

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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 :
Application of Matthew S. Sieber, t/a :
Sieber Trucking. : Docket No.
 Right to transport, as a common carrier, :
 wood products from points in the counties : A-00109497
 of Juniata, Mifflin and Perry, to points :
 in Pennsylvania. :
 :
 Further Hearing. :
 :
 -----x

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 PUBLIC UTILITY COMMISSION

Pages 87 through 108

Hearing Room 2
North Office Building
Harrisburg, Pennsylvania

Monday, March 4, 1991

Met, pursuant to adjournment, 10:04 a.m.

BEFORE:

HARRY BANZHOFF, Administrative Law Judge

APPEARANCES:

CHRISTIAN V. GRAF, Esquire
 Graf, Andrews & Radcliff
 407 North Front Street
 Harrisburg, Pennsylvania 17101
 (For Matthew S. Sieber, t/a Sieber Trucking)

CHRISTOPHER ZETTLEMOYER, Esquire
 P.O. Box 11844
 Harrisburg, Pennsylvania 17108
 (For Gary L. Ramsey Trucking, Inc.)

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APPEARANCES(Continued):

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C O N T E N T S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Carol L. Ramsey By Mr. Zettlemyer	91		--	
By Mr. Graf		94		--
Robert G. Hack By Mr. Walter	99		--	
By Mr. Graf		101		--
Matthew S. Sieber By Mr. Graf	105	--	--	--

E X H I B I T S

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>Applicant's Exhibit No.</u>		
2 (certificate of insurance)	89	91
3 (cargo coverage)	89	91
4 (lease for two units)	89	91
5 (lease for one unit)	90	91
<u>Ramsey Exhibit No.</u>		
1 (Ramsey - Partial Direct)	91	99
<u>Hack Exhibit No.</u>		
1 (Hack - Direct)	101	101

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P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE HARRY BANZHOFF: This is the
3 hearing involving the application of Matthew S. Sieber,
4 trading as Sieber Trucking, docketed at A-00109497. It is
5 my understanding the parties are ready to proceed.

6 MR. GRAF: At the last hearing, we were requested to
7 supply a new certificate of insurance to cover vehicles that
8 were insured by the applicant, and I have here a certificate
9 of insurance which I request be marked as Exhibit A-2 for
10 identification.

11 (Whereupon, the document was
12 marked Applicant's Exhibit No.
2 for identification.)

13 MR. GRAF: And the second insurance for cargo coverage
14 we would request be marked as Exhibit A-3.

15 (Whereupon, the document was
16 marked Applicant's Exhibit No.
3 for identification.)

17 MR. GRAF: We were also requested to supply copies
18 of the leases, and I have two leases here, the first of which
19 is dated August 28, 1990. It covers two units. I would
20 request that that be marked for identification as Exhibit A-4.

21 (Whereupon, the document was
22 marked Applicant's Exhibit No.
4 for identification.)

23 MR. GRAF: And the second lease, bearing the same
24 date, covering one unit, would be marked as Exhibit A-5.

25

1 (Whereupon, the document was
2 marked Applicant's Exhibit No.
5 for identification.)

3 MR. GRAF: With respect to Exhibit A-5, the names
4 and the dates are all the same as compared to A-4. Some of
5 the copies did not turn out too well.

6 JUDGE BANZHOFF: Before we go on, would you excuse
7 me for a moment?

8 (Pause.)

9 MR. ZETTLEMOYER: Mr. Graf, are you finished?

10 MR. GRAF: I would offer into evidence A-2, 3, 4 and 5.

11 MR. ZETTLEMOYER: No objection.

12 JUDGE BANZHOFF: Admitted.

13 (Whereupon, the documents marked
14 Applicant's Exhibits Nos. 2
15 through 5 were received in
evidence.)

16 MR. ZETTLEMOYER: I call Carol L. Ramsey.

17 JUDGE BANZHOFF: Those witnesses who will be testifying
18 today as well as this witness raise their right hand.

19 Whereupon,

20 CAROL L. RAMSEY
and
21 ROBERT G. HACK

22 were duly sworn.

23 JUDGE BANZHOFF: Proceed.
24
25

1 Whereupon,

2 CAROL L. RAMSEY

3 having previously been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. ZETTLEMOYER:

6 Q Give us your name and home address, please.

7 A My name is Carol L. Ramsey. My address is R.D. 1,
8 Box 13, Mifflintown, 17059-9518.

9 Q Have you caused to be prepared your partial
10 testimony in written form with certain exhibits to this
11 proceeding?

