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A-00109478

BERNARD A. LABUSKES, JR.
DIRECT DIAL: (717) 237-5385

June 12, 1996

Ms. Carmon Bass
Assessment Specialist
PA P.U.C.
P. O. Box 400006-W
Pittsburgh, PA 15268-0006

REC'D
96 JUN 12 AM 11:34
INFO. CONTROL DIV.
U.C.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Ms. Bass:

Enclosed is check no. 023124 in the amount of \$10,462.00 as payment of Carlisle Carrier Corp.'s assessment by the Public Utility Commission. The check has been noted that the payment is being made under protest and an objection has been filed with the PUC in Harrisburg. Please return to us a receipt for this check using the enclosed envelope. Thank you for your cooperation in this matter.

Sincerely,

MCNEES, WALLACE & NURICK

By *Bernard A. Labuskes, Jr.*
Bernard A. Labuskes, Jr.

BALjr/s

Enclosure

DOCUMENT
FOLDER

DOCKETED
JAN 8 1997

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ORIGINAL

BERNARD A. LABUSKES, JR.
DIRECT DIAL (717) 237-5305

A-00109478
INFO. CONTROL DIV.
96 JUN 12 AM 11:34
JUN 12 1996

June 12, 1996

Mr. John G. Alford, Secretary
Pennsylvania Public Utility Commission
B-20 North Office Building
P. O. Box 3265
Harrisburg, PA 17120

VIA HAND DELIVERY

Re: Objections of Carlisle Carrier Corp. to the General
Assessment of the Pennsylvania Public Utility Commission for
the Fiscal Year July 1, 1996 to June 30, 1997

Dear Secretary Alford:

Enclosed for filing with the Commission please find the original and three (3) copies of the Objections of Carlisle Carrier Corp. to the referenced General Assessment. Kindly date-stamp the extra copy of the enclosed document and return it with our messenger.

Thank you for your attention to this matter.

Sincerely,

MCNEES, WALLACE & NURICK

By *Bernard A. Labuskes, Jr.*
Bernard A. Labuskes, Jr.

BALjr/s

Enclosures

67

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

OBJECTIONS OF :
CARLISLE CARRIER CORP. :
TO THE GENERAL ASSESSMENT :
OF THE PENNSYLVANIA PUBLIC :
UTILITY COMMISSION FOR THE :
FISCAL YEAR JULY 1, 1996 :
TO JUNE 30, 1997 :

Docket No.

A-00109478

INFO. CONTROL DIV.

95 JUN 12 AM 11:34

RECEIVED

AND NOW COMES, Carlisle Carrier Corp., by and through its attorneys, and files these objections pursuant to Section 510(c) of the Public Utility Code (the "Code"), 66 Pa.C.S. 510(c), and, in support thereof, avers the following:

1. The name the Objector is Carlisle Carrier Corp., whose principal place of business is at P. O. Box 1549, Mechanicsburg, PA 17055.
2. On May 29, 1996, the Pennsylvania Public Utility Commission (the "Commission") mailed notice to the Objector of a General Assessment in the amount of \$10,462. The notice of assessment was received on May 31, 1996.
3. Objector has, contemporaneously with the filing of these Objections, paid by check to the order of the Commonwealth of Pennsylvania the sum of \$10,462. Payment of the General Assessment is made by Objector under protest. A copy of the General Assessment Invoice and Payment Check is attached as Exhibit "A."

4. Objector regards the Commission's General Assessment to be excessive, erroneous, unlawful and invalid pursuant to Section 510(c) of the Public Utility Code. 66 Pa.C.S §510(c).

5. Under the Federal Aviation Authorization Act of 1994 ("FAAA"), 49 U.S.C. §11501(h), the Commission may no longer regulate rates, routes and services of motor carriers, with the exception of household goods movers and carriers of persons. State regulatory agencies are now responsible for only enforcing state safety regulations and ensuring that all carriers have insurance. The era of regulation is over and the assessments must be dramatically reduced to reflect the greatly decreased role that the Commission now plays in the area of motor carrier regulation.

6. On December 20, 1994, the Commission entered a Final Decision at Docket No. P-00940884 recognizing the reduced regulatory role of the Commission over motor carriers of property following the passage of the FAAA. A copy of the Final Decision is attached as Exhibit "B."

7. At the Commission's August 3, 1995 Public Meeting, Vice Chairman Lisa Crutchfield entered a Statement at Docket Nos. A-0085236 and A-0088129 acknowledging that transportation deregulation has a significant impact on the total dollars that the Commission can continue to collect from the transportation industry. A copy of the Statement is attached as Exhibit "C."

