

PUC-77

ACR

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u> October 30, 1990	:	2. <u>BUREAU AGENDA NO.</u> NOV-90-T-1277*
3. <u>BUREAU:</u> Transportation	:	5. <u>PUBLIC MEETING DATE:</u> November 21, 1990
4. <u>SECTION</u> Technical Review	:	6. <u>APPROVED BY:</u> Director: Ernst 7-2154 Supervisor: Bigelow/Marzolf 3-5945
7. <u>MONITOR:</u>	:	8. <u>PERSON IN CHARGE:</u> White 7-4387
9. <u>DOCKET NO.:</u> A-00109494	:	10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines) (b) Short summary of history & facts, documents & briefs (c) Recommendation

(a) Application of Evergreen Express Lines, Inc., a corporation of the Commonwealth of Pennsylvania, Trenton, New Jersey, for the transfer to it of all of the rights authorized under the certificates issued at A-00084200, Fs. 2, 3, 5 and 6, to Clark Transfer, Inc., a corporation of the State of Delaware, subject to the same limitations and conditions.

(b) The application is unopposed. The applicant proposes to purchase the operating rights of the transferor for the sum of \$1.00. No other tangible assets are involved. The applicant has shown that it is fit, ready, willing and able to provide the service, and that a public need for service under the authority to be transferred continues to exist.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application and that the certificates of the transferor be cancelled by supplemental order.

RW:11

11. MOTION BY:	Commissioner Chm. Smith	Commissioner Fischl - Yes Commissioner Rhodes - Yes
SECONDED:	Commissioner Rolka	Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

DOCKETS
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DOCKET
JAN 30 1991



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

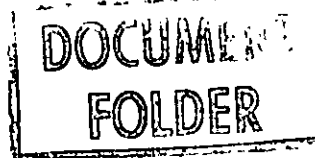
November 28, 1990

KJR

IN REPLY PLEASE
REFER TO OUR FILE

A-109494

Herbert R. Nurick, Esquire
P.O. Box 1166
Harrisburg, PA 17108



DOCKETED
DEC 04 1990

Application of Evergreen Express Lines, Inc., a corporation of the
Commonwealth of Pennsylvania.

To Whom It May Concern:

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

A Certificate of Public Convenience evidencing the
Commission's approval of the right to operate will not be issued until
the applicant has complied with the following insurance and tariff
requirements:

- I. Arrange through an insurance agent to have an insurance
company file the following forms with the Commission.
 - a. A Form E as evidence of minimum public liability and
property damage insurance coverage as shown on the back
of this sheet.
 - b. A Form H or Form UCPC-31 as evidence of cargo insurance
coverage in an amount not less than \$5,000 per vehicle.
Under certain circumstances, exemption from the cargo
insurance requirement may be secured by filing the
enclosed Form PUC-288.
- II. Prepare and file a tariff according to the enclosed
instructions except applicants for transfer of authority must
file a tariff adoption supplement which will be forwarded by
separate cover at a later date.

Minimum Limits for PA Public Utility Commission Authorized Service

Passenger Carriers:

15 passengers or less: \$35,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$25,000 first party medical benefits, \$10,000 first party wage loss benefits and \$1,500 first party funeral benefits for all passengers and pedestrians.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits for drivers (PA registered vehicles only).

16 to 28 passengers: \$1,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

29 passengers or more: \$5,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

Property Carriers:

Common or Contract: \$300,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits (PA registered vehicles only).

Common only: \$5,000 per accident per vehicle for loss or damage to cargo.

No motor carrier shall operate or engage in any transportation until compliance with all of the above requirements and a certificate has been issued authorizing actual operations. A motor carrier operating without complying with the above requirements will be subject to the penalty provisions of the Public Utility Code.

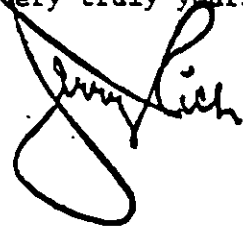
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of November 21, 1990 and dismiss the application without further proceedings.

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

Insurance Filings: Mr. James McCarthy-Insurance Section
(717) 783-5933

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

Very truly yours,

A handwritten signature in cursive script that reads "Jerry Rich". The signature is written in dark ink and is positioned below the typed name "Jerry Rich, Secretary".

Jerry Rich, Secretary

lg

Enclosures
Certified Mail
Receipt Requested
cc:applicant
Evergreen Express Lines, Inc.
121 New York Avenue
Trenton, NJ 08603

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held November 21, 1990

Commissioners Present:

William H. Smith, Chairman
Frank Fischl
David W. Rolka
Joseph Rhodes, Jr.

DOCKETED
DEC 04 1990

Application of Evergreen Express Lines, Inc., a corporation of the Commonwealth of Pennsylvania, for the transfer to it of all of the rights authorized under the certificates issued at A-00084200, Fs. 2, 3, 5 and 6, to Clark Transfer, Inc., a corporation of the State of Delaware, subject to the same limitations and conditions.

