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

ISSUED: August 11, 1993

IN REPLY PLEASE REFER TO OUR FILE

A-00109244
F0001, Am-A

DONALD M. DAVIS, ESQUIRE
CURTIS CENTER FOURTH FLOOR
INDEPENDENT SQUARE WEST
PHILADELPHIA PA 19106-3304

Application of Tad's Delivery Service, Inc., t/a T&N Van Service

DOCUMENT FOLDER

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Initial Decision of Administrative Law Judge Marlane R. Chestnut. 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 17105-3265, 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 CHESTNUT/OFFICE OF ALJ/LAW BUREAU/PIO/OSA/CHAIRMAN/COMMISSIONERS/S&C
BUREAU OF TRANSPORTATION
CORRESPONDENCE/OUR FILE

Very truly yours,

Allison K. Turner

Encls. LCS
Certified Mail
Receipt Requested

Allison K. Turner
Chief Administrative Law Judge

DOCKETED
AUG 17 1993

DOMENIC CRISTINZIO, INC
1700 TOMLINSON ROAD
PHILADELPHIA PA 19116

SCOTT A. PETRI, ESQUIRE
892 SECOND STREET PIKE
RICHBORO PA 18954

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Tad's Delivery	:	
	:	Docket No. A-00109244
Service, Inc. t/a T&N Van Service	:	F.1, Am-A

INITIAL DECISION

Before
MARLANE R. CHESTNUT
Administrative Law Judge

I. HISTORY OF THE PROCEEDING

By Application docketed on June 15, 1992, and amended on July 7, 1992, Tad's Delivery Service, Inc. t/a T&N Van Service (T&N, transferee or applicant) requested that the Pennsylvania Public Utility Commission (Commission) amend applicant's certificate of public convenience A-00109244 to reflect the transfer of the operating authority held by Domenic Cristinzio, Inc. at Docket No. A-0086551, F.2. Applicant's existing certificate would be amended to include as Amendment A:

> SO AS TO PERMIT the transportation of (1) tabulating and office machines for the International Business Machine Corporation between points in the city of Philadelphia, Philadelphia County, and from points in the said city to points within an airline distance of twenty-five (25) miles of the City Hall in the said city, and vice versa; (2) cases for the International Business Machine Corporation from points within an airline distance of twenty-five (25) miles of the City Hall in the city of Philadelphia, Philadelphia County, to points in the said city, and vice versa; (3) office machines and electronic or mechanical equipment, including

but not limited to, copiers, computers, x-ray machines and inserting machines, from the warehouse of Domenic Cristinzio, Inc., at 3328 Amber Street, in the city and county of Philadelphia, to points within thirty-five (35) miles thereof, and vice versa; (4) office machines and electronic or mechanical equipment, including, but not limited to, copiers, computers, x-ray machines and inserting machines, from the warehouse of Domenic Cristinzio, Inc., at 2073 Bennett Road, in the city and county of Philadelphia, to points within thirty-five (35) miles thereof, and vice versa; (5) uncrated office machines and electronic or mechanical equipment, including, but not limited to, copiers, computers, x-ray machines and inserting machines, between points in the counties of Bucks, Chester, Delaware, Montgomery, Philadelphia, and from said counties to points in Pennsylvania, and vice versa; (6) business and office machines, electronic manufacturing systems, parts and supplies thereof, that are manufactures, sold, leased, distributed or dealt in by International Business Machines Corporation, for International Business Machines Corporation between points in the counties of Adams, Berks, Bucks, Carbon, Centre, Chester, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Lehigh, Mifflin, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Schuylkill, Snyder, Union and York; and (7) business and office machines and electronic or mechanical equipment, including, but not limited to, copiers, computers, x-ray machines, and inserting machines, and new office furniture, between points in the counties of Luzerne, Lackawanna, Monroe, Carbon, Northampton, Lehigh, Berks, Schuylkill, Columbia and Montour, and from points in said counties, to points in Pennsylvania, and vice versa.

Notice of the Application was published in the June 27, 1992 Pennsylvania Bulletin. The only protest was filed by J.C. Services, Inc. (J.C. or protestant).