8. Section 510(f) of the Public Utility Code, 66 Pa.C.S. §510(f) clearly states that the controlling purpose for annual assessments is that each public utility subject to regulation shall advance to the Commission its reasonable share of the costs of administering and enforcing the Public Utility Code. The importance of this Section is twofold. First, the assessment is intended as a payment in advance to cover the costs of the Commission. And, second, public utilities, including motor carriers, are only responsible for their reasonable share of the Commission's costs incurred to regulate them. This guiding principle must be used by the Commission for calculating general assessments in order to comply with the law.

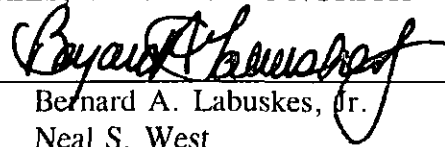
9. Despite the dramatic reduction in the Commission's regulatory role over motor carriers of property as mandated by federal law, there has not been a corresponding reduction in the amount of the Commission's General Assessments on motor carriers of property, non-household goods. As such, Objector believes that the Commission's General Assessments are excessive, erroneous, unlawful and invalid pursuant to Section 510(c) of the Public Utility Code. 66 Pa.C.S §510(c).

WHEREFORE, Carlisle Carrier Corp. requests that a hearing be convened in order to determine the reasonableness and legality of the Commission's General Assessments, and that upon a final hearing, the Commission will make such order as it deems necessary.

Respectfully submitted,

McNEES, WALLACE & NURICK

By



Bernard A. Labuskes, Jr.

Neal S. West

P. O. Box 1166

100 Pine Street

Harrisburg, PA 17108-1166

(717) 232-8000

Counsel to Carlisle Carrier Corp.

Dated: June 12, 1996

EXHIBIT A
General Assessment Notice and Payment Check

<p><small>PUC-12</small> COMMONWEALTH OF PENNSYLVANIA PA PUBLIC UTILITY COMMISSION P.O. BOX 3265 HARRISBURG, PA 17105-3265</p>	1081 TK	CARLISLE CARRIER CORP. P.O. BOX 1549 MECHANICSBURG PA 17055 CERTIFIED MAIL # P916150082
A-00109478		

FISCAL YEAR	GENERAL ASSESSMENT INVOICE	DATE	INVOICE NUMBER
JULY 1 1996 - JUNE 30 1997			
(1) Read carefully enclosed explanation of bill.	INITIAL PA PUBLIC UTILITY COMMISSION PA OFFICE OF CONSUMER ADVOCATE PA SMALL BUSINESS ADVOCATE	05/29/96	96-700335
(2) Use return envelope provided.			\$10,462.00
(3) Make check payable to: Commonwealth of PA			\$0.00
	PAY THIS AMOUNT WITHIN THIRTY DAYS		\$10,462.00
	MAIL PAYMENT TO: PA P.U.C. P.O. BOX 400006-W PITTSBURGH, PA 15268-0006		INITIAL
TO INSURE PROPER CREDIT, PLEASE RETURN THIS DOCUMENT WITH YOUR REMITTANCE.			(Photo-Copy or gold copy not acceptable) - <u>SUBMIT THIS ORIGINAL DOCUMENT.</u>

9670033591 05299610001046200200000000003000000000 000010462000

CARLISLE
CARRIER CORP.

6380 BRACKBILL BLVD.
 P.O. BOX 1549
 MECHANICSBURG, PA 17055

FARMERS TRUST
 Carlisle, PA 17013

023124

PAID UNDER PROTEST

DATE	CHECK NO.	AMOUNT
6/07/96	023124	*10,462.00

TEN THOUSAND FOUR HUNDRED SIXTY-TWO AND NO/100 DOLLARS*****

PAY TO THE ORDER OF
COMMONWEALTH OF PA



 AUTHORIZED SIGNATURE

EXHIBIT B

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held December 15, 1994

Commissioners Present:

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

Regulation of Motor Common Carriers
of Property

Docket No.
P-00940884

FINAL DECISION

BY THE COMMISSION:

On October 28, 1994, we adopted a Tentative Decision at this docket (entered October 31, 1994) seeking comments to a new application procedure for motor carriers of property in light of the Federal Aviation Act of 1994, 49 U.S.C. §§41713(b) and 11501(h). As we stated in the Tentative Decision, that Act preempts the authority of states to regulate rates, routes and service of motor carriers, except that matters involving safety and insurance were not affected, nor was the regulation of passenger carriers and household goods carriers. The Tentative Decision was served on all certificated common carriers and permitted contract carriers. In addition, the Tentative Decision was published in the Pennsylvania Bulletin of November 12, 1994. Comments were required to be filed on or before November 28, 1994.

