



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

ISSUED: July 15, 1991

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A-00109497

CHRISTIAN V GRAF ESQUIRE  
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407 NORTH FRONT STREET  
HARRISBURG PA 17101

In Re: Matthew S. Sieber, t/d/b/a Sieber Trucking

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Herbert S. Cohen. This decision is being issued and mailed to all parties on the above specified date.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Specifically, an original and nine (9) copies of your signed exceptions MUST BE FILED WITH THE SECRETARY OF THE COMMISSION IN ROOM B-18, NORTH OFFICE BUILDING, NORTH STREET AND COMMONWEALTH AVENUE, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17120, within twenty (20) days of the issuance date of this letter. The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)) or on the date deposited with an overnight express package delivery service (52 Pa. Code 1.11(a)(2), (b)). If your exceptions are sent by mail, please use the address shown at the top of this letter. A copy of your exceptions must also be served on each party of record. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions/reply exceptions.

If you receive exceptions from other parties, you may submit written replies to those exceptions in the manner described above within ten (10) days of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535 particularly the 40-page limit for exceptions and the 25-page limit for replies to exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

If no exceptions are received within twenty (20) days, the decision of the Administrative Law Judge may become final without further Commission action. You will receive written notification if this occurs,

cc:ALJ Cohen/Office of ALJ/S&C/Trans./Law Bureau/Mr. Bramson/OA/Chairman/Commissioners  
Correspondence/OUR FILE

Very truly yours,

Allison K. Turner  
Chief Administrative Law Judge

smk  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Matthew S. Sieber, :  
 :  
t/d/b/a Sieber Trucking :

Docket No. A-00109497

INITIAL DECISION

Before  
Herbert S. Cohen  
Administrative Law Judge

History of the Proceeding

The instant motor carrier application was previously assigned to Administrative Law Judge Harry G. Banzhoff, who recently retired from state service. Consequently, the matter has been reassigned to the undersigned Administrative Law Judge for disposition thereof.

By application filed on or about September 13, 1990, Applicant, Matthew S. Sieber, t/d/b/a Sieber Trucking sought the following authority:

To transport as a common carrier by motor vehicle wood products from points in the counties of Juniata, Mifflin and Perry to points in Pennsylvania.

Thereafter, namely, on or about October 1, 1990, an application for temporary authority and Emergency Temporary Authority was filed, both of which were denied. By Order on Exceptions, Temporary Authority was granted on March 29, 1991,

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from Perry Pallet, Millerstown, Perry County, to points in Pennsylvania.

Protests to the instant application were filed on behalf of Gary L. Ramsey Trucking, Inc. and Robert G. Hack, as well as Butler Trucking Company.

By amendment forwarded to this Commission and to the Protestants under date of October 16, 1990, the instant application was amended by the addition thereto of the following conditions:

PROVIDED That no right, power or privilege is granted to perform transportation to points in the county of Clearfield.

As a result of the above amendment, the protest of Butler Trucking Company was withdrawn.

An initial hearing on the application was held in Harrisburg on February 4, 1991, at which time appearances were entered by: Christian V. Graf and David H. Radcliff, Esquires for the Applicant; J. Bruce Walter, Esquire for Protestant Robert G. Hack; and Christopher Zettlemyer, Esquire for Protestant Gary L. Ramsey.

At said hearing, Applicant produced seven (7) witnesses and sponsored the partial testimony of the Applicant identified as Exhibit 1. A second hearing was held at Harrisburg on March 4, 1991, for protestants' presentation, at which time testimony was received from Carol Ramsey, Robert G. Hack and in

rebuttal by the Applicant, Matthew S. Sieber. At the second hearing, Applicant presented, on request, as Applicant's Exhibit 2, a Certificate of Insurance; as Exhibit 3, data with respect to cargo coverage; as Exhibit 4, a lease for two units; and as Exhibit 5, a lease for one unit. The Protestants appeared through the partial testimony of Ramsey Exhibit No. 1 and Hack Exhibit No. 1.

The parties have filed Main Briefs and Applicant also filed a Reply Brief. The transcribed record of this proceeding consists of 108 pages.

#### Summary of Testimony

Matthew S. Sieber, residing at 115 North Main Street, Mifflintown, Pennsylvania, is the owner of Sieber Trucking, a sole proprietorship. Applicant's terminal is located at 203 Licking Street, Mifflin, Pennsylvania. Mr. Sieber caused to be prepared in written form his partial testimony together with appendices attached thereto and identified in this proceeding as Applicant's Exhibit No. 1. The written, prepared, partial testimony included the following, inter alia:

- (a) Applicant's present authority, namely, that granted by the ICC which permits the transportation of general commodities with the usual exception between points in the U.S. except, Alaska and Hawaii.
- (b) A description of Applicant's terminal facilities including its repair and maintenance capability.

- (c) Applicant's safety program vis-a-vis its motor equipment and its drivers.
- (d) Description of its operating equipment, namely, 9 tractors and 14 trailers.
- (e) Insurance coverage.
- (f) Listing of its 11 drivers.
- (g) Past services performed (i.e., transportation both in inter and intrastate commerce without appropriate authority). However, Applicant noted its subsequent application with this Commission for ETA, TA and permanent authority.
- (h) A submission of Applicant's (Appendix G, Exh. A-1) balance sheet and profit and loss statement for the year 1990.

On cross-examination, Mr. Sieber stated the prior uncertificated/unauthorized intrastate moves commenced in 1990 (Tr. 11). No unauthorized service was performed prior to that date during which he had a lease arrangement with C.D. Zimmerman in Mifflintown and Milton Transportation in Milton (Id.). Applicant has been in the trucking business since May 1982 and began hauling pallets at the request of Jill Becker who was not then satisfied with the carrier hauling for her (Tr. 12). Essentially, Applicant claims he was unaware of this Commission's certification requirements for intrastate carriage since "the companies I was leased with always took care of all the permits and everything" (Id.). Applicant states he was presently under lease to Jay Fulkroad and Sons, Inc., whose authority extends to "just pallets." He bills the shipper for these operations and

charges \$1.90 per loaded mile (Tr. 13, 14). Applicant testified he began to take appropriate steps to become certificated in July 1990 (Tr. 18). Applicant also is under lease to C.D. Zimmerman for whom he hauls steel and bricks (Tr. 20). Finally, Mr. Sieber stated any additional loads he could acquire via certification would help erase his present deficit financial situation (Tr. 24).