An initial hearing was held on November 4, 1992. Applicant was represented by H. Marc Tepper, Esq., and protestant was represented by Scott A. Petrie, Esq. Applicant presented the testimony of two witnesses and five exhibits and protestant presented two witnesses and five exhibits.[1] The record consists of these exhibits plus a transcript of 141 pages. Main and Reply Briefs were filed by both parties.

II. DISCUSSION

Any entity proposing to provide intrastate transportation service to the public for compensation must first obtain from the Commission a certificate of public convenience. Pursuant to the Public Utility Code, 66 Pa.C.S. §1103(a), this certificate should be granted only if the Commission finds "that the granting of such certificate is necessary or proper for the

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[1] Protestant sponsored four exhibits at the hearing. After the briefs were filed, protestant filed a Motion for Leave to Supplement the Record with its fifth exhibit, a copy of the Complaint adopted by the Commission upon its own Motion charging applicant with various instances of illegal intrastate service. This Motion will be granted. Also admitted into the record will be applicant's February 2, 1993 letter to Secretary Alford which resolves that Complaint. This resolution of the Complaint renders moot protestant's motion to hold proceedings open pending resolution of the Complaint.

service, accommodation, convenience or safety of the public." In order to make these determinations, the Commission has issued regulations codifying the evidentiary criteria to be taken into consideration. These factors, contained in 52 Pa. Code §41.14, are:

> **§41.14 Evidentiary criteria used to decide motor common carrier applications-statement of policy**
>
> (a) 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.
>
> (b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service, and, in addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally.
>
> (c) The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing carriers to an extent that, on balance, the granting of the authority would be contrary to the public interest.

These evidentiary criteria were discussed in more detail by the Commission in Application of Bluebird Coach Lines, Inc., 72 Pa. P.U.C. 262, 294 (1990)..

This proceeding involves the proposed transfer of existing operating rights granted at Docket No. A-0086551, F.2 from Domenic Cristinzio, Inc. to applicant. These rights were placed in "voluntary suspension" on March 4, 1992 pending their purchase. In cases of this nature, the Commission applies the doctrine of "presumption of continuing necessity." First articulated in Re: Louis L. Grimm, 17 Pa. P.U.C.25 (1937), this doctrine provides that an applicant for transfer of existing authority is not required to show that the underlying service authorized by the rights being transferred is necessary or proper for the convenience of the public. It is assumed that the convenience supporting the original grant of the authority continues until the contrary is shown by a protestant. Re: Byerly, 440 Pa. 521, 270 A.2d 186 (1970); Re: Erie Transportation Services, Inc., 72 Pa. P.U.C. 113, 118 (1990). Accordingly, the applicant here does not have the burden of proof specified in 52 Pa. Code §41.14(a), that approval of the Application will serve a useful public purpose, responsive to a public demand or need.

Similarly, the protestant in a proceeding involving the transfer of existing authority need not meet the burden of proof

established in §41.14(c), that entry of a new carrier into the field would endanger or impair the operations of existing carriers to such an extent that granting the authority would be contrary to the public interest. Although a transferee-applicant is technically a "new carrier," the operating authority sought to be transferred is not new authority. The Commission previously has determined this issue. Therefore, a protestant should not be expected to submit evidence that exercise of those rights by a different carrier would be contrary to the public interest.

What remains to be proven by an applicant in transfer proceedings is that it, as the transferee, possesses the technical and financial ability, or fitness, to provide the proposed service, and, does not lack a propensity to operate safely and legally.

In this proceeding, J.C. essentially has challenged applicant's fitness on two grounds. First, it points to the instances of illegal intrastate service which were the subject of the Complaint adopted by the Commission at A-00109244C9301, which it claims were performed in bad faith and to a significant degree. In addition, protestant asserts that applicant has failed to present substantial evidence of operational or financial fitness, in that it presented no evidence as to its current financial position, facilities and equipment, number of employees, safety procedures, drug testing program, insurance

coverage, or communications system. The third argument made by protestant J.C. goes to its fear that it will suffer significant economic harm. Each of these contentions will be addressed below.

A. Illegal Acts

As the result of cross-examination, applicant agreed that it appeared that certain moves it had performed were not within the scope of either its existing PUC or ICC authority. Subsequently, at Docket No. A-00109244C9301, a Complaint was adopted by the Commission upon its own Motion charging applicant with 12 instances of illegal intrastate service. Applicant's February 2, 1993 letter to Secretary Alford indicates that the Complaint was resolved by payment of the $3,000.00 fine, and that applicant has ceased performing such transportation pending resolution of this Application.

