated with the --

21 A. One of the stockholders.

22 Q. Are you also an officer and director of the
23 corporation?

24 A. Yes, I am.

25 JUDGE CHESTNUT: Excuse me, what is your position as

1 an officer?

2 THE WITNESS: Corporate secretary.

3 BY MR. PETRI:

4 Q. How long have you been involved with J.C.
5 Services?

6 A. Approximately -- J.C. Services?

7 Q. Yes.

8 A. Since 1970.

9 Q. Okay. And how long have you been an officer
10 of the corporation?

11 A. Approximately seven years.

12 Q. How did you acquire your ownership interest in
13 J.C. Services, Inc?

14 A. We purchased the business.

15 Q. And who did you purchase the business from?

16 A. My father.

17 Q. And since this has already come up we might as
18 well deal with it who was your father?

19 A. Jules Cristinzio.

20 Q. And who was your grandfather?

21 A. Domenic Cristinzio.

22 Q. And is that the same individual for whom D.
23 Cristinzio obtained it's name?

24 A. Yes.

25 Q. And was there a point in time when your father

1 sold the business of D. Cristinzio to Mr. Taddei?

2 A. My grandfather did.

3 Q. Your grandfather did?

4 A. Correct.

5 Q. Okay. I apologize. I gather from what I'm

6 hearing the Cristinzio family has been in the moving and

7 storage business for quite some time?

8 A. Yes.

9 Q. Is there a specialty that J.C. has developed

10 that also D. Cristinzio has and that you know T&N is

11 attempting to develop?

12 A. Yes.

13 Q. And what is that specialty?

14 A. Electronic work.

15 Q. Now, you've heard Mr. Taddei testify that that

16 is a competitive business. Is it competitive?

17 A. Yes.

18 Q. You've also heard some testimony this morning

19 from the Applicant. Are you familiar with some of the

20 clientele that we were discussing such as Pitney Bowes and

21 Konica business machines and Core States?

22 A. Yes, I am.

23 Q. And how did you become familiar with those

24 companies?

25 A. Aside from doing work for some of them, we

1 also have solicited them.

2 Q. Is it fair to say that you have either done
3 work for each of these companies or actively solicited each
4 and every one of the companies we've discussed?

5 A. Yes.

6 Q. And is it also fair to say that Pitney Bowes
7 is a sizable account and one which you've handled for a
8 number of years

9 A. Yes.

10 Q. How long have you handled Pitney Bowes?

11 A. Since we purchased the business.

12 Q. So seven years?

13 A. Approximately.

14 Q. And during those seven years have you become
15 familiar with the documentation that is generated by Pitney
16 Bowes with regard to orders and the handling of orders?

17 A. Yes.

18 Q. Let's back up a moment. Where is the facility
19 of J.C. Services, Inc?

20 A. Presently on Garnell Road, Northeast
21 Philadelphia.

22 Q. That's near the Northeast Airport?

23 A. Correct.

24 Q. And have -- during your ownership or your
25 having an ownership interest in J.C. Services, Inc., has it

1 always maintained an office somewhere within the
2 Philadelphia area?

3 A. Yes.

4 Q. Now, can you describe briefly from your
5 background and experience with Pitney Bowes the nature of
6 the documents that they render and for shipments and the
7 type of shipments that they request of their shippers?

8 A. Yes, I can.

9 Q. Could you just briefly describe that.

10 A. Aside from the pick list that you had
11 presented, I have to train all of our clerks within the
12 office. Therefore, I have to be fluent with how to create a
13 bill of lading. By looking at the document of which we had
14 already exhibited, I knew that it generates from Pitney
15 Bowes and it destines to their customer.

16 Q. Okay. This would be the document previously
17 marked as Protestant 2?

18 A. Yes.

19 Q. And have you been given any instructions as a
20 company as to the practices and policies with regard to
21 Pitney Bowes and the retrieval of equipment on their behalf?

22 A. Retrieval in what sense?

23 Q. Well, do you have an understanding of their
24 requirements as a shipper?

25 A. Definitely.

1 Q. Or as a vendor of you and the type of
2 procedures you have to go through?

3 A. Definitely they are the customer.

4 Q. And do you have an understanding with regard
5 to -- well, why don't you briefly describe your
6 understanding of their -- the type of equipment you move for
7 them and their instructions in that regard?

8 MR. TEPPER: I would object as hearsay as to part of
9 the question which refers to instructions from Pitney Bowes.

10 JUDGE CHESTNUT: Well, it's not hearsay if it's an
11 understanding of what they require them to do.

12 MR. TEPPER: But if it's based upon information which
13 she may have heard from a third party.

14 JUDGE CHESTNUT: No, this isn't hearsay.

15 THE WITNESS: As a carrier for Pitney Bowes, we have
16 to be fluent as to how the shipment originates and
17 designates that so being as who is the shipper and who is
18 the consignee and what date do you want it picked up and
19 what date do you want it delivered and what is the commodity
20 that you're transporting.

21 BY MR. PETRI:

22 Q. Now, does Pitney Bowes produce or have they
23 produced any business documents or records with regards to
24 the regulations and policies that you know of any written
25 instructions?

1 A. Not that I personally have.

2 Q. Okay. Now, I gather from the testimony today
3 that one of the items that is transported has to deal with
4 postage machines?

5 A. Yes, it does.

6 Q. Are there other items that either your company
7 or T&N would be asked by Pitney Bowes to transport?

8 A. Pitney Bowes manufactures mailing machines,
9 inserters, scales and office copiers.

10 Q. Okay. Describe as to each of those items the
11 transportations that are requested of you as a carrier?

12 A. The equipment originates from their terminal
13 and destined to their customer which is indicated on the
14 pick list. If it is a pick up from their customer, it is to
15 be returned back to Pitney Bowes for whatever reason
16 indicated. It could need to be refurbished, reconditioned
17 or simply returned.

18 Q. Okay. And the pick list I gather then is from
19 your testimony just now is the documentation that's produced
20 in order to instruct you to go and pick up an item from
21 the -- from their location to deliver to a particular
22 customer?

23 A. That's correct. That's used to generate a
24 bill of lading.

25 Q. And what are their requirements with regard to

1 time turn around?

2 A. Immediately.

3 Q. You have heard the testimony of the
4 Applicant's representative with regard to breakdowns of
5 Pitney Bowes equipment essentially where the Applicant has
6 testified that he has retrieved items from customers and
7 brought them back in for breakdown and redelivery to Pitney
8 Bowes on interstate shipments. Have you ever been given or
9 been allowed to hold items overnight in that regard?

10 A. Overnight, yes, overnight.

11 Q. Okay. Any longer than overnight?

12 A. No.

13 Q. Are there occasions with regard to your
14 services with Pitney Bowes that you're required to make
15 intrastate PUC certificated shipments?

