



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

IN REPLY PLEASE
REFER TO OUR FILE

October 28, 1997

A-00109681
A-00109681C9601

MICHAEL J GATHANY
R D 2 BOX H6
HALLSEAD PA 18822

Pennsylvania Public Utility Commission
vs
Brian C. Hinkley,
t/a Hinkley Moving and Storage

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in Public Meeting on October 23, 1997 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty,
Acting Secretary

encls
cert. mail
law

GARY R LOUDERBCK PRESIDENT
LOUDERBACK TRANSPORTATION CO
260 HANSEN ACCESS ROAD
KING OF PRUSSIA PA 19406

MARATHON MOVING & STORAGE
404 COURT STREET
BINGHAMTON NY 13904

DOCKETED

NOV 19 1997

DOCUMENT
FOLDER

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held October 23, 1997

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
John Hanger
David W. Rolka
Nora Mead Brownell

Pennsylvania Public Utility Commission

v.

Brian C. Hinkley, t/a Hinkley Moving
and Storage

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OPINION AND ORDER

DOCKETED

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BY THE COMMISSION:

Before the Commission for consideration and disposition is the Petition to Reinstatement Authority (Petition) which was filed by Marathon Moving and Storage Co., Inc.,¹ (Marathon Moving) on behalf of Brian C. Hinkley, t/a Hinkley Moving and Storage, (Respondent) on March 26, 1997. As will be further discussed below, Marathon

¹ William R. Burkholder and George T. Edwards III are the owners of Marathon Moving and Storage Co. Inc., a New York Corporation, and the general managers of Marathon Hauling Corp., also a New York Corporation. At the time the Petition for Reinstatement was filed, Marathon Moving and Storage was in the process of purchasing the assets of Marathon Hauling Corp. Marathon Hauling Corp., in turn, has purchased Hinkley Moving and Storage from Brian Hinkley. Messrs. Burkholder and Edwards have been managing all aspects of Marathon Hauling Corp. for four years.

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Moving was concerned that the Respondent's authority be reinstated in order that that authority could then be transferred to Marathon Moving.

History of Proceeding

On May 24, 1996, the Commission's Bureau of Transportation and Safety (Bureau) instituted a Complaint at Docket No. A-00109681C9601 against the Respondent, alleging that he failed to maintain evidence of bodily injury and property damage liability insurance and cargo insurance on file with the Commission.

On June 17, 1996, the Respondent filed an Answer to the Complaint which denied the allegations contained therein. The Respondent further averred that he had sold his business, including all tangible assets, and had, or would be, filing a Transfer Application with the Commission.

By Letter dated July 12, 1996, the Insurance Section of the Bureau acknowledged receipt of the Respondent's Answer to the Complaint and stated that, unless a Transfer Application was received by the Commission within twenty (20) days of the date of the Letter, the Commission would act to cancel the Respondent's Certificate of Public Convenience at Docket No. A-00109681. The Letter was sent by certified mail, and the Respondent signed for it on July 18, 1996.

By Order entered on November 4, 1996, the Commission, noting inter alia that the Respondent had failed to file evidence of bodily injury and property damage liability insurance, and further noting that the Respondent had failed to file a Transfer

Application or a request for the voluntary suspension of his operating rights, acted to sustain the Complaint and to revoke the Respondent's Certificate of Public Convenience.

The instant Petition was filed by Marathon Moving on behalf of the Respondent on March 26, 1997. Thereupon, by Application received April 22, 1997, Marathon Moving applied to have transferred to it, at Docket No. A-00113936, the authority previously held by the Respondent.

By Order issued by the Commission on July 17, 1997, the Application of Marathon Moving for the transfer of the authority previously held by the Respondent was granted.

Discussion

As noted above, *Marathon Hauling Corporation (Marathon Hauling)* purchased the assets of the Respondent from Brian Hinkley, and Marathon Moving thereupon purchased the assets of Marathon Hauling. Also, as noted above, the instant Petition for Reinstatement was filed by Marathon Moving on behalf of the Respondent. This Petition reads, in pertinent part, as follows:

On October 10, 1996 a Petition to Reinstate was sent to your office.² Please see copy enclosed. We were

² The Petition to Reinstate referenced here by Marathon Moving was dated October 10, 1996, and was date-stamped by the Prothonotary's Office on October 21, 1996. However, due to an administrative oversight, the October Petition was inadvertently neither docketed nor forwarded to the proper Bureau for processing. Accordingly, the October Petition will hereby be consolidated for disposition with the instant Petition.

delayed significantly by some unavoidable circumstances. On March 3, 1997, Marathon Moving and Storage Co. Inc. was incorporated. We understand that Marathon Hauling Corp. did not file for an authority transfer. Hinkley Moving and Storage has been paid for in full by Marathon Hauling Corp. Marathon Moving and Storage is purchasing the assets of Marathon Hauling Corp. Marathon Hauling Corp. has had certificates of insurance for coverage of Hinkley Moving and Storage. I have enclosed these for your review. I understand that the authority was revoked for insurance coverage reasons. If you could please reinstate PUC #109681 so we can advertise in the Yellow Pages...We will be becoming an American Red Ball Agent in the area and feel that this affiliation will serve the people of the northern Pennsylvania area very well.

(Petition, p. 1).

We have noted above that, by Order entered July 17, 1997, the authority previously held by the Respondent was transferred to Marathon Moving at Docket No. A-00113936. Because this transfer has been already accomplished, we find that the best course at the present time would be to grant the instant Petition for Reinstatement. As we have noted above, the reinstated authority of the Respondent has, per Order of July 17, 1997, been transferred to Marathon Moving. Accordingly, we will also act to rescind

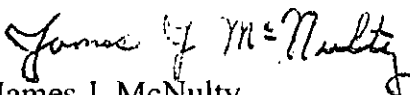
our Order entered on November 4, 1996, whereby the Respondent's Certificate of Public Convenience was revoked; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Reinstatement filed by Marathon Moving and Storage Company, Inc., on behalf of Brian C. Hinkley, t/a Hinkley Moving and Storage, on March 26, 1997, is granted, consistent with this Opinion and Order.

2. That the Commission's Order entered herein on November 4, 1996, whereby the Certificate of Public Convenience issued to Brian C. Hinkley, t/a Hinkley Moving and Storage, at Docket No. A-00109681 was revoked, is rescinded.

BY THE COMMISSION,


James J. McNulty
Acting Secretary

(SEAL)

ORDER ADOPTED: October 23, 1997

ORDER ENTERED: **OCT 28 1997**