12 A Yes.

13 MR. ZETTLEMOYER: I request that the document, partial
14 testimony of Carol L. Ramsey, be marked for identification
15 as Ramsey Exhibit 1.

16 JUDGE BANZHOFF: Granted.

17 (Whereupon, the document was
18 marked Ramsey Exhibit No. 1
for identification.)

19 MR. ZETTLEMOYER: I have previously supplied opposing
20 counsel a copy of the Ramsey Exhibit 1 and have put one on
21 Your Honor's desk and given two to the court reporter.

22 BY MR. ZETTLEMOYER:

23 Q Mrs. Ramsey, are there any corrections that you
24 would like to make to your partial testimony?

25 A I believe there was a change on page 4. The first

1 answer at the top of the page in the center, it said, "May
2 31st." It should be changed to June 2nd of 1990.

3 Q Thank you.

4 Otherwise, do you adopt this partial written testimony
5 as your testimony in this proceeding?

6 A Yes.

7 Q Mrs. Ramsey, I have a few additional questions
8 for you to supplement this partial testimony.

9 When you were notified that your contract with
10 Ridge View Pallets would be -- when were you notified that your
11 contract with Ridge View Pallets would be terminated?

12 A May the 4th of 1990, Jill Ritzman called us to
13 cancel our contract, and told us at that particular time that
14 Matt Sieber was going to take over the hauling for Ridge View
15 Pallets.

16 Q Thank you. Did you have occasion to talk with
17 Mr. Sieber about his beginning service for Ridge View Pallets?

18 A Yes, I did. On May the 4th of 1990, that afternoon,
19 I went over to Mr. Sieber's garage and spoke with Mr. Sieber
20 pertaining to him taking over Ridge View Pallets, told him
21 that he was going to need rights to do this hauling in state
22 and out of state.

23 Q Those are rights granted by the Public Utility
24 Commission and the Interstate Commerce Commission, is that
25 correct?

1 A Right.

2 Q Thank you. If Mr. Sieber was not granted authority
3 to operate by this Commission, would you be willing to take
4 him on as a leased operator?

5 A Yes, I would be glad to sit down with Mr. Sieber.
6 and make some kind of arrangement with him that he could
7 continue to haul for Ridge View Pallets the way that he is
8 hauling with them now. They seem to have a good working
9 relationship, and I certainly wouldn't want to come between
10 that.

11 MR. ZETTLEMOYER: Thank you. I have nothing further.

12 The witness is available for cross-examination, Mr. Graf

13 MR. GRAF: Before I begin, on page 4, at the bottom
14 of the first answer, the second line from the end, the next
15 line and the final line of that answer beginning with the
16 words "and the," and the balance of it reads, "other carriers
17 transporting pallets in Juniata and Mifflin Counties as
18 reflected by these figures" should be stricken because the
19 witness is not here to testify as to other carriers.

20 They can testify to their own as to any adverse affect
21 it would have upon them. I think that that's gilding the
22 lily a little too much.

23 JUDGE BANZHOFF: Let's go off the record for a moment.

24 (Discussion off the record.)

25 JUDGE BANZHOFF: Let's go back on the record.

1 I understand your objection, Mr. Graf. I am certain
2 that throughout a proceeding of this nature, there are
3 statements of this nature made for the record in prepared
4 testimony.

5 I believe that I am able to accept it on the basis
6 in which it's given and not give it the weight that would
7 be given to testimony for which she has direct knowledge of
8 the facts. It is evident here that it is pure speculation.

9 MR. GRAF: All right.

10 CROSS-EXAMINATION

11 BY MR. GRAF:

12 Q Mrs. Ramsey, as I understand your statement at
13 page 1, your first authority from this Commission was granted
14 on February 9, 1989, is that correct?

15 A Yes.

16 Q And is it correct that you transported pallets
17 for Ridge View prior to that date?

18 A Yes, possibly as a leased carrier.

19 Q Leased to whom?

20 A Leased to Ridge View Pallets.

21 Q And over what period of time did you transport
22 for Ridge View Pallets?

23 A Could you ask me that again? Over what period --

24 Q Over what period of time prior to February 9, 1989
25 did you perform transportation for Ridge View Pallets?

1 A Probably a year, a year and a half, as leasing
2 my equipment strictly to Ridge View.

3 Q Did you serve any other accounts such as the
4 Oakland Pallet Company prior to the date you secured this
5 authority?