16 A. Yes.

17 Q. And can you tell me approximately the
18 percentage of Pennsylvania PUC certificated shipments versus
19 ICC movements?

20 A. I would have to say more than 50 percent,
21 between 50 and 60 percent.

22 Q. Being -- the majority of them being intrastate
23 shipments?

24 A. Yes.

25 Q. You've heard the testimony with regard to

1 Konica business machines, has your company ever performed
2 services for Konica business machines?

3 A. On a regular basis, no.

4 Q. I gather than on a irregular basis you have?

5 A. I can't answer that truthfully.

6 Q. Okay. You're not sure?

7 A. Yeah, exactly.

8 Q. Are you aware as an officer of the corporation
9 whether your corporation has ever solicited Konica business
10 machines for business?

11 A. Yes, we have.

12 Q. And what is the result of that solicitation
13 been?

14 A. Unsuccessful to date.

15 Q. Are you familiar with the Core States
16 shipments?

17 A. Yes.

18 Q. And how did you become familiar with Core
19 States as a customer?

20 A. We solicited the account and were given the
21 opportunity to service them.

22 Q. Okay. Now, you heard testimony with regard to
23 ATM machines and their transportation. Have you -- has J.C.
24 Services had an opportunity to install ATM's on behalf of
25 Core States?

1 A. Yes, we have.

2 Q. And can you tell this tribunal the nature of
3 those shipments where they originate, where they end and the
4 type of equipment and rigging that's involved?

5 A. We warehouse -- we were warehousing for Core
6 States. So the equipment would originate from our warehouse
7 and destined to whoever the customer was for Core States.

8 Q. And --

9 A. They require special equipment to deliver them
10 and to install them.

11 Q. Is that due to their weight?

12 A. Exactly.

13 Q. And that's what the Applicant's representative
14 referred to as rigging, the steps you would need to take in
15 order to install the equipment?

16 A. That's a very broad term because they are
17 transported on a straight truck. We are not using rigging
18 cranes.

19 Q. Now, with regard to Core States' shipments
20 have those requests by Core States of your company been
21 primarily PUC or ICC shipments?

22 A. PUC.

23 Q. Can you estimate the percentage of division
24 between ICC and PUC matters?

25 A. Once again, I'd have to say 60 percent.

1 Q. Are you aware of any exemption from PUC from a
2 requirement that you have PUC authority for rigging? In
3 other words, that if rigging is involved somehow that
4 creates an exemption?

5 A. No, and it's not recognized in the tariff
6 either.

7 Q. What's your understanding of the ICC
8 provisions and PUC interpretations with regard to items that
9 are taken into a warehouse over night and broken down?

10 A. What is my provision?

11 Q. What is your understanding of what is allowed
12 under both PUC and ICC interpretations with regard to
13 shipments that a carrier might receive -- bring into its
14 warehouse over night and then distribute out where the
15 beginning destination and end destination is both within
16 Pennsylvania?

17 A. It's a PUC shipment.

18 Q. And what's your understanding in that regard,
19 why is it a PUC shipment?

20 A. Because it originated from wherever within the
21 State of Pennsylvania and destined within the State of
22 Pennsylvania.

23 Q. Okay.

24 A. Merely because it's broken down I believe as a
25 carrier.

1 Q. Has your company experienced any recent levels
2 of sales changes as a result to accounts such as Pitney
3 Bowes?

4 A. Yes.

5 Q. And when did those sales changes substantially
6 originate?

7 A. Approximately, three months ago.

8 Q. And on a percentage basis -- strike that. Is
9 Pitney Bowes an example of a company for which you have lost
10 significant sales?

11 A. Yes.

12 Q. And can you provide an estimate in a
13 percentage sense of the loss of sales or gross sales or
14 volume you have received as a result over the last three
15 months?

16 A. I can tell you that it has declined
17 approximately 5 to \$7,000.00 per month.

18 Q. Okay. As to -- let's do it this way. Three
19 months ago, what were your approximate volume of sales with
20 Pitney Bowes or say more than three months ago?

21 A. I would have to say they averaged \$20,000.00
22 thousand per month.

23 Q. And therefore, they are now being a decline I
24 think you said of approximately how much?

25 A. Five to seven thousand dollars.

1 Q. So therefore, you're in a range of currently
2 fifteen to thirteen thousand?

3 A. Correct.

4 Q. Has that loss of business all been within the
5 ICC area of work so that could you attribute the entire loss
6 of business to interstate commerce work?

7 A. No.

8 Q. Could you provide an estimate of the
9 percentage that would relate to PUC work?

10 A. A revenue loss?

11 Q. Yes.

12 A. Three thousand per month.

13 Q. So approximately half of your revenue loss you
14 would attribute to ICC work and approximately half to PUC
15 work?

16 A. Approximately.

17 Q. Are the shipments performed by you for Pitney
18 Bowes singularly large in dollar volume? Did that question
19 make any sense because I see you thinking about it?

20 A. No, because we -- it depends on the area that
21 we service.

22 Q. Okay. Is it fair to say that -- I gather from
23 the testimony that's been developed -- let's go back one
24 step. The Pitney Bowes shipment that you're requested to do
25 are usually -- is it fair to say they are usually on a

1 singular basis being one piece of equipment?

2 A. Yes.

3 Q. And your charges are obviously based upon your
4 tariff, correct?

5 A. Exactly.

6 Q. And that tariff I would gather is based
7 partially on weight and partially on mileage?

8 A. Yes.

9 Q. Most of -- could you identify whether most of
10 the intrastate work that you do for Pitney Bowes is short
11 run stuff or long run stuff?

12 A. Within a 40 mile radius.

13 Q. So is that considered relatively short?

14 A. Yes.

15 Q. I gather than that the charges for those items
16 are usually relatively small?

17 A. They vary depending on the weight.

18 Q. I understand that. I understand that. I
19 guess what I'm getting at is would it be fair to say that in
20 order to incur a \$3,000.00 approximate PUC loss and revenue
21 with Pitney Bowes that that would involve a substantial
22 number of PUC shipments?

23 A. Yes.

24 Q. Are you aware of any policies which Pitney
25 Bowes has with regard to the number of carriers they

1 maintain within a geographical area in their service list?

2 In other words, a number of carriers that they would

3 utilize?

4 A. We were the only ones.

5 Q. So before, you were the only one?

6 A. Yes.

7 Q. Have you had an opportunity to examine the

8 documents that we have presented today being Protestant's 2,

9 3 and 4?

10 A. Yes.

11 Q. And how did your company acquire those

12 documents?

13 A. I believe from Pitney Bowes.

14 MR. PETRI: Okay. I have no further questions for

15 this witness.