In response to the Tentative Decision, comments were filed on behalf of the Pennsylvania Motor Truck Association, Herbert M. Canter, Esquire, Cook Transport, KBS, Inc., Transport Management, Inc. and William J. Lavelle, Esquire. We will address each of these comments below. In addition to formal comments, we have received several requests for clarification and informal inquiries regarding the changes suggested by the Tentative Decision. Those matters will be addressed in this Final Decision in an effort to alleviate confusion as the new process begins.

The comments filed by Herbert M. Canter, Esquire were in favor of the proposed system. In addition, Mr. Canter requested that we clarify that foreign corporations would be required to qualify to do business in Pennsylvania through the Commonwealth's Department

of State before seeking new authority. It does not appear that anything in the federal Act was intended to affect that aspect of Pennsylvania's commercial business requirements.

Cook Transport Company (Cook) filed comments which expressed a concern about the proposal to issue a certificate before a new entrant received a satisfactory safety rating. Cook stated that new entrants will be willing to cut corners on safety issues in order to offer lower rates to shippers. Cook suggested that a certificate should be issued before a safety rating is obtained only in emergency circumstances. In response to Chairman Rolka's statement regarding staff participation in the hearing process after assisting in the determination of whether to set a matter for hearing, Cook indicated that it favored staff participation in both aspects of the process.

Transport Management, Inc. (Transport) filed comments which are partly in opposition to the application process. Transport suggests that there should be no waiting period whatsoever for currently certificated ICC common carriers. Transport is in favor of a process in which currently certificated ICC common carriers could begin to operate upon the filing of an application, their ICC certificate and an insurance certificate. All other applicants, including contract carriers, would go through the Commission's procedure. If, during the course of the application process, a common carrier's safety operations were brought into question the certificate could be suspended at that time. Transport states that the proposed system, to the extent it requires a waiting period for ICC certificated carriers, is in violation of the federal Aviation Authorization Act of 1994. However, Transport would be in favor of the proposed system if the waiting period for certificated ICC common carriers was eliminated.

KBS, Inc. (KBS) filed comments which only addressed the issue of levels of insurance. The comment requests that the Commission adopt the level of insurance now mandated for interstate common carriers by the Interstate Commerce Commission. As we note below, that matter is now being considered by the Commission, but will be addressed in a different proceeding.

William J. Lavelle, Esquire filed detailed comments which addressed the household goods issue, equipment leasing, insurance, transfers, safety and the Chairman's Statement relating to staff participation in both the hearing and comment processes. Mr. Lavelle notes that we have proposed expanding our definition of household goods, but that we also exclude household goods from our use of the word "property" when we discussed "motor carriers of property." This raises several issues regarding household goods carriers and general property carriers which have the authority to transport some commodities which would be included in the term "household goods" given the expanded definition.

Mr. Lavelle also strongly recommended that the Commission continue oversight of leasing by certificated carriers. He suggests that such regulations are not in conflict with the federal legislation, but are directly concerned with the safety of the public. Mr. Lavelle recommended that we review our current leasing regulations and update them to become consistent with federal leasing provisions. Similarly, he recommended that the Commission revise its current insurance regulations to provide for the same limits now in force at the federal level.

With regard to safety, Mr. Lavelle commented that the Commission should establish strong standards for an applicant to meet rather than a pro forma statement of intent. He suggests that the Commission should consider requiring that an applicant provide the following items with its application:

a. A copy of any U.S. DOT compliance audit, safety fitness review or a roadside driver/vehicle inspection report issued within the prior three years.

b. A written report from the applicant's insurance company of its accident record, rating, etc. for the prior three year period.

c. Completion of a detailed safety related questionnaire, similar to that employed by the province of Ontario, Canada.

Mr. Lavelle also recommended that any carrier with a Conditional or Unsatisfactory safety fitness rating from the U.S. DOT would automatically be required to proceed through the hearing process in which the applicant would have the burden of proving fitness.