6 A You mean, prior to February 9th of 1989?

7 Q Prior to February 9, 1989.

8 A I am not sure at this time. I would have to check
9 in my records. I know that I do service them now on a part-time
10 basis.

11 Q How about Rockland Pallets? Did you serve them
12 prior to February 9, 1989?

13 A I would also have to check my records there, also.
14 I know I service them now.

15 Q I didn't ask you about now. You said you had 18
16 years' experience transporting equipment. Now, your authority
17 was granted in 1989, and I'm trying to ascertain from your
18 memory who you transported pallets for. Surely you would
19 know that, wouldn't you?

20 A But the 18 years' experience has not been in the
21 pallet business.

22 Q I see. Let's stay with the pallet business. When
23 did you start hauling pallets?

24 A Approximately in 1987.

25 Q Did you serve Rockland Pallets in that period of

1 time?

2 A I really couldn't tell you exactly the date that
3 I started to haul for Rockland Pallets on a part-time basis.
4 I would have to check my records there.

5 Q How about J&N Pallet Company?

6 A Yes, I probably did service them also, but I can't
7 give you the dates on those.

8 Q And what building materials did you transport for
9 Rickenbaugh Building Supply?

10 A Lumber.

11 Q Anything else?

12 A I think my rights say that I can haul aluminum
13 siding, nails.

14 Q Did you serve Rickenbaugh Building Supply prior
15 to February 9, 1989?

16 A I'm not sure of that also at this particular time.
17 I'd have to check my records.

18 Q And when was the application filed to transfer
19 contract carrier authority to common carrier authority?

20 A I believe it was May the 10th we applied of 1990.

21 Q When did you receive the ICC authority, that is
22 Exhibit "C" to your statement?

23 A December the 12th of 1988.

24 Q Now, how much of this equipment is owned that is
25 shown on Exhibit "D"?

1 A Would you ask me that question again?

2 Q How much of the equipment shown on Exhibit "D"
3 is owned by your company?

4 A It's all owned by our company.

5 Q None leased?

6 A No.

7 Q When were the daily calendars or monthly calendars
8 shown as Exhibit "E" prepared?

9 A I keep them on a daily and a monthly basis. I've
10 done that for probably three years.

11 Q You have attached as I believe it's Exhibit "F"
12 certain miscellaneous income statements. They look like they
13 might be from Rockland Ridge Farms, Ridge View Pallets, showing
14 the revenues that you received in 1988, 1989 and 1990.

15 Do you have with you any financial statements which
16 would show what your total revenue was in those same three
17 years?

18 A No, I don't, sir.

19 Q Has your 1990 annual report been filed yet?

20 A No, it hasn't been.

21 MR. GRAF: I would move to incorporate by reference
22 the annual report of Gary L. Ramsey Trucking, Inc. for the
23 years 1988 and 1989.

24 MR. ZETTLEMOYER: I have no objection.

25 JUDGE BANZHOFF: Granted.

1 BY MR. GRAF:

2 Q Beginning with June 2, 1990, what pallet companies
3 were you serving?

4 A Prior to June 2?

5 Q No, subsequent to June 2.

6 A I would say Rockland Pallets; Ridge View Pallets;
7 J Box and Lumber; Oakland Pallets; J&N who is no longer in
8 business and has not been for some time; Rickenbaugh's
9 Building Supply.

10 Q Did you serve all of those companies prior to
11 June 2, 1990?

12 A To include 1990, including 1990?

13 Q Prior to June 2, 1990, did you serve those same
14 companies?

15 A Yes, I did.

16 Q Which one was the biggest producer that you served?

17 A I would say probably J Box and Lumber.

18 Q What was the annual revenues you derived from
19 J Box and Lumber in any given period of time, say 1988?

20 A I wouldn't know without looking it up.

21 Q How about 1989?

22 A I wouldn't know back that far.

23 Q How about 1990 which is just ended?

24 A No, because I haven't had my income tax done this
25 year and my accountant doesn't have it yet.

1 Q You don't even have a good estimate, do you?

2 A No, I don't, right offhand.

3 Q Would the same be true for any of the other companies
4 you've named?

5 A Right. The only ones that I could tell you was
6 Ridge View Pallets, because I received that one quite early
7 in the mail.