There is ample administrative and legal precedent on the issue of prior illegal service as it relates to fitness. It is well-settled that while the misconduct is a factor for the Commission to consider when determining fitness, it is not conclusive. An applicant may present offsetting evidence to prove its present legal fitness to provide a proposed service. The Commission has discretionary authority to grant an application as long as there is evidence of present fitness independent of the evidence relating to the unlawful activities.

Most recently, in Hercik v. Pa. P.U.C., 137 Pa. Commonwealth Ct. 377, 586 A.2d 492, 494-95 (1991), the Commonwealth Court, citing Brinks, Inc. v. Pa. P.U.C., 500 Pa. 387, 456 A.2d 1342 (1983), found that:

> Thus, under Brinks, it is clear that the incidents of Conaway's past unlawful operations are not conclusive of the question of Conaway's present fitness and such prior unlawful operations do not preclude Conaway from obtaining an authority. It is in the discretion of the PUC to determine whether authority must be withheld considering other evidentiary criteria under 52 Pa. Code §41.14. This Court must then examine the record to decide whether the PUC's decision was based upon the positive evidence of Conaway's fitness independent of the evidence of prior unlawful operations. (citations omitted)

The Commonwealth quoted extensively, at 586 A.2d 494, from the Pennsylvania Supreme Court's decision in Brinks, supra:

> Our case law is clear that, although a favorable finding of fitness may not be based upon evidence of the quality of service conducted in wilful violation of a court order or the Commission's authority, the mere fact of prior operation in violation of a court order or the Commission's authority does not preclude a carrier from obtaining lawful authority in a subsequent proceeding before the Commission . . . Thus, while WFB's continuing to haul money in deliberate disregard of the Commonwealth Court's Order gave

> rise to a negative inference concerning Brooks' fitness, the Commission could still have granted the requested contract carrier authority without abusing its discretion so long as the Commission had before it positive evidence of Brooks' fitness independent of the evidence relating to the period of unlawful operations.
>
> The justification for the rule permitting the acquisition of contract carrier rights despite past unlawful operations is evident. The essence of public utility regulation is to assure that the public's needs are best served at the most reasonable rates. If past unlawful operations were deemed conclusive of an applicant's fitness, the Commission would be powerless to grant the application of a carrier who, despite its past unlawful activities, has otherwise demonstrated its present fitness to perform services beneficial to the public. (citations omitted)

See also, W.C. McQuaide v. Pa. P.U.C., 137 Pa. Commonwealth Ct. 282, 585 A.2d 1151, 1154 (1991); Re: Action Deliveries, Inc., 75 Pa. P.U.C.463, 474 (1991).

Here, I find that applicant's admittedly illegal service (transporting electronic equipment intrastate not connected to commercial moves) was provided pursuant to a good faith, reasonable misunderstanding of the terms of its ICC authority. Further evidence of applicant's good faith, and propensity to act legally, is found in the fact that when its

illegal activities were brought to the Commission's attention (by the protestant), applicant paid the fine and ceased the operations in question. Also, the Commission's files show that no complaints were filed against applicant in 1991 or 1992. Therefore, I do not find that applicant lacks a propensity to operate safely and legally.

B. Operational Fitness

Protestant's second argument is that applicant failed to demonstrate its operational and technical fitness to perform the proposed service. The requirement of technical fitness was explained and clarified by the Commission in Application of Ige t/a/ Globe Limousine Service, 75 Pa. P.U.C. 45, 47 (1991):

> Technical expertise - An applicant must have the technical capacity to meet the need for the proposed service in a satisfactory fashion. An applicant must possess sufficient staff and facilities or operating skills to make the proposed service feasible, profitable, and a distinct service to the public.

The Commission went on to note that to satisfy the requirement of "financial ability," an "applicant should own or should have sufficient financial resources to obtain the equipment needed to perform the proposed service." Id.

Here, protestant has alleged that applicant has failed to sustain its burden of establishing technical or operational fitness. It asserts that applicant failed to present testimony

from "a qualified financial officer or representative of the applicant," did not adduce evidence relating to current sales and expenses or verifying its projected financial statement, and did not establish that it was able to pay the purchase price for the proposed authority, did not indicate whether its equipment was leased or owned, and did not address the number of employees, facilities, safety procedures, drug testing program, or insurance coverage.

