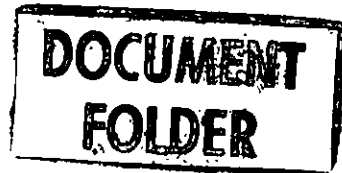


PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120



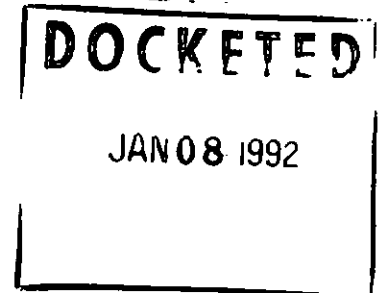
Public Meeting held December 12, 1991

Commissioners Present:

William H. Smith, Chairman
Joseph Rhodes, Jr., Vice Chairman
Wendell F. Holland, Commissioner
David W. Rolka, Commissioner

Evergreen Express Lines, Inc.;
Trenton, N.J.; Petition for
Compliance Extension.

Docket No.
A-00109494



Herbert R. Nurick, Esquire
for Petitioner

O R D E R

BY THE COMMISSION:

By Order entered November 28, 1990 at A-00109494, the Commission approved the transfer application of Evergreen Express Lines, Inc. (Express Lines) for a transfer of the rights issued at A-00084200, Fs. 2, 3, 5 and 6 held by Clark Transfer, Inc. The Order was conditioned on the filing and acceptance of evidence of insurance and a tariff within sixty (60) days of the entry of the order. By letter dated January 4, 1991, Evergreen Express requested an extension of time until November 28, 1991, to comply with the requirements of the November 28, 1990 Order. By Secretarial Letter dated January 8, 1991, Evergreen Express' request for an extension of time until November 28, 1991 was granted. The Secretarial Letter stated that the transferor was required to continue to do business until the transfer was completed. Finally, on October 15, 1991, Evergreen Express filed a second Petition for Extension of time to comply with the November 28, 1990 order. This Petition is now before the Commission for disposition.

The Commission has already generously given Evergreen Express one year to comply with the tariff and insurance requirements. Had this been an application for an initial grant of authority, the extension of time requested here would have been denied. Pursuant to 52 Pa. Code § 31.28, a common carrier shall, within 30 days from the date of receipt of a certificate, begin operating and furnishing service. This section of the

regulations indicates that service should be commenced as soon as possible; the perspective of the Commission in application matters emphasizes the public interest in receiving transportation services.

Evergreen Express has indicated that the delay in assuming the transferor's operations is a result of difficulties in moving formal transfers through other jurisdictions. While we are not unmindful of these types of delays, our primary concern is the availability of service for Pennsylvania intrastate shippers. Since Evergreen Express indicates that there will be no disruption in service, we will grant the extension.

In its Petition, Evergreen Express states that the transfer should be completed between January 1, 1992 and April 1, 1992. Evergreen Express also stated that the transferor is continuing to provide service to the public. Relying on these assertions, the Commission will grant a final extension of time to comply with Commission regulations until April 10, 1992. After April 10, 1992, no further extension will be granted. This extension is expressly conditioned upon the transferor continuing to provide service during the period of this extension. If Evergreen Express has not, within the time given, complied with the tariff and insurance requirements, this Petition will be deemed denied without further Commission action, and the application will be dismissed. In addition, should the transferor fail to continue to provide service, adverse action may be taken. Under these limited circumstances, it appears the Petition should be granted, THEREFORE,

IT IS ORDERED:

1. That the Petition for Extension of Time to Comply with Commission regulations, filed by Evergreen Express Lines, Inc. on October 15, 1991 is hereby granted.
2. That the Commission hereby grants Evergreen Express Lines, Inc. until April 10, 1992 to comply with the insurance and tariff requirements.
3. That the foregoing is expressly conditioned upon the transferor continuing to do business until the Commission issues Evergreen Express its certificate.
4. That if Evergreen Express has not satisfied the insurance and tariff requirements by April 10, 1992, the application for transfer will be dismissed without further Commission action.
5. That if the transferor ceases to continue to do business, the application will be dismissed without further Commission action and an order to show cause shall issue against

the transferor directing it to show cause why its certificate should not be cancelled for failure to provide service.

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: December 12, 1991

ORDER ENTERED: ~~DEC-18-1991~~