Jill A. Becker is employed by Rockland Ridge Farms, Incorporated, a/k/a Ridge View Pallets, with offices at R.D. 1, Box 670, Mifflintown. Her father is President and she is Secretary of the company. She handles all the company's transportation requirements. Ridgeview manufactures pallets and skids (Tr. 26). It now employs Applicant for interstate shipments and in intrastate movements under the lease of Jay Fulkroad and Sons.

A list of destination points to which this company has shipped in the past include Bethlehem, Brockway, Boyertown, Berwick, Aston, Allentown, Denver, Hazleton, New Castle, Lebanon, Lansdowne, Mechanicsburg, Hamburg, Lampeter, Laureldale, Harrisburg, Mountain Top, New Oxford, Morrisville, Trexlertown, Stowe, Pittston, Philadelphia, Quakertown, Reading, West Point, Whitehall, Wrightsville, York and Columbia (Tr. 26, 27).

In the past two years, which were the first two years of business, Ramsey Trucking was used, as were Eddie Mayes and

Garrison. The witness was dissatisfied with Ramsey Trucking because if they couldn't take a load they would call the pallet broker directly, which was unsatisfactory because if the load is not there on time it may be refused, which happened once on a shipment to Baltimore, Maryland, and the load was rejected, resulting in a loss of \$4,000 and the pallets are still back at the witness's shop with no customer in sight (Tr. 28, 29). She prefers Applicant's proposed service because the Applicant has aluminum trailers which permit her to carry a greater volume due to the light weight, which makes the freight price per pallet cheaper and makes her company more competitive in the pallet market (Tr. 29, 30). The service would be used at least once per week and perhaps more frequently. Between interstate and intrastate, the Applicant is used from five to seven loads per week and the service has been excellent.

Ms. Becker testified that on several occasions, Protestant Hack was unable to accommodate her shipments. However, she could not recall whether these were intra or interstate shipments (Tr. 32).

On cross-examination, she admitted she never had seen an actual tariff filed by any of the carriers familiar to her. She also stated Ridge View Pallets owned no transportation equipment of its own (Tr. 39).

Robert Sheaffer is Plant Manager of Treen Box and Pallet, R.D. 1, Mifflintown. The home office is in Bensalem. The company manufactures pallets and Mr. Sheaffer cares for all of its transportation requirements (Tr. 43). Mr. Sheaffer uses Applicant in both inter and intrastate transportation. Some representative Pennsylvania destination points are Allentown, Bellefonte, Bristol, Carnegie, Connellsville, Conshohocken, Downingtown, Fairless Hills, Gettysburg, Harrisburg, Lancaster, Lititz, Logan's Ferry, Mechanicsburg, New Cumberland, Philadelphia, Pittsburgh, Punxsutawney, Tyrone, West Chester, Wilkes-Barre and York (Tr. 44). The Pennsylvania traffic ranges from 12 to 15 loads per week mostly moving by Hack Trucking with occasional loads being transported by the Applicant through its lease with Jay Fulkroad & Sons (Id.). He requires Applicant's proposed service because on several occasions his primary carrier Hack had no available equipment when he needed it (Tr. 45). He stressed the importance of having Sieber Trucking available to him by stating: "I've got those loads ordered any they've got to be there on a certain date" (Id.). He needs a reliable service to back up Hack (Tr. 46). He claimed he had enough traffic so that Hack would not lose any business. On the only occasion he called Ramsey, Ramsey refused the load (Tr. 47). Treen owns four (4) flatbeds and one (1) van. Hack provides the tractors. He advised Mike Rhoades and Gerald Jones "are permanently leased to

us" (i.e., in addition to Hack and/or Sieber) and are on the Treen payroll (Tr. 49).

On cross-examination, he admitted that he had not directly asked either Fulkroad or Ramsey to haul intrastate loads for him (Tr. 52, 53).

Donald Sheaffer is part owner and President of Perry Pallet, Inc., with offices at R.D. 1, Millerstown, Perry County, Pennsylvania. His customers are shipped "all over," basically to the same destination points previously named by Treen Box and Pallet (Tr. 54). Perry manufactures its pallets which are paid for by Treen who in turn obtains the customers to which they are eventually shipped. Perry pays for the transportation charges. Approximately, seven (7) loads per week go to Pennsylvania destination points. Hack usually hauls the Pennsylvania loads and Treen's employees on one occasion. His main reason for supporting this application was to employ it as a backup service in those instances when Hack does not have available equipment to haul its scheduled loads (Tr. 56).

On cross-examination, he admitted that within the "reasonable past" Hack was able to transport all his Pennsylvania-destination loads (Tr. 58). He described an instance when Mr. Hack cursed him out for giving a load of pallets to someone else and emphasized he was not going to put up with this type of conduct (Tr. 60). On further cross-

examination, he complained about Hack not having a dispatcher and not being able to get an immediate decision from a responsible party on those occasions when he requires transportation on very short notice (Tr. 62). He characterized Hack's service as "doing an 80 percent job" (Tr. 63).

Roy Weaver resides at Beaver Springs, Pennsylvania, and used to be involved in the pallet business. He recently formed a new company, namely, J & M Pallet and expects to commence operations some time in 1991 (Tr. 64, 65). He was last involved in the pallet business in 1989 at which time he sold the company. The new pallet shop is located in R.D. 1, Mifflintown, Juniata County, Pennsylvania, and 80 percent of the necessary equipment has already been purchased. He anticipates producing one or two truckloads of products per week and will obtain customers through the services of a broker (Tr. 65, 66). He will arrange for the transportation of the pallets and will pay for this service (Tr. 67). He would use Applicant's service and expects to ship one or two loads of pallets per month to Pennsylvania destinations. He used Protestant Hack's service "once or twice in eight years" (Tr. 68). He didn't expect to contact other carriers because of his anticipated small volume of production.

Randall Pellman is Manager of Truss Tech, 504 Railroad Avenue, Mifflin, Pennsylvania, a manufacturer of wooden roof trusses. He is also responsible for scheduling its

transportation requirements (Tr. 70, 71). Ninety-five (95) to 98 percent of the company's shipments are to Pennsylvania destination points. Applicant has handled the bulk of his intrastate shipments as well as its interstate traffic. He has also used Charles Ryan Trucking. Mr. Pellman called Robert G. Hack five or six times for Pennsylvania service in the past but received no response. Ramsey Trucking was called four or five times and did not handle any of the loads (Tr. 72). He claimed Ryan dedicated most of its equipment for use by Agway and neglected his account.

His company has shipped product to Mechanicsburg, Camp Hill, Carlisle, Dillsburg, Harrisburg and State College (Tr. 72). He requires the availability of the Applicant's service because his own two trailers are only 37 feet long and they cannot haul 45-foot to 65-foot long trusses (N.T. 73). During the summer months and fall months, he would use the Applicant two or three times per week and feels its service is essential (Tr. 74).