16 JUDGE CHESTNUT: Mr. Tepper?

17 CROSS EXAMINATION

18 MR. TEPPER:

19 Q. Do you have or are you aware of any exclusive

20 agreements between your company and Pitney Bowes?

21 A. Yes, we do.

22 Q. Okay. Do you have that agreement with you?

23 A. No, we do not.

24 Q. What is the substance of that agreement if you

25 can briefly describe it for me? Does the agreement preclude

1 any other entity from doing work with Pitney Bowes?

2 A. I can't answer that. I would have to read the
3 document. It was signed approximately four years ago.

4 Q. Do you generally know the purpose of the
5 document?

6 A. The purpose of the document?

7 Q. Yes.

8 A. To service our customer, yes.

9 Q. And my original question was whether or not
10 that document was exclusive as to --

11 A. I don't know if the word exclusive is in there
12 but it's a contract between J.C. Van Lines and Pitney Bowes
13 to handle the transportation of their equipment.

14 Q. So you don't know if that document precludes
15 other service and carriers for also performing work for
16 Pitney Bowes?

17 A. No, I do not know that.

18 Q. Do you know if you have any exclusive
19 agreements with Konica?

20 A. No.

21 Q. How about with Core States?

22 A. No.

23 Q. So therefore if those companies sought to
24 engage other companies to perform work for them, you don't
25 know of any document which would legally preclude them from

1 seeking out other service carriers?

2 A. Nothing other than their PUC authority.

3 Q. And what do you mean by that?

4 A. Proper authority to transport their goods.

5 Q. Meaning that whoever they retained to do work

6 for them would have to have proper PUC authority?

7 A. Yes, they have a liability as well as we do as
8 a carrier.

9 Q. And has either Pitney Bowes, Konica or Core
10 States ever at any time in the past seven or so years
11 expressed any complaint or dissatisfaction with any aspect
12 of the work which your company has performed with them at
13 any time?

14 A. We don't do work for Konica.

15 Q. Okay. How about with Pitney Bowes? Have they
16 ever expressed displeasure or have they ever had a complaint
17 over the past four years?

18 A. Nothing that was not workable.

19 Q. But there may have been some complaints at
20 some point in time?

21 A. Nothing that was not resolved.

22 Q. So whatever complaints they had those were
23 resolved?

24 A. Exactly.

25 Q. I believe you stated that you were involved in

1 training clerks regarding Pitney Bowes procedure. Is that
2 correct?

3 A. That's correct.

4 Q. And correct me if I'm wrong, my notes indicate
5 that you were involved in training the clerks relative to
6 written instructions. Is that correct?

7 A. No, it's not.

8 Q. Okay. Were you aware of written instructions
9 which Pitney Bowes used in their procedure?

10 A. No. They have none.

11 Q. Did you have a manual of written instructions
12 for your workers to perform work for Pitney Bowes?

13 A. I have a procedure on how to operate my
14 computer and enter my orders to create a bill of lading
15 which is general for all customers not exclusive of Pitney
16 Bowes.

17 Q. Currently, I believe it was your testimony
18 that you were not performing regular business for Konica.
19 Is that correct?

20 A. That's correct.

21 Q. Have you tried to obtain the Konica business?

22 A. In the past, yes.

23 Q. Okay. Would you have any idea as to why that
24 business has not been forthcoming to your company?

25 A. No, I'm not involved in sales.

1 Q. So you don't know?

2 A. I don't know.

3 Q. You also testified earlier with regard to a
4 change in sales relative to the Pitney Bowes account. Is
5 that correct?

6 A. That's correct.

7 Q. And this change in sales I believe you stated
8 first occurred approximately three months ago. Is that
9 correct?

10 A. Approximately.

11 Q. Okay. What documentation do you have with you
12 here today to support your testimony relative to the change
13 in sales?

14 A. Nothing with me here.

15 Q. Okay. How about what document do you have
16 with you today to support your testimony relative to your
17 loss of business with Pitney Bowes? Same answer, nothing
18 here today?

19 A. No, but we can provide it.

20 Q. And I take it that same response would also
21 apply for the revenue loss relative to the Pitney Bowes
22 account, correct?

23 A. Yes.

24 Q. In the past year have you been involved in the
25 attempt to obtain business from Core States?

1 A. Personally, no.

2 Q. Okay. And you're currently not doing any
3 business with Core States. Is that correct to the best of
4 your knowledge?

5 A. To the best of my knowledge, no.

6 Q. And I believe you testified earlier that
7 Exhibits Protestant 2, 3, and 4 were acquired from Pitney
8 Bowes. Is that correct?

9 A. Correct.

10 Q. Who at Pitney Bowes provided you with those
11 documents?

12 A. I don't know.

13 Q. Did you personally obtain the documents from
14 Pitney Bowes?

15 A. No.

16 Q. Who obtained the documents from Pitney Bowes?

17 A. I don't know.

18 Q. How did you come to gain possession of the
19 documents?

20 A. My counsel.

21 Q. Did anyone from your company, if you know,
22 obtain the documents from Pitney Bowes or is it your
23 understanding just so that the record is clear that you or
24 representatives from your company obtained these documents
25 from Pitney Bowes through your counsel. Is that your

1 testimony?

2 A. My testimony is I've been asked to identify
3 this particular document. You would have to question them
4 as to where.

5 Q. I'm just asking you the source of the document
6 and I'm just asking you in your capacity as an officer of
7 the corporation if those documents were obtained by
8 representatives of the corporation or by counsel?

9 A. And I'm honestly answering you, I don't know.

10 Q. You personally don't know?

11 A. I personally don't know.

12 MR. TEPPER: I have nothing further.

13 JUDGE CHESTNUT: Redirect?

14 MR. PETRI: None.

15 JUDGE CHESTNUT: Thank you very much, Ms. McGary,
16 you're excused.

17 MR. PETRI: I have one final witness Steven McGary.

18 STEVEN J. MCGARY, called as a witness, having been
19 duly sworn, was examined and testified as follows:

20 JUDGE CHESTNUT: Please sit down and give and spell
21 your name for the record.

22 THE WITNESS: Steven J. McGary, M-c-G-a-r-y.

23 DIRECT EXAMINATION

24 BY MR. PETRI:

25 Q. Mr. McGary, do you hold a position with J.C.

1 Services, Inc?

2 A. Yes, I do.

3 Q. And what is that position?

4 A. I'm president.

5 Q. And how long have you been president?

6 A. Since approximately 1984 when we purchased the
7 company.

8 Q. And who did you purchase, you say we, I gather
9 you mean you and your wife?

10 A. Carol, yes.

11 Q. And who did you purchase the business from?

12 A. Carol's father, Jules Cristinzio.

13 Q. I know you're familiar -- I would ask you, you
14 are familiar with Protestant Exhibits 2, 3 and 4?

15 A. Yes.

16 Q. How did you acquire these documents?

17 A. Could I see those?

18 Q. Certainly, certainly. This is two and three
19 and four is the Atlantic City shipping.

20 A. Number two and number three is return
21 documentation that comes back to our office. As we have
22 employees that return Pitney Bowes meters to their post
23 office, their local post office where it's registered to
24 have funds refunded to the customer those dollars that are
25 left on the meter which are unused. And part of the

1 arrangement is that our employees have to provide us with
2 documentation of that service and, in fact, these documents
3 came back through that vehicle.

