

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

| | | | |
|--|------------------------|---|--------------------------------|
| 1. <u>REPORT DATE:</u> | May 24, 1991 | : | 2. <u>BUREAU AGENDA NO.</u> |
| 3. <u>BUREAU:</u> | Transportation | : | JUN-91-T-577* |
| 4. <u>SECTION</u> | Technical Review | : | 5. <u>PUBLIC MEETING DATE:</u> |
| 6. <u>APPROVED BY:</u> | | : | June 14, 1991 |
| Director: | Ernst 7-2154 | : | |
| Supervisor: | Bigelow/Marzolf 3-5945 | : | |
| 7. <u>MONITOR:</u> | | : | |
| 8. <u>PERSON IN CHARGE:</u> | Zeigler 3-5946 | : | |
| 9. <u>DOCKET NO.:</u> | A-00109712 | : | |
| 10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines) | | : | |
| (b) Short summary of history & facts, documents & briefs | | : | |
| (c) Recommendation | | : | |

DOCKETED

JUL 29 1991

(a) Application of Diana T. Gentile, Verona, Allegheny County, for the transfer of all of the operating rights of W. Steele Trucking, Inc., under the certificate issued at A-00100811, subject to the same limitations and conditions.

(b) The application for transfer is unopposed. The transferor seeks to sell all of its operating authority to the applicant for the total consideration of \$15,000. No tangible assets are being transferred. A concurrently filed application for temporary authority is being dismissed by the instant order.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the transfer application; dismissing the temporary authority application; and cancelling the certificate issued to the transferor by supplemental order.

TZ:kmb

DOCKETED
KJR

| | | |
|-----------------------|-------------------------|----------------------------|
| 11. <u>MOTION BY:</u> | Commissioner Chm. Smith | Commissioner Holland - Yes |
| <u>SECONDED:</u> | Commissioner Rolka | Commissioner Rhodes - Yes |
| | | Commissioner |

CONTENT OF MOTION: Staff recommendation adopted.



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

KJR

June 20, 1991

IN REPLY PLEASE
REFER TO OUR FILE

A-109712

JOHN A PILLAR ESQUIRE
SUITE 700 312 BOULEVARD OF THE ALLIES
PITTSBURGH PA 15222

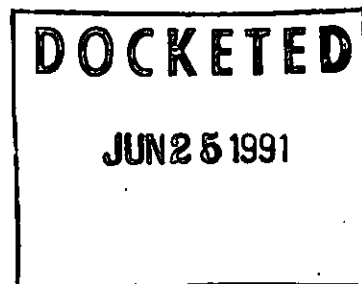
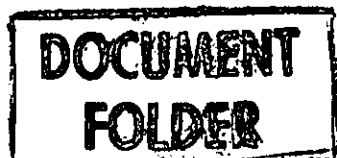
Application of Diana T. Gentile

To Whom It May Concern:

Enclosed is the compliance order issued by the Commission in this proceeding.

A Certificate of Public Convenience evidencing the Commission's approval of the right to operate will not be issued until the applicant has complied with the following insurance and tariff requirements:

- I. Arrange through an insurance agent to have an insurance company file the following forms with the Commission.
 - a. A Form E as evidence of minimum public liability and property damage insurance coverage as shown on the back of this sheet.
 - b. A Form H or Form UCPC-31 as evidence of cargo insurance coverage in an amount not less than \$5,000 per vehicle. Under certain circumstances, exemption from the cargo insurance requirement may be secured by filing the enclosed Form PUC-288.
- II. Prepare and file a tariff according to the enclosed instructions except applicants for transfer of authority must file a tariff adoption supplement which will be forwarded by separate cover at a later date.



Property

Minimum Limits for PA Public Utility Commission Authorized Service

Passenger Carriers:

15 passengers or less: \$35,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$25,000 first party medical benefits, \$10,000 first party wage loss benefits and \$1,500 first party funeral benefits for all passengers and pedestrians.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits for drivers (PA registered vehicles only).

16 to 28 passengers: \$1,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

29 passengers or more: \$5,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

Property Carriers:

Common or Contract: \$300,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

\$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits (PA registered vehicles only).

Common only: \$5,000 per accident per vehicle for loss or damage to cargo.