8 Q What is the amount of the insurance coverage that
9 you carry now?

10 A Our equipment is insured as required by the
11 Interstate Commerce Commission, which is equal to and in excess
12 of the amount required by the rules of the PUC.

13 Q Well, what is that amount?

14 A \$750,000 liability.

15 Q What cargo coverage do you carry?

16 A I believe it's probably \$10,000, up to \$10,000
17 per load.

18 MR. GRAF: Thank you. That's all I have.

19 MR. ZETTLEMOYER: Nothing further, Your Honor.

20 I would offer the testimony as Exhibit 1 into the
21 record, please.

22 MR. GRAF: No objection.

23 JUDGE BANZHOFF: Admitted.

24 (Whereupon, the document marked
25 Ramsey Exhibit No. 1 was
received in evidence.)

1 JUDGE BANZHOFF: The witness is excused.

2 (Witness excused.)

3 MR. WALTER: Your Honor, I would call Mr. Robert Hack.

4 Your Honor, it does not appear that any -- and perhaps

5 Mr. Graf does -- that any of the statements that I have

6 tendered have attached to them the PUC authority. There's

7 only one order. It is attached to the protest, and I will

8 provide everyone with the appropriate copies of that.

9 I don't think there's any issue as to what the PUC
10 authority is, however.

11 Whereupon,

12 ROBERT G. HACK

13 having previously been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. WALTER:

16 Q Mr. Hack, would you state your name and your current
17 address, please?

18 A Robert G. Hack. It's R.D. 3, Box 464, Mifflintown,
19 PA.

20 Q Are you the individual protestant in this proceeding?

21 A Yes.

22 Q Have you had the opportunity to review the
23 statement which I believe you have before you called the
24 prepared testimony of Robert G. Hack, Protestant?

25 A Yes.

1 Q Was that statement prepared in conversations with
2 my offices and the result of the information that you have
3 given me?

4 A Yes, it was.

5 Q Are you prepared, subject to the cross-examination
6 of Mr. Graf, to adopt this statement as your direct testimony
7 this morning?

8 A Yes.

9 MR. WALTER: Your Honor, we would like to have this
10 marked, I guess as Hack Exhibit 1.

11 (Whereupon, the document was
12 marked Hack Exhibit No. 1 for
identification.)

13 MR. WALTER: And subject to whatever cross-examination
14 Mr. Graf may have, I would move for its admission.

15 JUDGE BANZHOFF: Granted.

16 (Whereupon, the document marked
17 Hack Exhibit No. 1 was received
in evidence.)

18 CROSS-EXAMINATION

19 BY MR. GRAF:

20 Q Mr. Hack, since your authority is attached to the
21 protest, I'd like to show you that authority and ask you
22 whether you would read into the record what your specific
23 authority is.

24 A I can't hear you.

25 Q Would you read that paragraph that sets forth what

1 your authority is into the record?

2 A "To transport, as a Class D carrier, pallets and
3 lumber, between points in the counties of Juniata, Perry,
4 Snyder and Mifflin, and from points in said counties to points
5 in Pennsylvania and vice versa."

6 Q Is it subject to certain conditions?

7 A Not that I'm aware of.

8 MR. WALTER: Page 3.

9 BY MR. GRAF:

10 Q Would you read the conditions into the record?

11 A Oh, "That no right, power or privilege is granted
12 to provide service from points in the counties of Clearfield,
13 Erie, Center, Lycoming and Union."

14 Q What's the next one?

15 A "That no right, power or privilege is granted to
16 provide service from points in the counties of Clinton,
17 Huntingdon and Blair except for Treen Box & Pallet Corporation
18 to its facilities in Mifflin County."

19 Q Now, you are aware that this application does not
20 cover any in-bound materials, are you not?

21 A Yes.

22 Q At page 5 of your statement, you state, "Both Butler
23 Trucking and Jordan Trucking have the authority to provide
24 this transportation." What authority of Butler Trucking
25 Company are you referring to?

1 A To haul pallets out of these counties, Juniata
2 and Perry --

3 Q Where is that found, that authority? Have you
4 ever seen their authority?

5 A No.

6 Q Have you ever seen the authority of Jordan Trucking?

7 A Yes.

8 Q And what authority do you say they have?

9 A Without reviewing it again, I know they have Juniata
10 County.

11 Q Did you bring with you any financial statement
12 that would justify your statement that you have less than
13 \$50,000 debt currently?