4 Q. Okay. Let's start with Protestant Exhibit 2,
5 are you familiar with the code language that's in the far
6 right?

7 A. Sure.

8 Q. And can you tell me what this code language
9 means under item code A530?

10 A. Well, a530 is a model of the Pitney Bowes
11 mailing equipment, small piece.

12 Q. Approximately how big is this piece of
13 equipment?

14 A. I'm going to estimate maybe fifteen pounds if
15 that.

16 Q. Now, what specifically were you requested to
17 do by Pitney Bowes with respect to that particular piece of
18 equipment?

19 A. Well, we weren't requested to do anything.

20 Q. Well, how did you come by the document?

21 A. It was mixed in with these documents.

22 Q. These being Protestant 3?

23 A. Yes.

24 Q. Okay. Now, are you familiar with this
25 document? This pick list?

1 A. Absolutely. They've been using it for years.

2 Q. And have you performed similar transportations
3 of similar type mail machines for Pitney Bowes?

4 A. We've been doing it since '84 and the prior
5 owners have been doing it prior to that.

6 Q. And how are those shipments made?

7 A. How are they made? Pitney Bowes as a company
8 has a policy because of their high level of service that the
9 equipment be picked up as soon as it's available and shipped
10 immediately if reasonable. They do deal with lanes of
11 traffic and we do have established lanes of traffic with
12 Pitney Bowes which would allow some shipments in the
13 outlying area to where we have the proper authority to take
14 an additional day because of the scale. But typically any
15 deliveries that come out of Pitney Bowes Philadelphia
16 location they want delivered immediately.

17 Q. Would that be considered the shipment that's
18 represented in Protestant 2 to be an outbound shipment or a
19 local shipment?

20 A. Well, it's both really. It's an outbound
21 local shipment. They're asking it goes directly to the
22 customer to Pitney Bowes dock in Philadelphia.

23 Q. How do you know they're requesting it goes
24 direct?

25 A. It says right on the document here, direct to

1 customer, yes.

2 Q. So your understanding at least as the
3 instructions you've been given by Pitney Bowes is it would
4 be unacceptable to take that piece of equipment into a
5 warehouse?

6 A. Well, let me clarify what Carol began to get
7 into had we ever had customer complaints with Pitney Bowes.
8 If there were a piece held over night, it might be
9 questioned why it was not delivered that same day. Those
10 are the types of scenarios Carol was referring to.
11 Typically the practice of Pitney Bowes and they are striving
12 very hard for high levels of service and they have been for
13 some years now is to deliver it immediately.

14 Q. Now --

15 JUDGE CHESTNUT: Excuse me? Excuse me. I just want
16 to clarify. You're talking about shipments from Pitney
17 Bowes facility in Philadelphia out to customers not from
18 customers to Pitney Bowes?

19 THE WITNESS: Well, this particular document shows
20 that it was a delivery to a Pitney Bowes' customer.

21 JUDGE CHESTNUT: Yes, I know but you're speaking
22 generally that their policy is not allowing the equipment to
23 be held overnight and is that true for equipment that's
24 coming back to them or --

25 THE WITNESS: It's the pick up return, equipment

1 requested. Their policy right now is that pick ups be done
2 as soon as possible. Their corporate policy is that any
3 pick ups issued to a carrier presently should be
4 accomplished within a three day window. They just narrowed
5 that window from five days. So with that three day window,
6 they do identify some shipments that they need to refurb and
7 have back immediately which would be same day or next day.

8 Typically, they will allow us to bring it into our
9 dock because of economies of scale, off load it and reload
10 it the following morning and deliver it to the branch the
11 following morning and that's strictly because of economy of
12 scale.

13 JUDGE CHESTNUT: So what you're saying is that the
14 shipments that are coming from customers into Pitney Bowes
15 Philadelphia facility can be held overnight at your
16 facility?

17 THE WITNESS: Yes. And then there are minimal
18 shipments where they want it back that same day because they
19 want to refurbish it and ship it right out.

20 BY MR. PETRI:

21 Q. Now, looking at Protestant 2 this is a
22 shipment that I gather then that comes from Pitney Bowes in
23 Philadelphia to the customer in this case in Fort
24 Washington?

25 A. Correct.

1 Q. Would there be any reason to hold that item,
2 besides the fact that it's against their instructions, would
3 there be any reason to hold that item or take it in through
4 a warehouse in Cinnaminson when you're going from
5 Philadelphia to Fort Washington?

6 A. I would imagine for the only purpose of
7 convenience because that's where their terminal is. For no
8 other reason and in this case it says direct to customer.

9 Q. Direct to customer. Now, looking at
10 Protestant 3 --

11 JUDGE CHESTNUT: Wait, before you -- are you done
12 with Protestant 2?

13 MR. PETRI: Yes.

14 JUDGE CHESTNUT: I see that the carrier has been
15 marked out. Do you have the original?

16 THE WITNESS: No, I do not, not here.

17 JUDGE CHESTNUT: Was that T&N put on the one you got
18 or did you do that?

19 THE WITNESS: That's exactly the way I received it
20 and made copies.

21 BY MR. PETRI:

22 Q. Now with regard to Protestant 3 and in that
23 exhibit is that an example of a shipment which would be from
24 a customer back into Pitney Bowes?

25 A. Yes, it is.

1 Q. And what type of equipment is represented in
2 Protestant 3?

3 A. This is a model 6,500 mailing machine which is
4 an actual meter which would have dollars still left on it in
5 most cases.

6 Q. And what would you be requested to do if you
7 were the shipper in example Protestant 3?

8 A. If we were the carrier --

9 Q. Right.

10 A. -- for that sample, we'd be asked to pick it
11 up which they're identifying in St. Davids PA and return it
12 to the Philadelphia branch so it can be taken by another
13 employee to the local post office and those dollars be
14 refunded to the customer from St. Davids PA and that's what
15 this document is.

16 Q. So if there was postage left on the machine,
17 you would take it back to Pitney Bowes and then would Pitney
18 Bowes take it or would your employees take it to the post
19 office in order to have the refund made?

20 A. Our employees in this case took it to the post
21 office.

22 Q. Okay. So you got involved in Protestant 3?

23 A. Yes.

24 Q. Okay. Just go over that one more time.

25 Explain how your company got involved. You picked the item

1 up from Philadelphia?