Applicant relies on Exhs. I and L, attached to its Application (which was admitted into the record as Exh. 1) as evidence of fitness. It also relies on a presumption of fitness arising out of its status as a certificated carrier, and notes that applicant's principals have over 30 years combined experience in the transportation industry.

Exhibit I is described as a statement of financial position/balance sheet dated March 1, 1992 (it was not indicated who prepared this document, or whether the information contained in it was verified in any way) which purports to show assets of $48,900 (cash) and $40,000 (authority), no liabilities, $128,950 in owner's equity, and projected net income of $150,000. It also included a projected cash flow for the 12-month period ended February 28, 1993 which purports to show a positive cash flow position for each quarter.

Exhibit L is a "statement of experience" which indicates that the officers of the corporation have "over 30 years experience and involvement in the trucking industry." Exhibit G is an equipment list, although it does not indicate which, if any, of the vehicles are currently used or would be used to provide the proposed service.

In addition, applicant witness Nelson testified that the operation is currently insured, although he gave no specific coverage level (Tr. 5), and that current monthly sales are $125,000. (Tr. 21.) While he does have 12 years experience in the trucking field, he has no managerial experience since he worked in sales and dispatch (Tr. 36). Each of the other principals has 4-5 years experience in sales and dispatch. Tr. 37-38.

Although the evidence on operational fitness was extremely skimpy, I find that applicant has sustained its burden of proof on this issue. It seems to have adequate financial resources, and the applicant's principals appear to be well-experienced in the trucking industry.

I must specifically reject, however, applicant's statement in its Reply Brief at unnumbered p. 2 that "as an existing certificated carrier, it is presumed that T&N possesses the requisite abilities. Further as an existing carrier, the PUC is fully cognizant of T&N's insurance retention, facilities,

equipment and methods of operation." First, "the Commission" is not an "existing carrier." In addition, there is absolutely no legal basis for this statement, which (I assume) is why no support was cited. The Commission "knows" only what was presented on the record of the initial certification proceeding when it made its determination that applicant was fit to provide that service. There is no way that the Commission can be "cognizant" of what equipment is currently used by applicant, or what employees are available to applicant, or how applicant intends to provide the proposed service. Will additional vehicles be required? If so, will they be purchased or leased? These and similar questions must be answered before the Commission can make any determination that an applicant will actually be able to provide a proposed service.

C. Harm To Protestant

Protestant alleges that it has lost sales to applicant and that, if the Application is granted by the Commission, protestant will experience significant economic harm.

As I explained above, this issue is not relevant in a transfer application proceeding. When the Commission awarded the initial grant of authority to the transferror, it considered the competitive impact of allowing an additional carrier into the field. The only question in this proceeding is which entity

should be permitted to provide the proposed service, not whether the service should be provided.

III. FINDINGS OF FACT

1. Transferror Domenic Cristinzio, Inc. received common carrier authority by Commission Order at Docket No. A-0086551, F.2.

2. Transferror ceased jurisdictional operations in March 1992, and, by letter dated March 4, 1992 (App. Exh. 5), the Commission permitted the authority to be placed in voluntary suspension pending sale of the rights. Tr. 81-82.

3. Applicant-transferee Tad's Delivery Service, Inc. t/a T&N Van Service entered into an agreement with transferror to purchase the operating authority listed at Docket A-0086551, F.2, in order to expand its service territory. Tr. 29-32, 43.

4. This agreement, dated May 8, 1992 and amended by addendum dated July 7, 1992, contained a sales price of $7,500. for all of the rights listed at Docket A-0086551, F.2. App. Exhs. 1, 2.

5. Applicant-transferee T&N currently is certificated by the Commission to perform common carrier transportation service at Docket A-00109244.

6. The authority at Docket A-00109244 was issued by the Commission to Domenic F. Taddei by certificate of public convenience dated July 6, 1990. Subsequently, by Order adopted

November 29, 1990, the Commission permitted the certificate to be changed to stand in the name of Tad's Delivery Service, Inc. App. Exh. 1.