14 A No, I didn't.

15 Q Pardon me?

16 A No, I didn't.

17 Q When was your Pennsylvania authority granted? Do
18 you remember that date?

19 A No, I don't.

20 Q I show you your protest. When was that order
21 entered?

22 A May 17, 1990.

23 Q Did you haul pallets for anybody prior to that time?

24 A Yes.

25 MR. WALTER: Your Honor, I'll object to this line

1 of questioning. It runs to the fitness of the protestant.
2 If in fact there was a fitness question of the protestant,
3 it was decided by that May 17th order in favor of the applicant
4 who was Mr. Hack at that time.

5 Therefore, it's irrelevant to this particular proceeding

6 MR. GRAF: It's not irrelevant at all. It shows that
7 this gentleman did the same thing that he is accusing the
8 applicant of doing.

9 MR. WALTER: Your Honor, the fact that everybody does
10 it is not an excuse for illegal operations regardless of
11 whether it occurred.

12 JUDGE BANZHOFF: The objection is overruled.

13 BY MR. GRAF:

14 Q Would you answer the question?

15 A What was the question?

16 Q The question was, did you haul pallets prior to
17 May 17, 1990?

18 A Yes.

19 Q For how long?

20 A Probably seven years.

21 Q For seven years?

22 (No response.)

23 Q What's your ICC authority?

24 A It's anyplace in Pennsylvania to anything east
25 of the Mississippi.

1 Q On what commodities?

2 A Wood products.

3 MR. GRAF: Thank you. That's all I have.

4 MR. WALTER: No redirect, Your Honor.

5 JUDGE BANZHOFF: The witness is excused.

6 (Witness excused.)

7 MR. WALTER: We rest our case.

8 MR. ZETTLEMOYER: Nothing further on this side, Your
9 Honor.

10 MR. GRAF: I call Mr. Sieber back to the stand for
11 the limited purpose.

12 Mr. Sieber, you have already been sworn and you are
13 still under oath --

14 MR. WALTER: I'm sorry, Chris, I just cannot understand
15 what you're saying. You'll have to speak a little louder.

16 MR. GRAF: You have previously testified and you are
17 still under oath.

18 Whereupon,

19 MATTHEW S. SIEBER

20 having previously been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. GRAF:

23 Q Now, in Mr. Hack's statement at page 4, he contends
24 that Ridge View Pallets is closed as of 27 February, 1990.

25 Do you have any information as to whether they are in fact

1 closed?

2 A I don't see how they could be closed.. We hauled
3 a load for them just this morning and we have a load to go
4 for them tomorrow morning.

5 Q Is that under your lease with Jay Fulkroad and
6 Sons?

7 A Well, I don't know where the load went to, but
8 it's either my ICC authority or the lease with Jay Fulkroad.

9 MR. GRAF: Thank you. That's all I have.

10 MR. WALTER: One second, Your Honor.

11 (Pause.)

12 MR. WALTER: I have nothing, Your Honor.

13 JUDGE BANZHOFF: The witness is excused.

14 (Witness excused.)

15 MR. GRAF: I have nothing further to present.

16 JUDGE BANZHOFF: Go off the record.

17 (Discussion off the record.)

18 JUDGE BANZHOFF: Back on the record.

19 We've had an off-the-record discussion concerning the
20 availability of transcripts, closing the record and briefs.
21 According to the reporter, the transcript will be available
22 March 25th.

23 We've agreed to close the record automatically as of
24 the 29th of March unless I hear anything from counsel.

25 Main briefs will be filed by Friday, April 19th, with

1 provision for reply briefs if necessary on the 26th of April.

2 Gentlemen, is there anything further?

3 MR. WALTER: Do you anticipate a briefing order, or
4 is that it, for my own record-keeping purposes?

5 JUDGE BANZHOFF: No, no. You've had it.

6 MR. WALTER: Okay.

7 JUDGE BANZHOFF: Go off the record.

8 (Discussion off the record.)

9 JUDGE BANZHOFF: Okay, gentlemen, thank you.

10 This hearing is concluded.)

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

By: John A. Kelly

John A. Kelly

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FORM 1

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