2 A. From Pitney Bowes branch in Philadelphia
3 numerous shipments and took them to the local post office
4 and had the dollars removed from the meter where the post
5 office will refund those excessive dollars left on the meter
6 to the customers, being Pitney Bowes customer.

7 Q. And was this document attached to the
8 particular piece of machine?

9 A. Yes, it was.

10 Q. And that's how you obtained this document?

11 A. Well, no. In fact, our employees who run the
12 meters to the post officer are asked by our company by
13 management to make copies of all movements that they make.
14 And this was one of those copies that they had turned in on
15 a weekly basis to us. And when I reviewed it, to see what
16 their productivity is, I noticed that it was picked up from
17 a customer by T&N Trucking.

18 Q. Were you aware that T&N was doing work for
19 Pitney Bowes prior to receiving that document?

20 A. Yes.

21 Q. How did you become aware of that?

22 A. I became aware of it approximately three
23 months ago and I knew something was forthcoming as Pitney
24 Bowes corporate policy was changing dramatically.

25 Q. And how did the corporate policy at Pitney

1 Bowes change?

2 A. Well, Pitney Bowes had somewhat of an internal
3 shake up where a local branch manager had his brother or
4 brother-in-law I'm not sure which one doing transportation
5 down South and invoicing for shipments that did not occur
6 and there prosecuted I believe in January.

7 So the relationship as far as Pitney Bowes was
8 concerned was too close and they set down a corporate policy
9 to have a back up carrier.

10 Q. Do you have any objection to Pitney Bowes
11 having a back up carrier?

12 A. Absolutely not.

13 Q. Your wife testified about having an exclusive
14 arrangement. Are you aware of whether you have an exclusive
15 arrangement?

16 A. I haven't reviewed that document for some time
17 now but I believe that document was signed in the late part
18 of '84, early part of '85 by the Philadelphia people branch
19 manager stating that we would perform exclusively all the
20 shipments for the Philadelphia branch. And that document
21 was cancelable with 30-day written notice by other party.

22 Q. Okay. But aside from that exclusive
23 arrangement you have, I gather you really don't have an
24 objection to a back up carrier?

25 A. No.

1 Q. Can you tell this tribunal what J.C.'S concern
2 is about this particular application?

3 A. This particular application is not so
4 withstanding as the problems over the years but the fact
5 that J.C. pays their PUC assessment, pays their road tax,
6 abides by the PUC title 52 and gets very upset when someone
7 comes in and interferes with their business.

8 And, in fact, when they did do it illegally. This is
9 a blatant action by the other party's actions and we need to
10 do something about it and the transfer of the authority
11 would in effect I guess make them legal in the eyes of the
12 PUC and put this all behind us but, in fact, in my eyes this
13 is totally blatant and we've even asked the PUC to do
14 something about it.

15 Q. I was going to get to that. Other than filing
16 this protest, have you taken any other action with regard to
17 your feelings about this matter?

18 A. Yes. We filed a protest with the PUC. It's
19 been in front of Harrisburg right now for about three weeks.
20 A gentleman named Joe Nover he's investigating it. We've
21 had numerous conversations. He has not drawn an opinion yet
22 but he had indicated very clearly that a major complaint
23 would be coming down against this character in his own
24 words. Those were his own words.

25 MR. TEPPER: Objection hearsay.

1 BY MR. PETRI:

2 Q. Has your company experienced a loss of
3 revenues recently?

4 A. Yes.

5 Q. Attributable to T&N?

6 A. Directly, yes.

7 Q. And can you give this tribunal an idea of
8 percentage and dollar volume, the type of impact it's had on
9 your Pennsylvania -- strictly your Pennsylvania end of your
10 business?

11 A. Yes, I would have to estimate that it's a
12 little bit higher than what Carol estimated. She was
13 dealing strictly with the thoughts of Pitney Bowes as an
14 account and we had three accounts at Pitney Bows. The
15 account that is affected at Pitney Bowes I would think PUC
16 shipments would be around four to \$5,000.00 a month. Pitney
17 Bowes in Philadelphia typically has all predominately PUC
18 shipments excluding the ones that go to New Jersey and
19 Delaware which are a very small percentage of their business
20 relative to the total picture.

21 Q. Are you aware of or have your sales figures
22 reflected a loss of sales with regard to other customers
23 that you know maybe serviced now by T&N?

24 A. Well, we've been putting on a sales effort for
25 Konica business systems for years and spent an awful lot of

1 dollars to retrieve that account and provide service but, in
2 fact, we haven't been able to break that bind.

3 Q. So Konica is an example of a company that you
4 haven't been able to service?

5 A. That's right.

6 Q. Do you know who serviced them prior to March
7 or say February of 1992?

8 A. I believe D. Cristinzio.

9 Q. Well, how do you know that?

10 A. We were told that. I solicited that account
11 myself. I was told that by Konica.

12 Q. And have you -- since February of 1992, have
13 you solicited that account?

14 A. Absolutely.

15 Q. And what's the response been?

16 A. The response has not been favorable. Konica
17 shows concern of the new carrier since D. Cristinzio had
18 expired but they said they are working with them and they
19 are going to attempt to work through it. They've been
20 notified that there might be a question of authority and
21 they were going to turn that over to a higher level I
22 believe corporate.

23 Q. When you talked to representatives of Konica,
24 what type of shipments were you proposing that you perform
25 on their behalf?

1 A. Typically, the traffic of Konica I'm told is
2 80 percent PUC shipments.

3 Q. And when you say you were told, who told you
4 that?

5 A. Konica. And typically also I've been told
6 that Konica's budget has run around \$120,000.00 a year in
7 transportation.

8 Q. So based upon that approximately 80 percent of
9 that 120 maybe attributable to PUC interstate shipments?

10 A. At least.

11 Q. What type of commodity did they inform you
12 that would be requiring to your service that you solicited?

13 A. Well, they only sell copiers.

14 Q. So it would only be copiers?

15 A. Electronic equipment, that's right, copiers.

16 Q. Are you familiar with any of the shareholders
17 of T&N?

18 A. No.

19 Q. You don't really know them personally?

20 A. Today is the first day I met.

21 Q. You heard Rus Taddei describe your
22 relationship with D. Cristinzio as being somewhat tumultuous
23 and bitter.

24 A. Yes, I did.

25 Q. Does that have any impact on why we're here?

1 A. No. Actually, if there's any hard feelings
2 it's prior to my wife and I buying the company. We were
3 pulled into a lawsuit by Rus Taddei which you had mentioned
4 was thrown out of court.

5 Q. When we're talking about the lawsuit, we're
6 talking about the one involving alleged proprietary
7 information?

8 A. Yes.

9 Q. Going back to that hearing, not that it's
10 relevant but it's been brought up and we have to deal with
11 it. Did -- there was an allegation I gather made by D.
12 Cristinzio that one of your current employees who has been
13 an former employee of D. Cristinzio had brought you
14 secretive information?