David Wingert is a partner in the firm known as Oakland Pallet Company, R.D. 2, McAllisterville, Juniata County, Pennsylvania. The firm manufactures wooden pallets which it produces in quantities of six or seven truckloads per week (Tr. 77). These pallets are shipped to Pennsylvania and/or New Jersey. Some representative destination points within Pennsylvania are Harrisburg, York and New Kensington (Id.). He

pays the trucking company. A broker obtains his customers. He arranges for the transportation of pallets to the customer-user. He is presently using Dave Zimmerman's Trucking. Ramsey Trucking gets his "extra" loads (Tr. 78). He has been using Ramsey in intrastate transportation since 1988 and Zimmerman since 1984. He described Ramsey's response as only "fair" (Tr. 79). He would use Applicant as a backup service for Pennsylvania shipments to the above referenced three destination points, which points are served approximately once per week (Tr. 80). He has used Hack's service in the past but claims Hack once told him he didn't have time to service his account. Consequently, he made arrangements with Ramsey. On cross-examination, he admitted that Ramsey in effect was now his backup service (Tr. 81).

Jill A. Becker was recalled and testified that when the lease with Ramsey Trucking was cancelled she asked Mrs. Ramsey that if the use of Applicant did not work out whether she would again be willing to handle her loads, and she replied, "No, I am not going to take anything more out of this shop." Ms. Becker stated that there are 31 pallet manufacturers in the three-county area, all requiring transportation (Tr. 83).

Carol L. Ramsey is Secretary/Treasurer of Ramsey Trucking, Protestant herein. She testified that Gary L. Ramsey Trucking, Inc. ("Ramsey") has authority to transport wood products, building materials, pallets, pallet lumber, graded

lumber, wood ties, slab wood, aluminum siding, nails, insulation and wood fence between points in the counties of Juniata, Mifflin and Huntingdon and from points in said counties to points in Pennsylvania and vice versa (Ramsey Exh. 1, p. 2, Exh. B). Ramsey's first authority from this Commission was obtained on or about February 9, 1989 (Tr. 94).

Mrs. Ramsey indicated that her company owns eight tractors, eight flatbed trailers and two van trailers which are used primarily for the transportation of wood pallets. She stated that during a 14-month period, January 1990 through February 1991, her company hauled approximately 30 loads per week. She testified she had, on the average, three tractors available every day to provide service to additional customers (Ramsey Exh. 1, p. 3). She claimed that after her services to Ridge View Pallets were terminated on June 2, 1990 (Ramsey Exhibit 1, pp. 3-4), her company experienced a loss in excess of \$51,000 in income as compared to her company's income from Ridge View Pallets for the year 1990.

Mrs. Ramsey contended she advised the Applicant about his need for authority to operate in Pennsylvania on May 4, 1990 (Tr. 92).

She was not aware of her total revenue for the years 1988, 1989 and 1990. However, the Annual Reports filed with the Pennsylvania Public Utility Commission for 1988 and 1989 were

incorporated into the record by reference (Tr. 97). Mrs. Ramsey further stated she would be willing to take Applicant on as a leased operator in the event he fails to obtain the necessary certification from this Commission (Tr. 93).

On cross-examination, she testified that since June 2, 1990, she has served Rockland Pallets, Ridge View Pallets, J. Box and Lumber, Oakland Pallets, J & N, who no longer is in business, and Rickenbaugh's Building Supply (Tr. 98). She also served these companies prior to June 2, 1990.

Robert G. Hack, is principal owner of Robert G. Hack with offices at R.D. 2, Mifflintown, Pennsylvania. Hack holds authority from this Commission at A.108883 and accordingly can transport pallets and lumber between points in the counties of Juniata, Perry, Snyder and Mifflin and from points in said counties to points in Pennsylvania and vice versa, subject to certain conditions (Tr. 102). Hack also holds ICC authority. His intrastate transportation amounts to 15-20 loads per week (Hack Exh. 1, p. 3). Hack's terminal facility is in Mifflintown. He employs eight drivers and his equipment consists of eight tractors, which he owns; three van trailers, 102 inches wide, permitting the transportation of pallets; ten flat trailers, each 48 feet long. Ninety (90) percent of Hack's revenues is derived from the transportation of pallets. The company provides both inter and intrastate transportation for Treen Box and Pallet and

Perry Pallet. It has provided limited service to Oakland Pallet Company.

With respect to Jill Becker's testimony, he alleged "she has rarely called and never called on a day when we had capacity. She never sought our services on a continuous basis so that it is difficult to reserve trucks for her" (Hack Exh. 1, p. 4). Respecting brokers, he claimed they "continually change load requests" so that he is never sure which load is most important from a time standpoint. He testified he is presently providing most of the supporting shippers with satisfactory service and that both Butler Trucking and Jordan Trucking have the authority to provide the type of transportation Applicant is seeking.

On cross-examination, he admitted he hauled pallets for seven years prior to May 17, 1990, the date he obtained Commission authority for this activity (Tr. 104).

#### Findings of Fact

1. On March 29, 1991, Applicant, Matthew S. Sieber, t/d/b/a Sieber Trucking was granted authority from Perry Pallet, Millerstown, Perry County, to points in Pennsylvania. To date, Applicant holds no other PUC authority.

2. Applicant does have ICC Authority which permits the transportation of general commodities with the usual

exceptions between points in the United States except Alaska and Hawaii.

3. Applicant has adequate terminal and equipment maintenance and/or repair facilities (Exh. A-1, p. 2).

4. Applicant presently operates nine tractors and 14 trailers. Five of these trailers are leased to C.D. Zimmerman of Mifflintown and two are leased to Jay Fulkroad & Sons, Inc. All are company owned (Tr. 6, 19; Exh. A-1, App. B; Exh. A-1, p. 2).

5. Applicant is adequately insured and conducts a meaningful driver education/safety program (Tr. 3).

6. Applicant presently employs eleven (11) drivers.

7. Applicant has previously operated in intrastate transportation in Pennsylvania without having obtained the requisite Commission authorization to do so.

8. Applicant applied for Commission certification upon learning of the need for same. To remedy the absence of PUC authority, Applicant entered into a lease arrangement with Jay Fulkroad & Sons, Inc., whereby he leased his equipment to the carrier so that he could continue to provide service in Pennsylvania. Said lease arrangement is still in effect (Exh. A-1, p. 4).