Mr. Lavelle noted his agreement with the Chairman's concerns regarding staff participation in filing comments to an application and also participating in the decision as to whether a hearing is required. He commented that an office filing comments should not participate in making the hearing determination. He stated that this is consistent with the Commission's policy noted in Delegation of Prosecutory Authority to Bureaus with Enforcement Responsibilities, M-00940593.

The Pennsylvania Motor Truck Association (PMTA) has filed comments which generally support the proposed system. PMTA has requested that we make clear the status of "motor carriers of property" as common carriers. Also, PMTA supports revision of our insurance regulations to provide for limits consistent with those mandated by the ICC. PMTA requests that the Commission state whether or not existing certificates of public convenience will have value after January 1, 1995. Finally, PMTA requests that the Commission address the issue of assessment amounts, suggesting that there be a reduced amount given the reduction in oversight duties

of the Commission.

Several of the above noted comments suggest that we revise our insurance regulations to provide for limits which correspond to the requirements now mandated by the ICC. We have every intention of initiating a proposed rulemaking to accomplish that result in the near future. It is important to note that this Final Decision is waiving certain regulations and providing for changes in the application process in light of the recent federal preemption legislation. Those waivers are authorized by Section 501 of the Public Utility Code, 66 Pa. C.S. §501. Revision of our insurance regulations for motor common carriers of property will occur in the context of a proposed rulemaking.

The comments of the PMTA reflect a concern with regard to the value of certificates of public convenience after January 1, 1995 as well as the status of motor carriers of property as common carriers. First, as noted by the House Conference Report No. 103-677 at pages 499 and 500, Congress recognized that intrastate certificates of public convenience would have no value as of January 1, 1995. The action taken here does not alter that fact. As we noted in the Tentative Decision, certificates of public convenience issued by this Commission to motor common carriers of property will not be transferrable after January 1, 1995. There will be no market for them. Certificates of public convenience will no longer guarantee or protect a stable market for motor common carriers of property. There will be no benefit to existing carriers from their current certificates. The existence of a current certificate of public convenience is merely a shorthand method which enables the Commission to determine that a motor common carrier of property has complied with the safety and insurance requirements of the Commission.

PMTA has also requested a clarification of a motor carrier of property's status as a common carrier. We discussed this issue in the context of contract carriers at page 3 of our Tentative Decision. For clarity's sake, we will refer to motor carriers of property as motor common carriers of property. We cannot and do not intend to alter the definitions found in the Public Utility Code. Section 102 of the Code, 66 Pa. C.S. §102, provides the definition for "common carrier". Our discussion at page 3 of the Tentative Decision was merely a recognition that since we could not impose shipper and commodity limitations on a contract carrier, that carrier would be free to provide service to the public and, accordingly, would become a common carrier. However, that is not to suggest that transportation not previously subject to our jurisdiction will suddenly become so. For example, private carriers which do not provide service to the public would not suddenly become common carriers and will remain unaffected.

At page 2 of our Tentative Decision, we stated our intention of adopting the federal definition of household goods. Mr.

Lavelle's comments provide an extensive discussion regarding concerns arising out of adoption of the federal definition. Our discussion at page 2 of the Tentative Decision sets forth three subparagraphs of the definition. Subparagraph (3) is commonly referred to as the "third proviso." The third proviso has been used at the federal level to provide for the transportation of computers and business machines by household goods carriers. Previously, Pennsylvania did not recognize the third proviso, accordingly, many household goods movers obtained specific authority to provide that transportation. In addition, motor carriers with general property authority were deemed to have that authority by virtue of the general property certificate.

Under our proposed system, we have stated that motor common carriers of property will be deemed to have authority to transport property except household goods. As noted by Mr. Lavelle, that exclusion of "household goods" from property carriers will result in broader authority for household goods carriers and the elimination of a very significant portion of authority from property carriers. This was not our intention. We wish to emphasize that motor carriers of property will not be authorized to conduct transportation which is usually deemed to be household goods transportation. Under these circumstances, it would seem appropriate to alter our proposed treatment of motor common carriers of property by providing that they will be authorized to transport property, except household goods in use. "Household goods in use" would be those situations described in subparagraphs 1 and 2 of the Tentative Decision's definition found at page 2 of that order. Household goods carriers would still be deemed to have the broadform authority as described in all three subparagraphs.