15 A. That's right.

16 Q. Were you aware of and could you describe for
17 the tribunal the type of information that that employee
18 brought with her?

19 MR. TEPPER: I'm going to object.

20 JUDGE CHESTNUT: Yeah, I don't see that that's
21 necessary.

22 MR. PETRI: Well, that's fine as long as everybody
23 understands.

24 BY MR. PETRI:

25 Q. Mr. McGary, are you familiar with or have you

1 seen any trade publications which advertised the sale of PUC
2 rights?

3 A. Every week I review the Pennsylvania Bulletin
4 myself.

5 Q. Okay. That document obviously publishes the
6 transfer rights and applications?

7 A. Yes.

8 Q. Are there any other trades journals or
9 information that's put out in the moving and storage
10 industry from time to time where people are trying to sell
11 their rights?

12 A. Well, there's transfer topics I believe
13 advertised as well but that's the only one I'm familiar
14 with.

15 Q. You're familiar I gather with your competitors
16 in this area?

17 A. Um-hum.

18 Q. And can you tell the tribunal the names of the
19 companies generally that are your competitors? I gather
20 they're not really a large number of competitors in the
21 electronics area?

22 A. More and more our main competitors seem to be
23 the van lines themselves. I don't consider anyone out there
24 really a main competitor. I do watch anyone trying to get
25 into this field very closely because it's a limited field

1 with the van lines jumping on board.

2 Q. I guess what I'm getting at is do you as a
3 businessman operating in this field have an opinion or could
4 you offer an opinion as to value of the certificate that's
5 proposed to be transferred under this application?

6 MR. TEPPER: Objection, foundation.

7 MR. PETRI: I can go back and lay the foundation.

8 BY MR. PETRI:

9 Q. Is there generally available for sale
10 certificates similar to the one that's proposed to be
11 transferred here?

12 A. I haven't seen too many certificates offered
13 for sale along the lines of electronics. Typically I see
14 household goods authorities sold more frequently.

15 Q. Now, part of this contract -- well, you've
16 examined the -- obviously, you've examined the application
17 and what's proposed to be transferred?

18 A. Yes.

19 Q. And in examining it, is it not fair to say
20 that part of it has to deal with really work for IBM?

21 A. It seems that way, yes.

22 Q. I gather that if a contractor, a carrier did
23 not have the blessing of IBM to move those items it really
24 wouldn't have much value for a particular buyer. Is that
25 right?

1 A. That's right.

2 MR. TEPPER: Objection. Same objection, foundation,
3 this witness is not an expert of not being brought here
4 today to be an expert to testify as to the value of the
5 transfer. And I think what counsel is trying to do is to
6 parlay a fact witness into an expert witness.

7 JUDGE CHESTNUT: No, he's not an expert. But on the
8 other hand, he has his own expertise and can give his own
9 based on his own understanding. He can't say what other
10 carriers value the rights at but he can certainly say what
11 he would value the rights at.

12 MR. PETRI: And that's what I'm getting to. Thank
13 you, Your Honor.

14 BY MR. PETRI:

15 Q. So, you know, excluding those portions of the
16 application that deal with IBM really only dealing with the
17 office machines, electronic portions of this application,
18 would that portion of the application have value to a
19 perspective shipper?

20 A. The portion that excluded the IBM?

21 Q. Yeah, the portion that really doesn't deal
22 with IBM because I gather you'd have to have IBM's blessing
23 so --

24 A. Absolutely, you would have value.

25 Q. And you as a businessman in this field, what

1 would you think would be a fair value for such rights?

2 A. I'm surprised to see the sale price of the
3 authority. I would think that that authority should go for
4 no less than \$75,000.00.

5 Q. Seventy-five thousand dollars?

6 A. That's right.

7 Q. Okay. Earlier you heard some testimony with
8 regard to entertainment expense.

9 A. Yes.

10 Q. What type of entertainment expense does your
11 company book?

12 A. We don't share the same type of what T&N is
13 doing.

14 Q. Do you have any entertainment expense?

15 MR. TEPPER: I'm going to object as to relevancy. I
16 don't see what they do in their business has to do with what
17 another business does.

18 JUDGE CHESTNUT: Your objection is overruled.

19 THE WITNESS: Our policy for entertainment with a
20 customer, existing customer or new customer, prospective
21 customer would be entertainment costs relative to what the
22 IRS allows. Also it would really only take place if and
23 when we needed to get together with a customer and they had
24 a very tight schedule and we offered to do it over lunch.

25 I've never taken a customer out for dinner, excuse

1 me, I'm sorry. I took one customer out for dinner years ago
2 only because that was the only time. But typically we go
3 out for lunch if his schedule will so permit and the rest of
4 his day is booked.

5 MR. PETRI: I gather then that your company prohibits
6 solicitation or entertainment expense except in the occasion
7 of a lunch meeting or something of that nature?

8 MR. TEPPER: I'm going to object once again, Your
9 Honor. I mean, I really don't see the relevancy of what
10 another company does as far as entertainment is concerned.

11 JUDGE CHESTNUT: I think it's very relevant. I was
12 the one that brought up the question about the
13 appropriateness of that entertainment expense. And I
14 specifically asked him if it was common in the industry and
15 he's given his perspective in terms of his own experience.

16 Now, I understand he's not speaking for any of the
17 carriers but himself. But I would be very interested in
18 order to arrive at a determination of reasonableness of that
19 expense that was listed in the application.

20 THE WITNESS: Your Honor, I can tell you that my
21 experience is through conversation with other people that
22 the industry typically does what T&N does. I can tell you
23 that typically it's much higher and greater than what's
24 shown on the projected cash flow statement and I find it
25 offensive and illegal to do so and that's why we do not do

1 it. And, in fact, there's many major corporations out there
2 that have a corporate policy against so. Customers of ours
3 existing.

4 BY MR. PETRI:

5 Q. Well, you said that obviously you've talked
6 to -- I gather you've talked to customers to clientele about
7 expenses and entertainment and you come to learn their
8 policies?

9 A. Yes.

10 Q. Can you give me examples of companies that
11 prohibit entertaining?

12 A. Xerox, DuPont, I believe Core states does
13 also, Pitney Bowes has a policy and they just come to mind
14 off the top of my head.

15 Q. And have you come to an understanding as to
16 why that entertainment is prohibited?

17 A. For the obvious reason that it's taken
18 advantage of.

19 Q. And what do you mean by that?

20 A. Well, there's a relationship that is carried
21 on and established by means of entertainment through a
22 vendor and a corporation. And the corporations tend to want
23 to do business on a square level, square plain and try to
24 keep those vendors from causing a problem for the
25 corporation.