9. Applicant is financially fit to operate under the proposed new grant of authority sought by this application.

10. Ridgeview Pallets of R.D. 1, Mifflintown, a pallet manufacturer, ships to both inter and intrastate destination points. Some Pennsylvania destination points to which it has shipped in the past include Bethlehem, Brockway, Boyertown, Berwick, Aston, Allentown, Denver, Hazleton, New Castle, Lebanon, Lansdowne, Mechanicsburg, Hamburg, Lampeter, Laureldale, Harrisburg, Mountain Top, New Oxford, Morrisville, Trexlertown, Stowe, Pittston, Philadelphia, Quakertown, Reading, West Point, Whitehall, Wrightsville, York and Columbia (Tr. 26, 27).

11. During the initial past two years of Ridgeview's operation, it has used the services of Ramsey Trucking. Ridgeview is not satisfied with Ramsey's service (Tr. 28, 29).

12. Applicant's aluminum trailers are more useful to Ridgeview because they can carry loads of a greater volume, which makes the freight price per pallet cheaper and makes his company more competitive in the pallet market (Tr. 29, 30). Ridgeview would use Applicant's proposed service at least once per week.

13. Treen Box and Pallet, R.D. 1, Mifflintown ships to some 112 Pennsylvania destination points. Some representative ones are Allentown, Bellefonte, Bristol, Carnegie, Connellsville, Conshohocken, Downingtown, Fairless Hills, Gettysburg, Harrisburg, Lancaster, Lititz, Logan's Ferry, Mechanicsburg, New Cumberland, Philadelphia, Pittsburgh, Puxsutawney, Tyrone, West Chester, Wilkes-Barre and York (Tr. 44).

14. The Pennsylvania traffic ranges from 12-15 loads per week mostly moving by Hack Trucking with some loads being transported by Applicant via its lease with Jay Fulkroad & Sons (Tr. 44).

15. Applicant has been used when Hack had no available vehicles for Treen. Treen lost an account in New York because Hack and Ramsey would not and/or could not haul for Treen when their respective services were requested by Treen (Tr. 46).

16. Perry Pallet, Inc., has a manufacturing facility in Millerstown, Perry County, where pallets are shipped to many of the same Pennsylvania destination points testified to by supporting witnesses Treen and Ridgeview. All told Perry Pallet has over 100 Pennsylvania destination points.

17. Perry Pallet ships approximately seven loads per week to Pennsylvania destination points (Tr. 55). Treen and Hack have transported some of Perry Pallet's loads.

18. Perry Pallet would primarily employ Applicant as a backup service on those occasions when Hack could not meet its immediate transportation requirements (Tr. 57). On at least one occasion, Hack turned down a Perry Pallet load which was eventually carried by one of Treen's trucks (Tr. 60).

19. Perry Pallet is dissatisfied with Hack's scheduling/dispatch procedures (Tr. 62).

20. Roy Weaver, the former owner of a pallet business, since sold, has formed a new pallet manufacturing company, namely, J & M Pallet, located in Mifflintown, Juniata County.

21. Mr. Weaver expects to ship one or two truckloads per week from this new facility. He is familiar with Applicant's operations and would use its proposed service once or twice per month (Tr. 67).

22. Truss-Tech is a company which manufactures wooden roof trusses in Mifflin, Juniata County. It ships these products both within and without the borders of Pennsylvania (Tr. 70, 71).

23. Truss-Tech has used Applicant in interstate movements. Truss-Tech received no response from Protestant Robert G. Hack after calling him five or six times for service. Likewise, Protestant Ramsey was called four or five times and did not handle any of its loads (Tr. 72).

24. Truss-Tech has moved loads via Mr. Sieber's leasing arrangement (Tr. 72). During the summer and fall months, Truss-Tech would use Applicant's proposed service two or three times per week (Tr. 74).

25. Oakland Pallet Company, R.D. 2, McAllisterville, Juniata County, ships six or seven loads of wooden pallets per week to points in New Jersey and Pennsylvania (Tr. 77). Oakland Pallet on one occasion was told by Protestant Hack to get someone else to haul its pallets (Tr. 80).

26. Oakland Pallet Company would use Applicant's proposed service as a backup service to transport product to Harrisburg, York and New Kensington (Tr. 79).

27. Protestant, Gary L. Ramsey Trucking, Inc. ("Ramsey") has authority to transport wood products, building materials, pallets, pallet lumber, graded lumber, wood ties, slab wood, aluminum siding, nails, insulation and wood fence between points in the counties of Juniata, Mifflin and Huntingdon and from points in said counties to points in Pennsylvania and vice versa (Ramsey Exh. 1, p. 2, Exh. B).

28. Ramsey owns eight tractors, eight flatbed trailers and two van trailers which are used primarily for the transportation of wood pallets. During a fourteen-month period, January 1990 through February 1991, Ramsey hauled approximately thirty loads per week. On the average, Ramsey has three tractors available every day to provide service to additional customers (Ramsey Exh. 1, p. 3).

29. After Ramsey's services to Ridge View Pallets were terminated on June 2, 1990, it experienced a loss in excess of \$51,000 in income as compared to the company's income from Ridge View Pallets for the year 1990 (Ramsey Exh. 1, pp. 3, 4).

30. Ramsey is willing to provide service to any shipper requesting same pursuant to authority authorized by this Commission.

31. Protestant, Robert G. Hack, has authority at A.108883 to transport pallets and lumber between points in the counties of Juniata, Perry, Snyder and Mifflin and from points in said counties to points in Pennsylvania and vice versa, subject to certain conditions (Tr. 99, 102) (Hack Exh. 1).

32. Hack transports approximately 15-20 intrastate loads per week (Hack Exh. 1, p. 3). Ninety (90) percent of Hack's revenues comes from the transportation of pallets.

33. Hack's transportation equipment consists of eight tractors, three van trailers, and ten flat trailers.

34. Hack now services Treen Box and Pallet and Perry Pallet and has also provided limited service to Oakland Pallet Company. Hack does not serve Truss Tech (Hack Exh. 1, pp. 1-3).

35. During the seven years prior to its grant of authority on May 17, 1990 at Docket No. A.108883, Hack hauled pallets in intrastate movements (Tr. 104).

#### Discussion

Section 1103(a) of the Public Utility Code, 66 Pa. C.S. §11036, requires an applicant who proposes to provide transportation services to obtain a certificate of public convenience. The certificate will be granted if it is necessary or proper for the service, accommodation, convenience, or safety of the public.

To implement this Section, the Commission has established evidentiary criteria found at 52 Pa. Code §41.14. According to the Commission's regulations, an applicant must show that a public need exists for the proposed service, and that the applicant possesses the technical and financial ability and the legal fitness to provide the proposed service. A protestant bears the burden of showing that the entry of the new carrier would endanger or impair the existing carriers' operations, thus rendering the grant of the certificate contrary to the public interest.