No motor carrier shall operate or engage in any transportation until compliance with all of the above requirements and a certificate has been issued authorizing actual operations. A motor carrier operating without complying with the above requirements will be subject to the penalty provisions of the Public Utility Code.

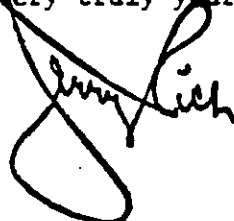
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of June 14, 1991 and dismiss the application without further proceedings.

If you foresee problems in meeting these requirements, please direct your questions to the following contact persons:

Insurance Filings: Mr. James McCarthy-Insurance Section
(717) 783-5933

Tariff Filings: Mr. Joseph Machulsky-Tariff Section
(717) 787-5521

Very truly yours,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is stylized with a large loop at the bottom and a flourish at the end.

Jerry Rich, Secretary

lg

Enclosures --
Certified Mail
Receipt Requested

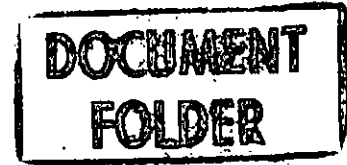
cc:applicant
DIANA T GENTILE
845 HAMIL ROAD
VERONA PA 15147

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held June 14, 1991

Commissioners Present:

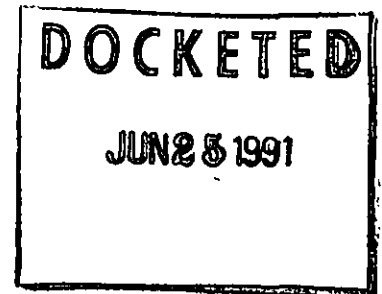
William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Wendell F. Holland, Commissioner
David W. Rolka, Commissioner



Application of Diana T. Gentile, for the transfer of all of the operating rights of W. Steele Trucking, Inc., under the certificate issued at A-00100811, subject to the same limitations and conditions.

A-00109712

John A. Pillar for the applicant.



O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed March 25, 1991. Public notice of the application was given in the Pennsylvania Bulletin of April 13, 1991. An application for temporary authority was filed and published on the same dates. The unopposed application is certified to the Commission for its decision without oral hearing.

The applicant seeks to initiate common carrier service in Pennsylvania by acquisition of all of the operating rights of W. Steele Trucking, Inc. The applicant is domiciled at 845 Hamil Road in Verona, Allegheny County. Diana T. Gentile will use one 1985 Mack tri-axle dump truck to provide the service authorized by the rights being transferred.

Diana T. Gentile has been involved in the trucking business for thirty years and is experienced in the operation of commercial vehicles. She has the knowledge and ability to manage a business and provide a service in dump vehicles. The applicant is familiar with the rules and regulations of the Commission and the Department of Transportation.

The applicant sets forth total assets of \$166,282 with no liabilities.

The total consideration for the rights is \$15,000. No tangible assets are involved. The sales agreement requires the consideration to be paid as follows: \$2,500 has been paid upon execution of the sales agreement March 20, 1991. The balance of \$12,500 will be paid in cash, certified check or cashiers check within thirty days of the date of the final order of the Commission.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.
2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the transfer application be and is hereby approved and that a certificate be issued granting the following rights:

1. To transport, as a Class D carrier, stone, asphalt and red dog, in dump vehicles, between points in the counties of Allegheny, Beaver, Washington and Westmoreland, no haul to exceed an airline distance of twenty-five (25) statute miles from point of origin to point of destination.
2. To transport, as a Class D carrier, coal, from mines or stripping operations of Pangersis Coal Company, Rosini's Coal Company, Inc., and Panton Enterprises, Inc., in the counties of Allegheny, Washington and Westmoreland, to points in the counties of Allegheny Beaver and Washington, no haul to exceed an airline distance of twenty-five (25) statute miles from point of origin to point of destination.
3. To transport, as a Class D carrier, coal and coke for domestic consumption between points in the counties of Allegheny, Washington and Beaver, provided no haul shall exceed a distance of fifteen (15) miles from point of origin to point of destination.