The comments have raised two additional concerns. First, PMTA has requested that the Commission address the issue of assessments in light of the reduced oversight over motor carrier operations. The Commission's oversight of all utilities is funded through the assessment process set forth in Section 510 of the Public Utility Code, 66 Pa. C.S. §510. Section 510(b) provides for the allocation of assessments based upon the costs of oversight directly attributable to each group of utilities. Pursuant to that process, the Commission's assessment will take into account any projected reduction in oversight expense for the fiscal year 1995/1996 which will be reflected in the assessments paid during the spring and summer of 1995. We note here that part of our response to this new regulatory environment has been to eliminate some positions from our Bureau of Transportation and merge that Bureau with the Bureau of Safety and Compliance. The resulting Bureau will be the Bureau of Transportation and Safety with an emphasis in property transportation on safety and insurance oversight.

The second concern suggests that we clarify that all motor common carriers of property will be required to provide evidence of insurance as required by 52 Pa. Code §§32.12 and 32.13, including

former contract carriers not previously subject to all of the requirements. It is correct that some modification of insurance will be required of contract carriers. We will address that concern in the procedure outlined below.

As we stated in the Tentative Decision, the impact of the Federal Aviation Act of 1994 on the way in which the Pennsylvania Public Utility Commission regulates the transportation of property is significant. By this Final Decision, we are waiving certain of our regulations effective January 1, 1995 as provided for in Section 501 of the Public Utility Code. These waivers are simply a recognition of the preemptive effect of the federal legislation. Waiver of the regulations enumerated below will provide for a safety/insurance based system of regulation for motor common carriers of property which will comport both with the federal preemption and with the unaffected provisions of the Public Utility Code which provide for the regulation of safety, insurance and the certification of public utilities. These waivers apply only to motor common carriers of property, not household goods carriers or passenger carriers.

52 Pa. Code §3.381(a) is waived as to motor carriers of property to the extent that it requires submission of forms, documents and filing fees not provided for in this order.

52 Pa. Code §3.381(b) is waived to the extent it is inconsistent with the procedure outlined below.

52 Pa. Code §§3.381(c) and (d) are waived to the extent that they provide for protests filed for other than safety issues and to the extent that they provide for a procedure different than that outlined below.

52 Pa. Code §3.381(e) is waived except to the extent that this order shall require a motor carrier of property to submit to a safety review as that process is further outlined below.

52 Pa. Code §3.381(i) is waived except to the extent that this order shall require the filing of insurance and completion of a safety review.

The provisions now in place at 52 Pa. Code §§3.383, 3.384 and 3.385 will not be used in motor carrier of property cases. As is further discussed below, the new process will be considerably more streamlined than our prior system. In addition, since there will be no limitation on carriers' service, it is unlikely that emergency circumstances will arise requiring use of the emergency processes.

52 Pa. Code §3.551 is waived to the extent it provides for a form of application which differs from that described below.

52 Pa. Code §§5.51, 5.52, 5.53 and 5.54 are waived to the extent that they provide for protests to motor carrier of property applications on issues other than safety and to the extent they provide for an application process different than that described below.

Chapter 23 of the Public Utility Code regulates tariffs for common and contract carriers. As enforcement of this chapter has been preempted by the Act, the Commission will not apply the provisions of this Chapter to motor carriers of property as of January 1, 1995.

52 Pa. Code §31.9 regarding annual reports is waived for motor carriers of property. The Commission currently uses annual reports to support its economic regulation responsibilities. As those functions will be preempted with regard to motor carriers of property, there will be no need to require the annual reports from those carriers. We will alter our assessment report form to ensure that information regarding address, corporate officers and the like can be provided in that report rather than the annual report.

52 Pa. Code §§31.21 through and including Section 31.31 provide for regulation of matters which will be preempted as of January 1, 1995. Accordingly, the Commission will not apply these provisions to motor carriers of property as of January 1, 1995.

52 Pa. Code §31.34 relates to handling of c.o.d. shipments and is hereby waived as of January 1, 1995.

It should be noted that we have not waived our regulations regarding identification of equipment. We will continue to require motor common carriers of property to identify equipment with the number issued by the Commission on their certificates. All existing motor carriers of property will maintain their existing identification numbers (the "A" followed by 8 digits).

The Commission's oversight of motor carrier safety and insurance is funded through the assessment process provided for in Section 510 of the Public Utility Code, 66 Pa. C.S. §510. Accordingly, motor common carriers of property, as public utilities (including those carriers previously classified as contract carriers), will be subject to the annual assessment report requirement and the assessment process.