We shall apply the above criteria to the evidence adduced in the instant case.

A. Need

First, an applicant for a common carrier certificate must demonstrate that the application will serve a useful public purpose, responsive to a public demand or need. Section 41.14(a) of the Commission's regulations provides:

An applicant seeking motor common carrier authority has a burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need.

This burden is met by showing a need for additional service and the tendency of the proposed service to correct the defects in existing service. It may be that one additional carrier, if not completely correcting the situation, would at least tend to

improve it. The grant of a certificate of public convenience may improve service to the public by forcing improvement of the service rendered by others. An additional certificate carrier may require existing carriers in an area to render better service in order to meet competition. This also serves the public. Motor Freight Express v. Pennsylvania Public Utility Commission, 180 Pa. Superior Ct. 294, 119 A.2d 661 (1956).<sup>1</sup>

Applicant presented the testimony of six (6) supporting shipper witnesses by whom he attempted to meet his burden of proof on this issue. The testimony of these witnesses has been summarized supra. We now will list some of the pertinent areas of same.

Jill A. Becker, Secretary of Ridge View Pallets, Mifflintown, Juniata County:

- (1) Manufacturer of pallets and skids.
- (2) Now uses Applicant under the lease of Jay Fulkroad and Sons (Tr. 26).
- (3) Representative destination points include points in Berks, Columbia, Delaware, Lehigh, Montour, Luzerne, Lawrence, Lebanon, Union, Dauphin, Adams, Bucks, Montgomery, Philadelphia, York and Columbia Counties (Tr. 26, 27).

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<sup>1</sup>The Motor Freight Express case also requires a showing of inadequacy of existing service. However, this showing is no longer needed. Morgan Drive Away, Inc. v. Pennsylvania Public Utility Commission, 99 Pa. Commonwealth Ct. 420, 512 A.2d 1359, 1360 n.2 (1986).

- (4) She dealt with Ramsey Trucking up until June 2, 1990; she used Eddie Mayer and Garrison on occasion if Ramsey was not available (Tr. 28).
- (5) She is dissatisfied with Ramsey's service (Tr. 28).
- (6) She needs Applicant's aluminum trailers which enable her to move "heavy weight" pallets, more so than she can by using Ramsey's trailers (Tr. 29). This makes her freight price per pallet cheaper and makes her service "more competitive" in the pallet market.
- (7) She now uses Applicant's service about once a week. Applicant's service has been excellent.
- (8) Applicant's drivers, unlike Ramsey's, strap down the loads which cuts down on the overtime (Tr. 30).
- (9) Ms. Becker has called Protestant Hack several times and Hack could or would not provide the requested service (Tr. 32).
- (10) Applicant now obtains nearly all her intrastate service requirements via Applicant's lease with Jay Fulkroad and Sons (Tr. 33).
- (11) Applicant charges her from her dock to the destination; Ramsey charged from Mifflintown to the destination, a difference of about eight miles (Tr. 35).
- (12) Ridgeview has no transportation equipment of its own (Tr. 39).
- (13) She objected to Ramsey talking to her pallet broker whenever she wanted to schedule a load (Id.).
- (14) She pays Applicant directly for his services.

Robert Sheaffer is Plant Manager of Treen Box and Pallet, Mifflintown, Juniata County:

- (1) Manufactures pallets.
- (2) Has 112 intrastate destination points in Pennsylvania (Tr. 43, 44).
- (3) Ships 12-15 loads per week to Pennsylvania destination points (Tr. 44).
- (4) Protestant Hack carrying most of his traffic. Applicant, via Fulkroad lease, is backup to Hack for intrastate traffic.
- (5) On several occasions, Hack had no equipment available for Sheaffer's use. He had to call Applicant at such times. Happened infrequently.
- (6) Hack would still be used; Applicant still would be a backup service. Ramsey never hauled for him. Ramsey refused his load on the one occasion it was called (Tr. 46, 47).
- (7) Treen hauls some of its own loads (Tr. 49).
- (8) Sieber has been hauling for them since around August 1990.
- (9) Has had no contact with Fulkroad now or in the past (Tr. 51).
- (10) Doesn't believe there will be anything different between Treen and Applicant if this application is approved (Tr. 51).
- (11) Mr. Sheaffer pays Applicant directly for its services (Tr. 52).

Donald Sheaffer, part owner and President of Perry Pallet, Inc., Millerstown, Perry County:

- (1) Manufactures wooden pallets for Treen.
- (2) Ships to same destination points as Treen.

- (3) Ships to Pennsylvania points once every week (Tr. 55). Seven loads per week.
- (4) Has been using Hack. Used Applicant on one occasion when Hack had no available equipment (Tr. 56).
- (5) Would use Hack as a backup service (Tr. 57).
- (6) Has had personal problems--i.e., Hack cursing him--with Hack (Tr. 60).
- (7) Grant of authority to Applicant will give him more of a choice as to which carrier to select (Id.).

Roy Weaver has formed J & M Pallet, a pallet manufacturing company, located in Mifflintown, Juniata County:

- (1) Anticipate 1-2 intrastate truckloads per month (Tr. 66).
- (2) Would use Applicant.
- (3) Familiar with Hack and Ramsey (Tr. 67, 68).

Randall Pellman, Manager of Truss-Tech, Mifflin, Juniata County:

- (1) Manufactures wooden roof trusses.
- (2) 95-98 percent of outgoing traffic is to intrastate destination points.
- (3) Has used Applicant in both intra and interstate traffic. Also used Ryan Trucking (Tr. 71, 73).
- (4) Protestant Hack did not respond to 5-6 requests for deliveries (Tr. 72).
- (5) Protestant called Ramsey 4-5 times for service but Ramsey did not respond (Id.).

- (6) Truss-Tech's longest trailers are only 37 feet which limits length of trusses. They construct 45-65 foot trusses which Applicant is able to carry (Tr. 73, 74).
- (7) During summer and fall peak seasons, would use Applicant 2-3 times per week.
- (8) Truss-Tech pays Applicant directly for its services.
- (9) Ryan now hauls principally for Agway and has put Truss-Tech "on the back burner" (Tr. 72).

Daniel Wingert, partner in Oakland Pallet Company,

McAllisterville, Juniata County:

- (1) Manufactures wooden pallets.
- (2) Ships 6-7 truckloads/week to New Jersey and Pennsylvania.
- (3) Representative Pennsylvania destination points are Harrisburg, York and New Kensington (Tr. 77).
- (4) Pays trucking company.
- (5) Now using Dave Zimmerman's Trucking.
- (6) Protestant Ramsey gets the "extra loads" (Tr. 78).
- (7) Using Ramsey to Pennsylvania destinations since 1988; Zimmerman since 1984.
- (8) Ramsey's response for service is "fair" (Tr. 79).
- (9) Has never used Applicant for intrastate service (Tr. 79). Would use it as a backup service.
- (10) Has one load/week to Pennsylvania points (Tr. 80).