7. Applicant-transferee T&N currently is certificated by the State of New Jersey at Docket No. PC00651. App. Exh. 1.

8. Applicant-transferee T&N currently is certificated by the Interstate Commerce Commission at Docket No. MC-214617 Sub. 3. App. Exh. 1.

9. Applicant-transferee is a stock corporation incorporated in Delaware. App. Exh. 1, Tr. 6.

10. The officers and shareholders of applicant-transferee T&N are David Nelson, Don Taddei, Russell Taddei and Kenneth Taddei. App. Exh. 1; Tr. 5, 15.

11. Applicant-transferee was purchased by David Nelson, Don Taddei, Russell Taddei and Kenneth Taddei from Domenic Taddei. Tr. 9-11.

12. Applicant-transferee operates a moving and storage business, which includes commercial office moving, electronic moving, automatic teller machine installation and rigging, and household moves. Tr. 5.

13. Applicant-transferee has its principle place of business in Cinnaminson, New Jersey. App. Exh. 1; Tr. 5.

14. David Nelson is President of applicant-transferee T&N and was employed at transferror Domenic Cristinzio, Inc. until February 1992. Tr. 4, 13, 14.

15. Mr. Nelson has 12 years experience in the trucking industry; the other principals of T&N have 4-5 years experience each. Tr. 36-37.

16. At Docket No. A-00109244C9301, a Complaint was adopted by the Commission upon its own Motion charging applicant-transferee with 12 instances of illegal intrastate service. Prot. Exh. 5.

17. Applicant-transferee's February 2, 1993 letter to Secretary Alford indicates that the Complaint was resolved by payment of the $3,000.00 fine, and that applicant has ceased performing such transportation pending resolution of this Application.

18. The illegal moves (which involved the transportation of electronic equipment not in connection with commercial moves) was done pursuant to a good-faith, reasonable misunderstanding of the scope of applicant-transferee's ICC and PUC authority.

19. Applicant-transferee has the financial ability to operate the proposed service. App. Exh. 1; Tr. 5, 21.

IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding.

2. In proceedings seeking the transfer of existing motor carrier operating authority, an applicant does not have to establish that approval of the application will serve a useful public purpose, responsive to a public demand or need.

4. In proceedings seeking the transfer of existing motor carrier operating authority, the burden of proof is on applicant to establish that it possesses the technical and financial ability to provide the proposed service, and does not possess a propensity to operate unsafely and/or illegally.

5. Applicant sustained its burden of establishing that it possesses the technical and financial ability to provide the proposed service, and does not possess a propensity to operate unsafely and/or illegally.

6. In proceedings seeking the transfer of existing motor carrier operating authority, a protestant should not be permitted to submit evidence that entry of a new carrier into the field would endanger or impair the operations of existing carriers to an extent that, on balance, the granting of the authority would be contrary to the public interest.

VII. ORDER

THEREFORE,

IT IS ORDERED:

1. That the application for transfer of the rights held by Domenic Cristinzio, Inc. at Docket No. A-0086551, F.2, is hereby approved and that the Certificate issued to Applicant be amended to include the following rights:

> To transport as a Class D carrier (1) tabulating and office machines for the International Business Machine Corporation between points in the city of Philadelphia, Philadelphia County, and from points in the said city to points within an airline distance of twenty-five (25) miles of the City Hall in the said city, and vice versa; (2) cases for the International Business Machine Corporation from points within an airline distance of twenty-five (25) miles of the City Hall in the city of Philadelphia, Philadelphia County, to points in the said city, and vice versa; (3) office machines and electronic or mechanical equipment, including but not limited to, copiers, computers, x-ray machines and inserting machines, from the warehouse of Domenic Cristinzio, Inc., at 3328 Amber Street, in the city and county of Philadelphia, to points within thirty-five (35) miles thereof, and vice versa; (4) office machines and electronic or mechanical equipment, including, but not limited to, copiers, computers, x-ray machines and inserting machines, from the warehouse of Domenic Cristinzio, Inc., at 2073 Bennett Road, in the city and county of Philadelphia, to points within thirty-five (35) miles thereof, and vice versa; (5) uncrated office machines and electronic or mechanical equipment, including, but not limited to, copiers, computers, x-ray machines and inserting machines, between points in the counties of Bucks, Chester, Delaware,