All motor carriers with valid certificates and contract carrier permits as of January 1, 1995 are, by definition, presumed to be in compliance with our safety code. Each of these carriers will be deemed to possess a certificate pursuant to our authority to regulate safety and insurance as of that date. Contract carriers will be required to provide evidence of current insurance in compliance with our regulations at 53 Pa. Code §§ 32.12 and 13 on or before January 31, 1995 or face the possibility of adverse

action against their certificates. As of January 1, 1995, the certificate of each of these carriers shall be deemed to authorize the transportation of property, except household goods in use, between points in the Commonwealth of Pennsylvania.

With regard to new entrants into the property transportation field, we have determined that a certificate based upon satisfactory evidence of insurance and safety compliance shall be required for motor common carriers of property to operate in intrastate commerce. The certificate will not restrict the service or operations of a motor carrier. The certificate is intended to ensure that necessary insurance is maintained and that a carrier will maintain compliance with the Commission's safety regulations. Once issued, the certificate will be subject to revocation or suspension only due to safety, insurance or assessment related offenses. Motor common carriers of property shall also be subject to penalties for offenses involving our safety regulations.

All of the comments were generally favorable to the application process outlined in our Tentative Decision. One comment expressed opposition to the minimal waiting period for comments. However, we believe that all new entrants should be subject to the same procedure. In addition, we have eliminated the provision for staff comments in the process. It is likely that adverse staff comments would result from unsatisfactory or conditional safety ratings from other jurisdictions or record proceedings in this Commonwealth. In those instances, staff comments would not be necessary to refer the matter to hearing as the ratings alone would be sufficient to cause the application to be referred for hearing.

After careful review of the Public Utility Code, the federal Aviation Authorization Act of 1994, including the House Conference Report No. 103-677, and the comments in this proceeding, we believe the system set forth in the Tentative Decision properly addresses the preemptive provisions of the federal Act, the need for continued oversight of safety and insurance of motor common carriers of property in the Commonwealth of Pennsylvania and the continued funding of that oversight function. Accordingly, pursuant to Sections 1103 and 1501 of the Public Utility Code, 66 Pa. C.S. §§1103 and 1501, we adopt the following measures as of January 1, 1995 for applications for certificates for motor common carriers of property.

Currently Certificated and Permitted Carriers

1. Effective January 1, 1995, all common and contract carriers of property with valid certificates of public convenience or contract carrier permits will have the following right:

To transport property, other than household goods in use, between

points in Pennsylvania.

2. The Commission will continue to exert economic regulation of household goods carriers as defined in our Tentative Decision adopted October 28, 1994 and entered October 31, 1994 at this Docket. This would include those active common and contract carriers which now have short form and broad form household goods, in use, authority. The Bureau of Transportation and Safety maintains a list of approximately 408 household goods carriers. Every common and contract carrier which desires to retain household goods authority should contact the Bureau at 717-787-5521 to verify that it is on the list and to confirm operating territory. After March 31, 1995, only those carriers appearing on the list will be considered to have household goods authority.

Pending Applications

All applications for common or contract transportation of property still pending before the Commission on January 1, 1995 will be handled in the following manner:

1. New authority: All successful applicants will be granted common carrier authority to transport property, other than household goods in use, between points in Pennsylvania with the exception of any application which has been protested on the basis of safety fitness. Those applications will continue to undergo regular processing, including hearings.
2. Amended authority: All applications will be considered dismissed as moot and the records marked closed.
3. Combined property and household goods authority: All successful applicants will be granted common carrier authority to transport property, other than household goods in use, between points in Pennsylvania. The household goods in use portion of the application will be processed separately, in accordance with the Commission's procedure for applications other than for motor common carriers of property.

Compliance Orders in Progress

All compliance orders involving common or contract transportation of property, pending as of January 1, 1995, will be processed in the following manner:

1. New authority: Upon compliance with all conditions of the compliance order, except those relating to tariffs and annual reports, applicants will be issued a common carrier certificate for the transportation of property except household goods in use between points in

Pennsylvania, together with a copy of this Order to explain their rights.

2. Amended authority: All applications for amended authority will be considered moot and the records marked closed.

Authority Transfers/Stock Transfers

Effective January 1, 1995, the Commission will no longer accept applications by property carriers for transfer of operating authority or stock transfer. Since every new entrant will be required to meet our safety and insurance requirements through the application process, thereby resulting in statewide operations, we see no necessity to process transfers. In addition, since the principal criteria in reviewing stock transfers is financial fitness, we see no necessity to continue requiring transfer applications. However, we will modify our assessment report forms to provide notification of ownership change through stock transfers. Should a merger or other acquisition result in a new entity which would seek to operate in intrastate commerce, the new entity would be required to file an application and comply with our safety and insurance requirements.