A-00109494

DOCUMENT
FOLDER

McNees, Wallace and Nurick by Herbert R. Nurick for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on September 6, 1990, and published in the Pennsylvania Bulletin of October 6, 1990. There are no protests and the record is now certified to the Commission for its decision without oral hearing.

Evergreen Express Lines, Inc. (applicant or transferee) was formed under the laws of Pennsylvania on April 20, 1990, with its place of domicile at 121 New York Avenue, Trenton, New Jersey. All of the stock is issued to The Clark Group, Inc., whose stock, in turn, is owned by the transferor, Clark Transfer, Inc. Certain stockholders, directors and officers of the transferor are directors and officers of the applicant. Following the transfer of the authority sought here, there will be no affiliation, through stock or otherwise, between the applicant and the transferor.

The officers of the applicant corporation are Timothy Teagan, president; William Wilder, Anthony Simeo and John Barry, vice presidents;

David Gillis, secretary; Howard Henis, assistant secretary; and Matthew Molitch, treasurer. The corporation does not hold other authority from either this Commission or the ICC.

The applicant will institute a safety program under the direction of a full-time safety director. The applicant president has been in the trucking business with the transferor for 18 years, including a number of years as an officer. Matthew Molitch, treasurer and David Gillis, secretary, have been with the transferor for 35 years and 34 years respectively. The transfer of authority is prompted by the fact that the transferor no longer desires to conduct Pennsylvania intrastate transportation operations. The applicant will operate with 19 tractors and 61 trailers. A pro forma balance sheet shows that the applicant has current assets of \$145,000, total assets of \$284,000, with payables to affiliated companies in the amount of \$283,000, leaving capital stock of \$1,000.

Pursuant to the terms of a sales agreement dated August 28, 1990, the applicant will pay the sum of \$1.00 for the operating rights. No tangible assets are involved. Settlement will be made within 30 days after the effective date of the order by this Commission approving the application.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

The transferor has a right which is captioned herein as right (4) which authorizes the interchange of certain commodities (moving picture and sound reproduction films, etc.) with Highway Express Lines, Inc. Since Highway Express Lines, Inc., is no longer in business, the right has no significance and will be omitted in the authority as it is transferred herein.

We find:

1. That the applicant is fit, willing and able to provide the service proposed.
2. That the transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved and that a certificate be issued granting the applicant the right to operate as follows:

1. To transport, as a Class D carrier, moving picture and sound reproduction films, apparatus, mechanisms, installations, accessories, premiums, tickets and complete film setups, magazines, newspapers,

newspaper cuts and mats and kindred articles between points in Pennsylvania east of the 77th degree, 30 minute meridian, extending northwardly from the Pennsylvania-Maryland state line at a point near the village of Blue Ridge Summit, thence along the eastern boundary of Franklin County, thence northwardly along the said meridian to the Pennsylvania-New York state line at a point near the village of Austinburg and including the boroughs of Lewistown, Mifflin County, and Mercersburg, Franklin County, which are west of the said meridian.

2. To transport, as a Class D carrier, moving picture and sound reproduction films, apparatus, mechanisms, installations, accessories, premiums, tickets and complete film setups, magazines, newspapers, newspaper cuts and mats and kindred articles from the city of Philadelphia to points on a route beginning at Gettysburg, thence via Highway Route 30 to Chambersburg, thence via Highway Route 11 to Greencastle, thence via Highway Route 16 to Waynesboro, and thence via Highway Route 16 and 116 to Gettysburg, and the return of any damaged or refused commodities.
3. To interchange property, as presently authorized at rights 1 and 2 above, with Class A, Class B and Class D carriers at any point within the area or on the route authorized by said rights in pickup and delivery service between points as authorized by said rights.
4. To transport, as a Class D carrier, newspapers including the comic supplements and magazine sections thereof, magazines, books, catalogs, pamphlets and other periodicals and publications, display stands, advertising materials, prizes and premiums pertaining thereto, loose and in packages, skids, ropes, and empty containers between points in the city of Philadelphia and from points in said city to points within an airline radius of one hundred (100) statute miles of said city, but including the city of Scranton, Lackawanna County; and including the additional area from the point where U.S. Highway Route 11 intersects with U.S. Highway 274 (at Juniata Bridge) thence along U.S. Highway 274 to the intersection with Pennsylvania Highway 75, thence along Pennsylvania Highway 75 to the junction with U.S. Highway 30, thence along U.S. Highway 30 to junction of U.S. Highway 522, thence along U.S. Highway 522 to the Pennsylvania-Maryland boundary line, and the return of refused, unsold or damaged shipments, skids, ropes and empty containers.