Montgomery, Philadelphia, and from said counties to points in Pennsylvania, and vice versa; (6) business and office machines, electronic manufacturing systems, parts and supplies thereof, that are manufactures, sold, leased, distributed or dealt in by International Business Machines Corporation, for International Business Machines Corporation between points in the counties of Adams, Berks, Bucks, Carbon, Centre, Chester, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Lehigh, Mifflin, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Schuylkill, Snyder, Union and York; and (7) business and office machines and electronic or mechanical equipment, including, but not limited to, copiers, computers, x-ray machines, and inserting machines, and new office furniture, between points in the counties of Luzerne, Lackawanna, Monroe, Carbon, Northampton, Lehigh, Berks, Schuylkill, Columbia and Montour, and from points in said counties, to points in Pennsylvania, and vice versa.

2. This grant of authority is subject to the following conditions:

A. That the approval hereby given is not to be understood as committing this 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, or equal

to any value that may be placed on them by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

B. That applicant shall not record in its utility accounts any amount representing the rights granted by this Order in excess of the actual cost of such rights to the original certificate holder.

C. That applicant charge to Account 1550, Other Intangible Property, $7,500., being the amount of consideration payable by it for the rights granted by this Order, less any amount recorded under Condition B, above.

3. That the operating authority granted by this Order, to the extent that it duplicates authority now held or subsequently granted to the carrier, shall not be construed as conferring more than one operating right.

4. That applicant shall not engage in any transportation granted by this Order 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 of insurance and acceptance of a tariff establishing just and reasonable rates.

5. That issuance of a Certificate of Public Convenience will become final only upon submission of transferror's assessments due.

6. That in the event applicant has not, on or before 60 days from the date of service of this Order, complied with the requirements set forth above, the Application will be dismissed without further proceedings.

7. That upon compliance with this Order, the rights granted to the transferror, Domenic Cristinzio, Inc. at Docket No. A-0086551, F.2, are hereby cancelled.

8. That Protestant Exh. 5 and applicant's February 2, 1993 letter to Secretary Alford are admitted into the record.

Date: July 21, 1993

Marlane R. Chestnut

MARLANE R. CHESTNUT
Administrative Law Judge

Act 294

Case Identification: A-00109244, F0001, Am-A; Application of Tad's Delivery Service, Inc. t/a T&N Van Service

Initial Decision By: ALJ Marlane R. Chestnut

Deadline for Return to OSA: August 25, 1993

This decision has not been reviewed by OSA.

* * * * * *

I want full Commission review of this decision.

_____ Commissioner

_____ Date

I do not want full Commission review of this decision.

David W. Rolka/jr Commissioner

8-27-93 Date

Act 294

Case Identification: A-00109244, F0001, Am-A; Application of Tad's Delivery Service, Inc. t/a T&N Van Service

Initial Decision By: ALJ Marlane R. Chestnut

Deadline for Return to OSA: August 25, 1993

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* * * * * *

I want full Commission review of this decision.

_____ _____

Commissioner Date

I do not want full Commission review of this decision.

X Joseph Rhodes, Jr. 8/23/93

Commissioner Date

AUG 13 P.M.

Act 294

Case Identification:	A-00109244, F0001, Am-A; Application of Tad's Delivery Service, Inc. t/a T&N Van Service
Initial Decision By:	ALJ Marlane R. Chestnut
Deadline for Return to OSA:	August 25, 1993

This decision has not been reviewed by OSA.

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_____ _____

Commissioner Date

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X _____ 8-25-93

Commissioner Date

Act 294

Case Identification: A-00109244, F0001, Am-A; Application of Tad's Delivery Service, Inc. t/a T&N Van Service

Initial Decision By: ALJ Marlane R. Chestnut

Deadline for Return to OSA: August 25, 1993

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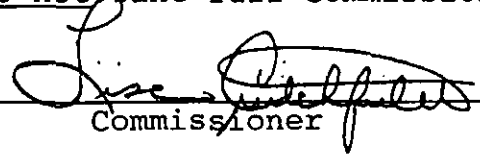
_____ _____

Commissioner Date

I do not want full Commission review of this decision.



Commissioner

8/27/93

Date

Act 294

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This decision has not been reviewed by OSA.

* * * * * *

I want full Commission review of this decision.

_____ _____

Commissioner Date

I do not want full Commission review of this decision.

John Hunger 9-3-93

Commissioner Date