(11) Hack has hauled for Oakland when Ramsey was not available.

(12) On one occasion, Hack refused to haul its load (Tr. 80).

(13) Ramsey now acts as its backup service (Tr. 81) and is meeting his needs.

Protestant Robert G. Hack has framed the "need" issue

in the following fashion:

Applicant is, on this record, now actually performing the service applied for. Applicant has to choose whether the service he is now and continually performing is legal or not. Having chosen to rest his case on the theory that current service by Applicant for each public witness is legal, there can be no finding of a need for additional authorized service.

(Hack M.B., p. 5).

Protestant Hack argues that at best Applicant's shipper witnesses, the majority being now served by Applicant via its leasing arrangement with Fulkroad, are merely expressing a continued preference, not an actual need for Applicant's continued service. In support of the foregoing Protestant Hack enumerates the following circumstances appearing in the record:

(1) No mention of traffic of any kind is established by competent evidence of new traffic not being performed by Applicant, other than the vague possibility of backup service for Oakland Pallet in McAlisterville [sic] or Roy Weaver. No volume figure was provided for this alleged traffic.

(2) One witness who did testify established no need at all because he has no traffic currently or need for other carriers in the future (Roy Weaver, N.T. 64, 68).

(3) Each and every witness is currently having his or her needs met by the Applicant and others, or in the case of Oakland Pallet, three (3) carriers.

(4) There is only one witness from one point in Perry County (Donald Schaeffer, N.T. 53).

(Hack M.B., p. 6).

Thus, Protestant Hack concludes that "[i]f the Commission finds Applicant's conduct to be legal, then Applicant will continue to provide the same transportation, whether or not this application is granted" (Hack M.B., p. 8).

Protestant Ramsey likewise argues that Applicant has not demonstrated a need for the proposed service. Ramsey correctly notes that "no testimony has been submitted whatsoever of a need for service in Mifflin County" (Ramsey M.B., p. 8). Like Protestant Hack, Ramsey also notes that Applicant "is now substantially performing the service proposed." Moreover, Ramsey asserts Applicant's supporting shipper testimony "cannot be considered when determining need for the service proposed if the Commission finds Applicant's operations to be unlawful and in deliberate disregard for the law." Finally, Ramsey states existing carriers, among them instant Protestants, are now providing or are willing to provide any and all reasonable demands for service.

Our own examination of the record leads us to make the following pertinent findings with respect to the testimony of Applicant's six supporting shipper witnesses:

1. Jill Becker - Ridgeview Pallets, Mifflintown, Juniata County.

Applicant now serves this shipper under its lease with Jay Fulkroad and Sons (Tr. 26). Consequently, the grant of the proposed authority would not authorize the furnishing of a new and/or additional service by Applicant. While it is true that Ridgeview is dissatisfied with Ramsey's service, having discontinued same June 2, 1990, it is now receiving "excellent" service from Applicant via Applicant's Fulkroad lease arrangements. We further note Applicant's present service fills a particular need of Ridgeview, namely, Applicant's aluminum trailers enable Ridgeview to load more "heavy-weight" pallets than could Ramsey's trailers. Also, Applicant's drivers, unlike Ramsey's, strap down the loads which eliminates overtime for the shipper and makes it more competitive in the market.

Summarizing, we find that Applicant will not be providing a new or additional service for this shipper. He is, however, providing a beneficial and different service, which meets a particular need of the shipper.

2. Robert Sheaffer - Treen Box and Pallet, Mifflintown, Juniata County.

Protestant Hack now carries most of this shipper's traffic. Applicant, via the Fulkroad lease, is a backup to Hack for Treen's intrastate traffic. In the event the instant application is granted, the shipper would still use Hack as its primary carrier. Applicant would still be used as a backup carrier. Applicant has been hauling for Treen since August 1990. However, respecting the referenced lease agreement, this shipper has never had any contact with Fulkroad, now or in the past. The shipper testified that there will be nothing different vis-a-vis its business dealings and/or operations with Applicant in the event the instant application is granted (Tr. 51).

3. Donald Sheaffer - Perry Pallet, Inc., Millerstown, Perry County.

On March 29, 1991, Applicant received temporary authority to serve this shipper directly. If the instant application is approved, Perry Pallet would use Applicant as a backup service on those occasions when Hack can't supply equipment (Tr. 56, 57). Mr. Sheaffer has had some confrontational personality problems with Mr. Hack. The grant of authority will give Perry Pallet "more of a choice" in the selection of a carrier (Tr. 60).

4. Ray Weaver - J & M Pallet, Mifflintown, Juniata County.

This is a newly formed company which doesn't anticipate significant traffic during its early stages of operation, i.e., 1991. It expects to ship 1-2 intrastate loads per month (Tr. 66). It employs no carriers at this time and would consider using Applicant if authority is granted.

5. Randall Pellman - Truss-Tech, Mifflintown, Juniata County.

Shipper has used Applicant in both inter and intrastate traffic. 95-98 percent of outgoing shipments move to Pennsylvania destination points. Also uses Ryan Trucking whose main interest now lies in servicing Agway's traffic to the detriment of Truss-Tech. Got no response from Hack for 5-6 service requests. Ramsey did not respond to 4-5 service requests (Tr. 72). Shipper has special need for Applicant's longer trailers which enables it to carry 45-65 foot trusses (Tr. 73, 74). Using Applicant 2-3 times/week during peak summer and fall seasons, shipper pays Applicant directly for its services.

6. Daniel Wingert - Oakland Pallet Company, McAllisterville, Juniata County.

Shipper now uses David Zimmerman Trucking and gives Protestant Ramsey the "extra" loads (Tr. 78). Has been using Ramsey to Pennsylvania destinations since 1984; Ramsey, since

1988. Shipper has never used Applicant for intrastate traffic. Would now use it as a backup service (Tr. 79). Hack has hauled for this shipper when Ramsey was unable to do so. On one occasion, Hack refused to transport a load (Tr. 80). Shipper now uses Ramsey as its backup service and it is meeting its needs (Tr. 81).