5. To transport, as a Class D carrier, newspapers including the comic supplements and magazine sections thereof, magazines, books, catalogs, pamphlets and other periodicals and publications, display stands, advertising materials, prizes and premiums pertaining thereto, loose and in packages, skids, ropes and empty containers from points in the borough of Sharon Hill, Delaware County to points in the city of Philadelphia, Philadelphia County and to points within an airline radius of one hundred (100) statute miles of the city of Philadelphia, but, including the city of Scranton, Lackawanna County; and including the additional area from the point where U.S. Highway Route 11 intersects with U.S. Highway 274 (Juniata Bridge) thence along U.S. Highway 274 to the intersection with Pennsylvania Highway 75, thence along Pennsylvania Highway 75 to the junction with U.S. Highway 30, thence along U.S. Highway 30 to junction of U.S. Highway 522, thence along U.S. Highway 522 to the Pennsylvania-Maryland boundary line, and the return of refused, unsold or damaged shipments, skids, ropes and empty containers.
6. To transport, as a Class D carrier, newspapers, magazines, books, catalogs, pamphlets, periodicals, publications and parts thereof, display stands, advertising materials and printing plates from points in the city of Philadelphia, Philadelphia County and the borough of Sharon Hill, Delaware County to points in Pennsylvania, and vice versa.
7. To transport, as a Class D carrier, paper and plant equipment in use for the Curtis Publishing Company, between points in the city of Philadelphia, Philadelphia County.
8. To transport, as a Class D carrier, paper for the Curtis Publishing Company from points in the city of Philadelphia, Philadelphia County, to its plants in the borough of Sharon Hill, Delaware County, and vice versa.
9. To transport, as a Class D carrier, plant equipment in use and supplies for the Curtis Publishing Company from its plants in the city of Philadelphia, Philadelphia County, to its plants in the borough of Sharon Hill, Delaware County, and vice versa.
10. To transport, as a Class D carrier, newspapers, magazines, books, catalogs, pamphlets, periodicals, publications, and parts thereof, display

stands, advertising materials, and printing plates from points in the city of Lancaster, Lancaster County to points in Pennsylvania and vice versa; provided that no right, power or privilege is granted to transport property to or from the city of Lancaster, Lancaster County having a prior or subsequent movement by air.

11. To transport, as a Class D carrier, newspapers, including comic supplements and magazine sections thereof, magazines, books, catalogs, pamphlets, and other publications and periodicals, display stands, advertising materials, prizes and premiums pertaining thereto, loose and in packages, and skids, ropes, and empty containers, from points in the city of Scranton, Lackawanna County, to points in Pennsylvania, and vice versa.
12. To transport, as a Class D carrier, for Brown Printing Company, Inc., newspapers, including comic and other supplements and magazine sections thereof, magazines, books, catalogs, pamphlets and other publications, periodicals and printed matter and products, materials and supplies used in the manufacture and production of said commodities; display stands, advertising materials, prizes and premiums pertaining to said commodities; and skids, ropes and empty containers; between points in the township of Upper Hanover and the borough of East Greenville, Montgomery County, and from points in said township and borough to points in Pennsylvania and vice versa.
13. To transport, as a Class D carrier, newspapers, including comic and other supplements and magazine sections thereof, magazines, books, catalogs, pamphlets and other publications, periodicals and printed matter and products, materials and supplies used in the manufacture and production of said commodities; display stands, advertising materials, prizes and premiums pertaining to said commodities; and skids, ropes and empty containers; between points in the city of Harrisburg, Dauphin County, and from points in said city to points in Pennsylvania, and vice versa.
14. To transport, as a Class D carrier, property (rendering a pickup and delivery service of airline express for commercial airlines) between airports or stations of commercial airlines and other points in Pennsylvania located east of the 77th meridian which extends north from a point near the village

of Raubenstein, York County, to a point near the village of Millerton, Tioga County;

with right No. 14 subject to the following condition:

That the rights, powers and privileges hereby granted shall be limited and restricted to the transportation of packages not exceeding two hundred (200) pounds in weight.

15. To transport, as a Class B carrier, property, excluding household goods, in use, between points within the city and county of Philadelphia.
16. To transport, as a Class D carrier, high loft nonwoven fabric between points in the township of Warminster, Bucks County, and from points in said township to points within one hundred fifty (150) miles of the limits of said township.
17. To transport, as a Class D carrier, exhibits and display materials, between points in the counties of Bucks, Montgomery, Philadelphia and Allegheny, and from points in said counties to points in Pennsylvania, and vice versa.
18. To transport, as a Class D carrier, flowers, plants and greens and florist supplies when moving with flowers, plants or greens between points in Pennsylvania east of the 77th meridian which extends north from a point near the village of Raubenstein, York County, to a point near the village of Millerton, Tioga County;

with all of the above subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.

3. That the applicant charge to Account 1550, Other Intangible Property, \$1.00, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.
4. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 Pa. C.S.A. §1102(3).

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of the Commission relative to the filing and acceptance of evidence of insurance and a tariff establishing just and reasonable rates.

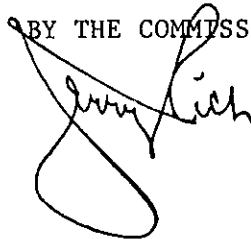
IT IS FURTHER ORDERED: That upon compliance with the requirements as set forth, a certificate issue evidencing the Commission's approval of the right to operate as above-determined.

IT IS FURTHER ORDERED: That in the event the applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

IT IS FURTHER ORDERED: That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor, Clark Transfer, Inc., at A-00084200, Folders 2, 3, 5 and 6 be cancelled and the record be marked closed.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: November 21, 1990

ORDER ENTERED: NOV 28 1990