Discontinuance of Service

Effective January 1, 1995, every motor common carrier of property must notify the Commission, in writing, if it has or intends to discontinue service. Upon notification, the carrier's certificate will be cancelled.

Insurance

We will continue to require intrastate property carriers to comply with our regulations at 52 Pa. Code, Chapter 32 which, among other things, provides for minimums of \$300,000 for bodily injury and property damage liability per accident and \$5,000 for loss or damage to cargo carried on a motor vehicle. Carriers previously classified as contract carriers will be required to conform their insurance filings to the common carrier requirements as of January 31, 1995 or face possible action against their certificates.

Safety

The Commission's safety oversight will be conducted both during the application process and as a general matter during a carrier's operations. The following procedures, in addition to roadside driver/vehicle inspections, will be those generally used. It must be noted that a carrier operating in intrastate commerce is always subject to Commission inspection and audit requirements.

The *safety fitness review* will concentrate on those carriers entering the intrastate regulated system, but could be made

available to any carrier upon request. This review is an evaluation of a carrier's safety management programs, to determine whether the carrier is prepared to comply with the Commission's driver and vehicle safety requirements. It is conducted at the carrier's principal place of business, and accomplished by a brief interview with a carrier representative, as well as a sampling of required carrier records. The goal is to identify deficiencies and potential problems, and to provide recommendations to establish correct management controls to ensure future compliance. As a result of the review, the carrier will receive from the Commission a safety rating of satisfactory or 'unsatisfactory. An unsatisfactory rating must be corrected in order for the carrier to maintain its certificate. Regardless of the rating, any identified deficiency must be corrected.

The *safety fitness audit* is an enforcement program, designed primarily to examine intrastate carriers who have been identified with poor safety records, or who have been involved in a significant number of traffic accidents. The safety fitness audit is also conducted at the carrier's principal place of business, and is an in-depth review of carrier records and equipment including: driver qualification files, driver drug and alcohol testing, vehicle accident registers, insurance records, vehicle maintenance files, driver time records and equipment inspections.

The goal of the safety fitness audit is to identify the areas of non-compliance, and to encourage the carrier by Commission action, to establish the proper management controls to ensure future compliance, and ultimately reduce the potential for highway accidents. In addition, carriers who have been audited and have had non-compliance areas identified will be monitored to ensure corrective action was accomplished. It is important to note that all carriers are required to maintain their operations in compliance with our regulations. Carriers will always be subject to roadside driver/vehicle inspections, safety fitness reviews and safety fitness audits, not only at the application stage. The Commission may, at any time, direct a carrier to undergo such safety examinations.

Procedure for New Entrants

After January 1, 1995, all applicants for authority to transport property will follow a new procedure:

1. Every proposed entrant will file an application on a form to be developed by the Commission. Information required on the application will include name, address, ICC number, current safety rating from another jurisdiction, corporate/partnership papers, proof of insurance and a declaration that applicant intends to comply with our insurance and safety regulations.

2. Due to the decreased level of review required for these applications, we will reduce the filing fee from \$350 to \$100.
3. Notice of the application filing will be made in the Pennsylvania Bulletin in a format similar to that used by the Interstate Commerce Commission in the ICC Register. This notice will provide a 14 day opportunity for public comment.
4. If there are no adverse comments or evidence of a conditional or unsatisfactory safety rating from another jurisdiction, a compliance order will be issued within 10 days after the end of the comment period.
5. If there are adverse comments filed, a conditional or unsatisfactory safety rating has been issued by another jurisdiction, or a determination from a competent forum has been issued which places an applicant's safety fitness in question, the Bureau of Transportation and Safety will initially determine whether the matter should be referred to an Administrative Law Judge for hearing and decision in accordance with 66 Pa. C.S. §332. That decision may be reviewed by the Commission pursuant to 66 Pa. C.S. §332(h). In these cases, the Bureau of Transportation and Safety will become prosecutory staff. An application will not be denied based upon adverse safety factors without the opportunity for a hearing on those issues being provided. In the event adverse comments are filed but the matter is not referred for hearing, the application will be processed through Public Meeting and decided by the Commission.
6. After issuance of the compliance order and upon filing of acceptable proof of insurance, an applicant may begin operations. Recognizing that an applicant's insurer may delay filing proof of insurance coverage, an applicant may file temporary proof of insurance to begin operations. Temporary proofs of insurance acceptable to the Commission are:
 - A copy of the insurance identification card (for vehicles registered in Pennsylvania only);
 - A copy of the declaration page of the insurance policy;
 - A copy of a valid binder of insurance; or
 - A copy of a valid application for insurance to the Pennsylvania Automobile Insurance Plan.
7. Upon the filing of proof of insurance from an applicant's insurer (Form E for bodily injury and property damage liability coverage and Form H for cargo liability coverage), a certificate will be issued.