In Blue Bird Coach Lines, Inc., A.88807, Folder 2, Am-K (April 27, 1990) at pages 27 and 28, the Commission, on the question of public need, stated as follows:

An applicant is not required to establish a public demand/need for the proposed transportation in each and every point within the requested operating territory. Morgan Drive Away, Inc. I; Purolator Courier Corp. II; Purolator Courier Corp. I; Re Eagle Courier. Typically, the applicant may sustain its burden of proof by establishing a public demand/need for the applicant's proposed service generally throughout the territory encompassed by the application. Morgan Drive Away, Inc. I; Purolator Courier Corp. II; Re Eagle Courier. (At pages 27, 18).

It also stated:

Both appellate court decisions and Commission orders have confirmed that, in the context of subsection 1103(a), a public demand/need for an applicant's proposed transportation service may be proven through witnesses comprising a representative sampling of the public that will use the applicant's proposed service within the territory encompassed by the application. Purolator Courier Corp. v. Pennsylvania Public Utility Commission (Purolator Courier Corp. II), 51 Pa. Commonwealth Ct. 377, 414 A.2d 450 (1980); Purolator Courier Corp. I; Application of Van Trans. Inc., A-0010153, F.5 (Order adopted June 25, 1987, entered July 8, 1987); Re Eagle

Courier and Limousine Service, Inc. (Re Eagle Courier), 57 Pa. P.U.C. 404 (1983).

Protestants agree, inter alia, that Applicant is now substantially performing the proposed service via his leasing arrangement with Fulkroad, assuming arguendo that such leasing arrangement is a "legal" one. Hence, they contend "Applicant has not presented testimony of a substantial nature which is representative of need for additional or new service which he is not already performing or which he could perform" (Ramsey, M.B., p. 10; Hack, M.B., pp. 7, 9).

We do not agree that the foregoing arguments conclusively establish that Applicant has failed to meet his mandated burden of proof on the "need" issue. As previously noted, supra, Section 41.14(a) states an applicant must demonstrate that approval of the application "will serve a useful public purpose, responsive to a public demand or need." We think Applicant has met that burden. Applicant is engaged in a specialized type of service, namely, transporting wooden pallets and trusses. Some of the supporting shippers have testified they have special transportation needs and/or requirements and Applicant has met those needs. In this regard, the record shows that:

- (a) Ridge View Pallets require Applicant's aluminum trailers which enable it to haul "heavy weight" pallets. This makes freight on pallets cheaper and makes Ridge View more competitive in the pallet market (Tr. 29).

- (b) Applicant's drivers, unlike Protestant Ramsey's, strap down the loads, thus cutting down on overtime by Ridge View employees (Tr. 35).
- (c) Applicant charges from dock-to-destination; Protestant Ramsey charges from Mifflintown to destination, a difference of about eight miles (Tr. 35).
- (d) Truss-Tech's longest trailers are 37 feet, thereby limiting the length of the trusses it can ship. Applicant's equipment can carry the 45-65 foot trusses manufactured by Truss-Tech (Tr. 73, 74).

Clearly, Applicant is responding to the peculiar demands and needs of certain shippers in the pallet and truss industry.

We further note the complaints of shipper witnesses for Truss-Tech, Treen Box and Pallet, Oakland Pallet and Ridge View Pallet to the effect that Protestants either refused to accept their loads, had confrontational disputes with them, were not rendering satisfactory and/or timely service or at one time or another had no equipment available for their use (Tr. 28, 32, 44-46, 60, 72, 80).

Moreover, witness Becker of Ridge View Pallets testified that contact with Protestant Ramsey after its lease had been terminated disclosed Ramsey's unwillingness to handle Ridge View loads in the future (Tr. 83).

The supporting shippers indicated both the origin points of their respective shipments and the destination points

to which they required service. Among the representative statewide destination points mentioned were Jefferson, Lawrence, Allegheny, Lehigh, Dauphin, Cumberland, Lancaster, Northampton, Delaware, Luzerne, Adams, Montgomery, Bucks, Fayette, Blair and Luzerne counties. Singularly omitted, however, was an origin point from Mifflin County.

Our review of the record leads us to conclude that Applicant has met its burden of proof on the "need" issue with respect to offering service from points in the counties of Juniata and Perry to points in Pennsylvania. Moreover, we believe Applicant is offering the pallet-truss shipping public an improved type of service which will enable them to operate more competitively in their respective specialized industries.

B. Fitness of Applicant

Two "fitness" issues have been raised by Protestants, namely, the "legality" of Applicant's leasing arrangement with Jay Fulkroad and, prior illegal, uncertificated service.

Applicant admittedly has no current permanent intrastate operating authority. It applied for both ETA and TA, both of which were denied by this Commission. By Order on exception, temporary authority was granted on March 29, 1991, from Perry Pallet, Millerstown, Perry County, to points in Pennsylvania. As previously noted, Applicant also holds ICC authority.

Applicant presented the following written testimony by way of explanation and/or mitigation of his prior uncertificated intrastate operations:

I did haul without authority in interstate commerce and in Pennsylvania in the belief that I did not need that authority. When I was informed that I needed interstate authority I immediately applied for it and though it was protested it was still granted. When it was brought to my attention by one of the protestants that I needed authority I immediately checked with present counsel who advised me that authority was needed and I immediately filed for ETA, T/A and permanent authority. In the meantime I worked out a lease arrangement with Jay Fulkroad & Sons, Inc. where I leased my equipment to that carrier so that I could continue to provide service in that fashion for the 3 shippers who are supporting this application and I have been running under lease since then. Naturally when I serve them in interstate commerce now I use my authority and I have insurance on file and tariffs on file with the Interstate Commerce Commission.

(Partial Testimony of Matthew S. Sieber, p. 4).

Protestant Carol Ramsey testified that she advised Applicant on May 4, 1990, after her leasing contract with Ridge View Pallets had been cancelled, that Applicant "was going to need rights to do this hauling in state and out of state" (Tr. 92). Thereafter, Applicant retained legal counsel and filed the instant application on or about September 13, 1990. Applicant's application for ETA and TA was denied by Order of this Commission dated October 1, 1990.

It is well recognized that a persistent disregard for, flouting or defiance of the Public Utility Code and the Orders

and Regulations of the Commission warrant a finding of lack of fitness, relative to a propensity to operate illegally. Hubert, et al. v. Pa. Public Utility Commission, 118 Pa. Super 128 (1935). However, it is also well established that an Applicant's propensity to operate legally is only one aspect of "fitness." See: B.B. Motor Carriers, Inc. v. Pa. Public Utility Commission, 36 Pa. Cmwlth. Ct. 26, 289 A.2d 210 (1978); Application of Amram Enterprises, Ltd., A-00100531, F.1, Am-C (December 23, 1983); Application of Mansun North, Inc., A-00101577, F.1, Am-C (December 7, 1989).