4. To transport, as a Class D carrier, coal from mines or stripping operations in the counties of Allegheny, Washington and Beaver, to coal tipples and railroad sidings in the said counties, provided no haul shall exceed a distance of twenty-five (25) statute miles from point of origin to point of destination.
5. To transport, as a Class D carrier, building materials in bulk in dump trucks between points in the counties of Allegheny, Washington and Beaver, provided no haul shall exceed a distance of twenty-five (25) statute miles from point of origin to point of destination, excluding the right to transport brick to or from or between points in the county of Allegheny.
6. To transport, as a Class D carrier, coal, in bulk in dump vehicles for Pangersis Coal Company, Rosini's Coal Company, Inc., and Panton Enterprises, Inc., from their facilities in the counties of Washington, Beaver, Westmoreland, Greene, Allegheny, Fayette, Butler, Armstrong and Indiana, to points in said counties.
7. To transport, as a Class D carrier, coal, limestone, slag, sand and gravel, in bulk in dump trucks, between points in the counties of Allegheny, Beaver, Butler, Lawrence, Mercer and Washington, provided no haul shall exceed a distance of twenty-five (25) statute miles from point of origin to point of destination;

right seven subject to the following condition:

That no right, power or privilege is granted to transport slag between steel mills for reprocessing between points in the counties of Allegheny, Beaver, Lawrence and Mercer.

8. To transport, as a Class D carrier, coke, lime and clay, in bulk in dump trucks, between points in the counties of Allegheny, Butler and Washington, provided no haul shall exceed a distance of twenty-five (25) statute miles from point of origin to point of destination.

subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by

applicant, or to approve or prescribe rates sufficient to yield a return thereon.

2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the \$15,000 consideration paid by applicant for the rights and going concern value of the business be capitalized by applicant in Account 1550 - Other Intangible Property or in the alternative be charged off against applicant's ownership equity less any amount recorded under condition 2 above; provided the latter is sufficient in amount to absorb said charge off.
4. That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in its utility accounts any amounts representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a tariff establishing just and reasonable rates.

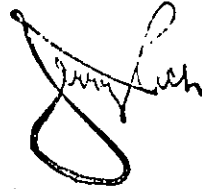
IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a certificate issue evidencing the Commission's approval of the right to operate as above-determined.

IT IS FURTHER ORDERED: That the temporary authority application be dismissed.

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

IT IS FURTHER ORDERED: That upon compliance with this order,
the rights granted the transferor W. Steele Trucking, Inc., at A-00100811
be cancelled and the record be marked closed.,

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is stylized with a large loop at the bottom and a horizontal line across the middle.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: June 14, 1991
ORDER ENTERED: June 20, 1991



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

June 24, 1991

IN REPLY PLEASE
REFER TO OUR FILE

R-16

JOHN A PILLAR ESQUIRE
SUITE 700
312 BOULEVARD OF THE ALLIES
PITTSBURGH PA 15222



Re: A-00109712 - Diana T. Gentile

Dear Mr. Pillar:

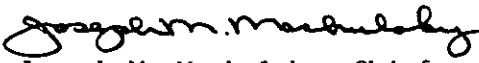
Under date of June 20, 1991, the Secretary's office transmitted to you the Commission's compliance order adopted June 14, 1991, evidencing approval of the above application which is in effect a transfer of the rights formerly held by W. Steele Trucking, Inc. at A-00100811. The letter transmitting the order directs attention to the requirement for the filing of a tariff.

Pa. Code, Title 52, Section 23.13(c) provides that in the case of change of ownership, etc., if feasible to do so, the tariffs of the former operator shall be adopted by the new operator, and no change in rates is permitted to cover the transfer of rights.

In this instance it is not possible to meet the tariff requirements by the adoption of the former tariff for the reason that the present tariff's description of operating authority does not conform with the approval of this application.

It will be necessary, therefore, to file a new tariff which should be designated Freight Pa. P.U.C. No. 1. The tariff should name the same rates, rules and regulations as were filed by the former operator and may be issued to become effective on one day's notice under authority of Pa. Code, Title 52, Section 23.42.

Very truly yours,
Barry L. Ernst, Director
Bureau of Transportation


By: Joseph M. Machulsky, Chief
Financial Document Section

cc: Diana T. Gentile
845 Hamil Road
Verona, PA 15147

Contact Person: G. L. Baker
(717) 783-5936