8. Assuming there are no adverse comments filed, we estimate that it will take approximately 45 days to issue a compliance order from date of filing the application.
9. The compliance order will also require that motor carriers which do not provide proof of a current safety rating from the U.S. DOT or another state with safety regulations comparable to Pennsylvania, must complete a safety fitness review, as discussed above, conducted by a Commission Enforcement Officer and will be notified of its safety rating within 180 days of the entry date of the order. If the carrier's safety rating is unsatisfactory, it will be directed to correct any deficiencies found and be subjected to a second safety fitness review approximately 60 days after the initial notification date. Failure to achieve a satisfactory rating at the second review will result in immediate suspension of the carrier's certificate and continued non-compliance may result in revocation of the certificate.

Compliance and Revocation

It is our determination that nothing in federal Act preempts this Commission from enforcing our rules and regulations except as to the rates, routes and services of motor carriers of property. Those carriers will still be subject to suspension, fines and certificate revocation for violations of the Public Utility Code, 66 Pa. C.S. §101, et seq., involving matters not preempted such as safety, assessments and insurance.

For the reasons discussed herein, we have determined that we should initiate the new application procedure described on January 1, 1995; THEREFORE,

IT IS ORDERED:

1. That the procedures described above shall become effective for motor common carriers of property as of January 1, 1995.
2. That this Final Decision shall be served upon the parties listed below as well as all parties filing comments at this docket:
 - a. All motor carriers of property and household goods carriers which possess certificates of public convenience or contract carrier permits as of December 15, 1994.
 - b. The Pennsylvania Motor Truck Association.
 - c. The Pennsylvania Moving & Storage Association.
 - d. The Transportation Lawyers Association.
 - e. The Public Utility Law Section of the Pennsylvania Bar Association.
 - f. The Tri-State Tariff Bureau.

3. That a copy of this Final Decision shall be forwarded to the Pennsylvania Bulletin for publication.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: December 15, 1994

ORDER ENTERED: DEC 20 1994

EXHIBIT C

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3256

UNITED PARCEL SERVICE, INC;
OBJECTION TO ASSESSMENT

PUBLIC MEETING - AUG 3, 1995
AUG-95-T8-LD-66*
DOCKET NO.: A-0085236 ✓

WHEARY'S STATION WAGON
SERVICE; OBJECTION TO
ASSESSMENT

PUBLIC MEETING - AUG 3, 1995
AUG-95-T8-LD-67*
DOCKET NO.: A-0088129

STATEMENT OF VICE CHAIRMAN LISA CRUTCHFIELD


Recent Congressional action dramatically affected regulation of the transportation industry. Under the Federal Aviation Authorization Act of 1994, at 49 U.S.C. §11501(h), the Pennsylvania Public Utility Commission ("Commission") may no longer regulate the rates, routes and services of motor carriers, with the exception of household goods movers and carriers of persons. State regulatory agencies now are responsible for enforcing state safety regulations and ensuring all common carriers have insurance. As a result of the narrowed scope of transportation regulation, the amount the Commission may legally assess common carriers will be reduced. Accordingly, in the current fiscal year, we have had to reduce our employee compliment and other operating expenses to accommodate the reduction in assessments.

Both United Parcel Service, Inc. and Wheary's Station Wagon Service filed objections to the amount of the Commission's assessments for the fiscal year 1994-1995. I agree with staff's recommendation that the objections must be dismissed as the filing requirement time frame was not met. Nonetheless, the two objections to the amount of the Commission's assessments indicate that transportation deregulation will have a significant impact on the total dollars we can continue to collect from the transportation industry.

I would appreciate it if the staff could provide the Commission with the total reduction for fiscal year 1995-1996 in assessments and other fees that can no longer be collected due to deregulation in the transportation industry. I am interested in learning what revenue and expense adjustments the Commission will have to make in the future.

8/2/95

DATE


LISA CRUTCHFIELD, VICE CHAIRMAN