



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

May 25, 1994

IN REPLY PLEASE
REFER TO OUR FILE

A-00109492

PETER TAYOUN ESQUIRE
105 SOUTH MAIN AVENUE
SCRANTON PA 18504

Application of Booth & Sons Scrapyard, Inc.

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on May 18, 1994 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

John G. Alford
Secretary

Enclosure
Certified Mail
JEP

ROCKETED

JUN 17 1994

DOCUMENT
FOLDER

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

Public Meeting held May 18, 1994

Commissioners Present:

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

DOCKETED

JUN 17 1994

Petition of Booth & Sons
Scrapyard, Inc.

Docket No.
A-00109492

Petition for Reinstatement.

O R D E R

BY THE COMMISSION:

By Orders entered November 19, 1993 and December 21, 1993, the Commission cancelled the certificate of public convenience held by Booth & Sons Scrapyard, Inc. ("Petitioner") at Docket No. A-00109492 for failure to file a 1992 Assessment Report and 1992 Annual Report, respectively. By Petition filed April 5, 1994, Petitioner requests reinstatement of its certificate of public convenience. This Petition is now before the Commission for consideration.

Decisions whether to grant petitions for reinstatement are left to the Commission's discretion and will be reversed on appeal only if that discretion is abused. Hoskins Taxi Service v. Pa. Public Utility Commission, 87 Pa. Commonwealth Ct. 30, 486 A.2d 1030 (1985). In ruling upon a petition to reinstate, the Commission will examine all relevant factors to reach an equitable result. Re Medical Transportation, Inc., 57 Pa. P.U.C. 79 (1983).

In reviewing a reinstatement petition, the Commission considers: (1) the amount of time which elapsed between the cancellation of the certificate and the filing of the petition to reinstate; (2) the petitioner's record of compliance with the Public Utility Code and the orders and regulations of the Commission; and (3) the reasonableness of the excuse given for

the violation which caused the cancellation of the certificate. Re Bishop, 58 Pa. P.U.C. 519 (1984).

As to the first factor, we note that Petitioner filed this Petition within five months after its certificate cancellation. This factor supports reinstatement of this certificate.

Upon examination of the second factor, the Commission entered two Show Cause Orders against Petitioner on September 14, 1993, for failure to file either a 1992 Assessment Report or a 1992 Annual Report. Petitioner failed to timely respond to either Show Cause Order, and the Commission consequently cancelled Petitioner's certificate of public convenience by Orders entered November 19, 1993 and December 21, 1993. These Orders are the subject of the present Petition for Reinstatement.

In reviewing Petitioner's performance history before the Commission, we find that Petitioner has no history of safety or tariff violations. In addition, there are no Commission penalties outstanding against Petitioner. However, Petitioner does have a history of violations related to the Commission's insurance regulations. Petitioner has received four notices of suspension of operating rights for failure to maintain evidence of insurance. These suspensions were issued to Petitioner on September 24, 1991, January 27, 1992, April 17, 1992 and February 11, 1993. These suspensions were lifted on October 8, 1991, February 10, 1992, May 4, 1992 and February 23, 1993, respectively. However, Petitioner has no evidence of liability insurance currently on file with the Commission. Petitioner attempted to provide evidence of insurance on or about March 2, 1994, but this evidence was refused because Petitioner no longer had any operating authority.

Petitioner's noncompliance with the Commission's insurance requirement gives us cause for concern. The submission of evidence of insurance is necessary to fulfill the Commission's statutory mandate to safeguard the public. See e.g., Metro Transportation Company t/a Yellow Cab Company v. North Star Reinsurance Company, 912 F. 2d 672 (3rd cir. 1990). However, Petitioner's overall compliance record does not compel a denial of reinstatement at this time.

We now consider Petitioner's excuse for the violation which caused the certificate cancellation. In its Petition for Reinstatement, Petitioner provides no rationale for its failure to file the required reports. However, when contacted by the Commission, Charlotte Booth (Petitioner's agent) asserted that the Commission's 1992 Assessment and Annual Report forms were