1 MR. PETRI: I have no further questions.

2 JUDGE CHESTNUT: Mr. Tepper?

3 CROSS EXAMINATION

4 BY MR. TEPPER:

5 Q. You don't know for a fact, sir, do you that
6 Pitney Bowes would use your services exclusively if they
7 were not using the shipping services of T&N or other
8 shipping carriers, do you?

9 A. They were using our services I believe from
10 what Pitney Bowes had told me at the local branch
11 exclusively up until the corporate policy was handed down
12 that they suggested having a back up carrier.

13 Q. But are you speculating that they would use
14 your services exclusively at this point in time as we're
15 here today if they were not seeking other shippers to
16 perform their services?

17 A. I believe to answer your question Pitney Bowes
18 would make a change in a moments notice if they realized
19 that possibly T&N was not an authenticated carrier.

20 Q. But you don't know that for a fact?

21 A. No, I do know that for a fact.

22 Q. What is the basis for that statement?

23 A. A company called Century Transport years ago
24 prior to our ownership had attempted to do shipments for
25 Pitney Bowes and the PUC was called in. The only difference

1 in that case to this case was Century was domiciled in
2 Bensalem of Philadelphia in Pennsylvania. In fact, it's a
3 landmark case in the State of Pennsylvania that J.C.
4 Services, Inc., succeeded in that case against Century
5 Transport stating that household goods authority did not
6 apply to electronics.

7 Q. But you don't know --

8 A. And they changed carriers because of that to
9 answer your question.

10 Q. But you don't know that there has been any
11 decision rendered to date against T&N where there has been a
12 PUC violation against them?

13 A. It's being reviewed right now.

14 Q. But there has not been a decision rendered,
15 correct?

16 A. No, not to my knowledge.

17 Q. So therefore, you're speculating as to what
18 the decision would be. Is that correct?

19 A. If there wasn't a decision made, then yes I
20 guess I am speculating.

21 Q. Additionally, I believe you testified earlier
22 that Konica was a form of D. Cristinzio account. Is that
23 correct?

24 A. That's correct.

25 Q. And is it also speculation that Konica would

1 entertain your services if they were not using T&N Services
2 or other services?

3 A. Yes, yes.

4 Q. And you're also speculating as to how much
5 money you would obtain by way of revenues if you were able
6 to obtain a Konica account?

7 A. I'm sorry. I take that last question back.
8 I'm not speculating on either one of those answers. I've
9 been told that by Konica people.

10 Q. You've been told what?

11 A. That, in fact, if they weren't using T&N they
12 would be using another factor and that, in fact, their
13 transportation budget prior to the year was \$120,000.00.
14 That's what they had spent in services.

15 Q. But you don't know for a fact that they would
16 use your company?

17 A. It might have. I'm answering the question the
18 way it was told to me by Konica.

19 Q. And currently they are not using your company?

20 A. That's right.

21 Q. Now, if what is marked as Exhibit 1, the
22 application, if that were not approved by this tribunal, you
23 would have an interest in purchasing the rights of D.
24 Cristinzio, wouldn't you?

25 A. If it was offered to me for sale or if I knew

1 it was for sale I would make an offer, sure.

2 Q. So you would have an interest?

3 A. Sure. Just as well as if any other carriers
4 had theirs for sale I would have an interest, yes.

5 Q. And does that fact in any way impact upon your
6 purpose or motivation for the filing of the protest?

7 A. Absolutely not.

8 Q. But you would have an interest in purchasing
9 the D. Cristinzio rights if those rights were not approved
10 by the PUC or T&N?

11 A. I believe I answered that.

12 Q. And the answer is correct?

13 A. The answer is I would review any authority for
14 sale.

15 Q. And relative to the fair market value of the
16 transfer, you testified as to what you believe the value to
17 be that you were not an expert in that area. Is that
18 correct just yes or no?

19 A. I'm not an expert, that's right.

20 Q. If I may have a moment. Is it possible that
21 Pitney Bowes, Konica, Core States and other companies which
22 retain the services of T&N Trucking are simply happier with
23 their services and that is partially part of the reasons why
24 they use their services. Is that possible?

25 A. No.

1 Q. How do you know that?

2 A. I'd have to tell you hearsay in order for you
3 to understand my opinion.

4 MR. PETRI: He asked you. You can answer it.

5 MR. TEPPER: I don't think you're a judge, Mr. Petri,
6 and I haven't asked my question.

7 BY MR. TEPPER:

8 Q. My question which is pending before you is you
9 don't have a personal basis as to those three companies and
10 as to why they use T&N Trucking. Is that correct?

11 A. Personal knowledge?

12 Q. Right.

13 A. I know why they are using Pitney Bowes.

14 Q. Excuse me?

15 A. I know why Pitney Bowes is using T&N. I've
16 already explained that because of their corporate policy.
17 As for Core States and Konica I'd have to tell you hearsay.
18 If you want to hear it, ask me.

19 Q. Well, hearsay is not admissible and it may not
20 be.

21 MR. PETRI: Your Honor, I don't --

22 JUDGE CHESTNUT: You know, I think it should be
23 clear, Mr. McGary, you don't make the determination if it's
24 hearsay. You give your answer and if it's objectionable --

25 THE WITNESS: Your Honor, I don't have a problem

1 telling you if you'd like.

2 JUDGE CHESTNUT: You were asked a question and answer
3 it. Don't be concerned about whether it's appropriate or
4 not.

5 THE WITNESS: Okay. Why don't you give me the
6 question about so I make sure that I understand it.

7 JUDGE CHESTNUT: Let me just clarify, you can't
8 testify to what somebody else said. You can testify to your
9 understanding of what they said and the basis for your
10 opinion. Do you understand the difference there?

11 MR. TEPPER: Let me ask the question a different way,
12 Your Honor. It is possible is it not that Konica and Core
13 States are simply happier and more content with the work
14 which T&N is performing for them and that is the reason why
15 they are using T&N?

16 MR. PETRI: Anything is possible.

17 MR. TEPPER: Isn't that possible?

18 THE WITNESS: I guess that's possible.

19 MR. TEPPER: Okay. So you don't know for a fact that
20 there is any other reason then as to why those companies are
21 using T&N. Isn't that correct?

22 THE WITNESS: Your Honor, can I question you for a
23 second?

24 JUDGE CHESTNUT: No, you cannot.

25 MR. PETRI: Just answer the question as best you can.

1 JUDGE CHESTNUT: Answer the question if you can and
2 if you can't, say why you can't.

3 THE WITNESS: There is a personal relationship
4 between the person in charge at Konica and one of the
5 corporate officers at T&N. And there's favors being done to
6 Core States for that account.