While Applicant's prior uncertificated operations demonstrate negligent conduct respecting adherence to Commission Regulation and/or legislative direction, it does not, in our opinion, rise to the court enunciated standards of a persistent disregard for, flouting or defiance of the Public Utility Code and the Orders and Regulations of this Commission. When told he needed authority to continue in his operations, Applicant retained counsel and took the appropriate legal steps to obtain proper certification. While not relevant to Applicant's "fitness" for purposes of this proceeding, we note that the record shows that Protestant Hack hauled pallets illegally for seven years before obtaining necessary Commission certification (Tr. 104). This certainly does not constitute appearing in court with clean hands.

As for Applicant's leasing arrangement with Jay Fulkroad, they most likely constitute a technical violation of the Commission's leasing regulations. Supporting shippers are bypassing Fulkroad and dealing directly with Applicant with regard to arranging and paying for their respective transportation requirements. This practice, in the event the applicant is denied by this Commission, should cease. The "leasing of authority" cannot be condoned. However, given Applicant's assertion that he was unaware of the need to obtain authority for his pallet moves and his interim solution of the problem by entering into the Fulkroad lease arrangement shows a "good faith" effort, however, technically improper to comply with the law as Applicant imperfectly understood it.

Applicant's financial statements, particularly Appendix G to Exhibit 1, reveals that Applicant had a cash position in excess of \$9,000; total assets of \$361,920; and a profit for the year 1990 of \$21,853.52, which reduced his capital deficit to \$13,788.82.

For all the above reasons, we believe Applicant has demonstrated both the technical and financial ability and the legal fitness to provide the proposed service.

C. The Public Interest

It has been declared that in enacting the Public Utility Code the legislature sought to protect "the public

interest and convenience," not any accrued financial interest of established carriers. Thus, subsection 41.14(c) requires protesting carriers to prove that the entry of a new carrier into the transportation field would endanger or impair their existing operations to such an extent that, on balance, the granting of the requested authority would contravene the public interest. Application of Blue Bird Coach Lines, Inc., Docket No. A-00088807, F.2, Am-K (March 15, 1990). It has also been held by the Courts and this Commission that the mere potential for diversion of traffic volume from existing carriers to an applicant is insufficient to sustain the protesting carrier's burden of proof. Thus, it is only the threat of unrestrained and destructive competition which is inimical to the public interest. We have no such situation here. Protestant Ramsey asserted it lost \$50,000 in income when it lost the Ridge View Pallet account. The witness for Ramsey admitted that Ramsey served Ridge View Pallets prior to its initial grant of authority under a lease (Tr. 95, 96). In any event, the witness for Ridge View testified she was not satisfied with Ramsey's service (Tr. 28, 29). Jill Becker, the supporting shipper witness for Ridge View Pallets, testified there are thirty-one (31) pallet manufacturers in the three-county area involved in this application (Tr. 83). The pallet business appears to be there. Perhaps approval of this application will stimulate Protestants to improve or enhance

their service to meet that now offered by Applicant. If so, surely the public will benefit. The Protestants have successfully survived Applicant's competition over all those years he operated without Commission authority. Why can they not survive now? Finally, many of the supporting witnesses testified that they intended to use Applicant as their backup and not their primary carrier.

From the foregoing, we conclude Protestants did not meet the burden of proof imposed upon them by 52 Pa. Code 41.14(c).

#### Conclusions of Law

1. The Commission has jurisdiction over the subject matter and the parties.
2. Applicant has established technical and financial fitness.
3. Applicant has established a need for the proposed service.
4. Approval of the application would not be contrary to the public interest.

Order

THEREFORE,

IT IS HEREBY ORDERED:

1. That the application of Matthew S. Sieber, t/a Sieber Trucking at Docket No. A-00109497 be and is hereby approved and that a certificate be issued granting the following rights:

To transport as a common carrier by motor vehicle wooden pallets, skids and trusses from points in the Counties of Juniata and Perry to points in Pennsylvania.

2. That the Applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing of insurance and the filing and acceptance of a tariff establishing just and reasonable rates.

3. That the certificate holder shall comply with all the provisions of the Public Utility Code as now existing or as may be hereafter amended, and with all pertinent regulations of this Commission now in effect, or as may hereafter be prescribed by the Commission. Failure to comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.

4. 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.

5. That, in the event the Applicant has not, on or before 60 days from the date of service of this order, complied with the requirements set forth herein, the application shall be dismissed without further proceeding.

*Herbert S. Cohen*

HERBERT S. COHEN  
Administrative Law Judge

Dated:

July 3, 1991

Act 294

Case Identification: A-00109497; In re: Matthew S. Sieber, t/d/b/a Sieber Trucking

Initial Decision By: ALJ Herbert S. Cohen

Deadline for Return to OSA: July 29, 1991

This decision has not been reviewed by OSA.

\* \* \* \* \*

I want full Commission review of this decision.

W<sup>m</sup> H. Smith  
Commissioner

7-29-91  
Date

I do not want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

Act 294

Case Identification: A-00109497; In re: Matthew S. Sieber, t/d/b/a Sieber Trucking

Initial Decision By: ALJ Herbert S. Cohen

Deadline for Return to OSA: July 29, 1991

This decision has not been reviewed by OSA.

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I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

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Date

I do not want full Commission review of this decision.

X Joseph P. Rinaldi, Jr.  
Commissioner

7/26/91  
Date

Act 294

Case Identification: A-00109497; In re: Matthew S. Sieber, t/d/b/a Sieber Trucking

Initial Decision By: ALJ Herbert S. Cohen

Deadline for Return to OSA: July 29, 1991

This decision has not been reviewed by OSA.

RECEIVED

JUL 17 1991

COMMISSIONER HOLLAND'S OFFICE

\* \* \* \* \*

I want full Commission review of this decision.

Kendall F. Holland  
Commissioner

7/30/91  
Date

I do not want full Commission review of this decision.

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Commissioner

\_\_\_\_\_  
Date

Act 294

Case Identification: A-00109497; In re: Matthew S. Sieber, t/d/b/a Sieber Trucking

Initial Decision By: ALJ Herbert S. Cohen

Deadline for Return to OSA: July 29, 1991

This decision has not been reviewed by OSA.

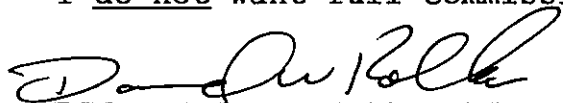
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I want full Commission review of this decision.

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Commissioner

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Date

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JUL 17 1991

COMMISSIONER ROLKA'S OFFICE