7 BY MR. TEPPER:

8 Q. Now, if there is a relationship between
9 certain individuals and certain other accounts and they opt
10 to use certain carriers is that not their own choosing?

11 A. It's their prerogative. I just don't agree
12 with it.

13 MR. TEPPER: I have nothing further.

14 JUDGE CHESTNUT: Redirect?

15 MR. PETRI: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. PETRI:

18 Q. Mr. McGary, forget why or why not Konica and
19 Core States is not currently using J.C. Services, for a
20 moment. What I want to know from you is from your
21 information that you received from your representatives, is
22 there a substantial nature of PUC work intrastate that's
23 available?

24 A. Absolutely.

25 Q. And when we say substantial we say more than

1 \$100,000.00 out of those two accounts?

2 A. I'm being told out of the two accounts, yes,

3 Q. Certainly out of both of them?

4 A. Certainly.

5 Q. In fact, you were told out of one -- somewhere
6 in the neighborhood of 85,000 in PUC intrastate work?

7 A. Right.

8 Q. Based upon that, do you have an understanding
9 from them that there is work that's being done by another
10 carrier namely T&N that does not have authority to do that
11 work? Isn't that the bottom line of all of this?

12 A. That's exactly --

13 MR. TEPPER: I'm going to object to his
14 characterization of the authority of work because that is
15 not something that's been determined. And the purpose of
16 this hearing is to approve the application of the transfer.
17 He's assuming certain instances which they have apparently
18 made a complaint with the PUC and I just object to that
19 characterization of that question.

20 JUDGE CHESTNUT: I think you could reword it.

21 MR. PETRI: I could reword it. I'll save that for
22 argument. I can save that for argument.

23 BY MR. PETRI:

24 Q. Mr. McGary, do you recall the company Bond?
25 Was it Bond Electronics?

1 A. Yes, it is.

2 Q. Did they do work for Pitney Bowes?

3 A. No, I believe you have them confused. The
4 company you're thinking of is Sevco.

5 Q. But Sevco was doing work for Pitney Bowes?

6 A. Yes.

7 Q. And where was Sevco located?

8 A. I believe Pennsauken, New Jersey.

9 Q. And do you recall in that case an issue being
10 brought up as to whether Sevco's work for Pitney Bowes was
11 that Sevco did not have authority?

12 A. Yes, I do.

13 Q. Do you recall what happened when Pitney Bowes
14 was informed that Sevco did not have proper authority and
15 what happened to Sevco?

16 A. They dropped that carrier immediately.

17 MR. PETRI: Nothing further.

18 JUDGE CHESTNUT: Recross.

19 REXCROSS EXAMINATION

20 BY MR. TEPPER:

21 Q. Could you elaborate on the circumstances which
22 surround the Sevco situation relative to the PUC authority?

23 A. Well, Sevco did not have any PUC authority and
24 they were contending that by taking the shipments back to
25 Pennsauken that it would fall under the ICC jurisdiction.

1 In fact, when the PUC reviewed that on the local level,
2 Pitney Bowes and also Sevco were told that that, in fact,
3 was not true. So Pitney Bowes made the decision locally
4 that they did not want to get involved in that situation and
5 they stopped using that carrier. And in turn, we dropped
6 that issue as well because it did not affect us any longer
7 and Sevco did approximately a month or so later go out of
8 business.

9 MR. TEPPER: I have nothing further.

10 JUDGE CHESTNUT: Thank you very much, Mr. McGary.
11 You're excused.

12 MR. PETRI: I have no further evidence to present,
13 Your Honor. However, given the fact that there is a PUC
14 enforcement office investigation which may bear directly on
15 point as to the level of improper activities or alleged
16 improper activities if you want to use that terminology at
17 this point, I would request that this application remain
18 open until that investigation is done and a report could be
19 submitted to Your Honor.

20 MR. TEPPER: Your Honor, I am told by my client that
21 he is not even aware of this PUC investigation and we're
22 hearing it for the first time here. And I would just let
23 Your Honor be aware of that fact.

24 JUDGE CHESTNUT: No. I think the application can
25 proceed subject to whatever other action is taken. I mean,

1 they don't sit on these things forever. If there's going to
2 be a complaint issued, I assume it will be issued before I
3 render a decision in this case. If not, there are ways to
4 reopen the record. But since I'm going to be requiring
5 briefs there's not going to be a decision in the very near
6 future. Did you want to put any kind of rebuttal on?

7 MR. TEPPER: No, Your Honor.

8 JUDGE CHESTNUT: Okay. I guess the only issue then
9 is setting up a briefing schedule. Is there anything else?

10 MR. PETRI: Not unless Your Honor would like a brief
11 closing.

12 JUDGE CHESTNUT: No.

13 MR. TEPPER: Her Honor knows it would not be brief.

14 JUDGE CHESTNUT: I think we've been here long enough.
15 Let's go off the record for a minute.

16 (Discussion off the record.)

17 JUDGE CHESTNUT: We had an off the record discussion
18 in which we discussed the submission of briefs. The
19 following briefing schedule has been agreed upon. Main
20 briefs will be due on January 12th and reply briefs will be
21 due January 26th. In addition, I discussed with the parties
22 the possibility of them filing a joined stipulation as to
23 findings of fact and summary of testimony reserving the
24 rights to supplement those two sections and their respective
25 briefs. I'll send out a briefing letter which will describe

1 what should be contained in the brief and also will
2 reiterate the briefing dates.

3 If you wish to supply your brief on a computer disk,
4 that's acceptable. If you do that it's, five and a quarter
5 inch, word perfect. Anything else then before this hearing
6 is adjourned?

7 MR. TEPPER: I don't think so.

8 MR. PETRI: No, Your Honor.

9 JUDGE CHESTNUT: The record will remain open then
10 until I receive the reply briefs and also I do want the
11 Applicant to be aware that there have been inflections
12 raised as to legality of shipments and that I will be
13 conveying that to the appropriate enforcement officers. So
14 I would suggest that if there's any question in your mind
15 that you do not do those shipments until this is resolved.
16 Anything else?


17 MR. PETRI: No, Your Honor.

18 JUDGE CHESTNUT: Hearing is adjourned.

19 MR. TEPPER: Thank you, Your Honor.

20 (Whereupon, at 1:55 p.m., the hearing recessed.)
21
22
23
24
25

1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me
3 during the hearing of the within cause, and that this is a
4 true and correct transcript of the same.

5
6
7
8 
9 AMY S. INTRIERI
Court Reporter

10

11 The foregoing certification does not apply to any
12 reproduction of the same by any means unless under the
13 direct control and/or supervision of the certifying
14 reporter.

14

15 HOLBERT ASSOCIATES
16 AMY S. INTRIERI
17 2611 Doehne Road
18 Harrisburg, Pennsylvania 17110

17

18

19

20

21

22

23

24

25