



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

February 5, 1992
6

IN REPLY PLEASE
REFER TO OUR FILE

LEONARD ZACK ESQUIRE
1429 WALNUT STREET
PHILADELPHIA PA 19102

A-00109534
F. I, Am-A(TA)

DOCUMENT
FOLDER

DOCKETED
FEB07 1992

Application of Joyco, Inc. a corporation of the Commonwealth of Pennsylvania

Dear Sir:

This is to advise you that the Commission at Public Meeting held January 30, 1992 adopted a Tentative Decision in connection with the above entitled proceeding.

A copy of the Tentative Decision is enclosed for your records.

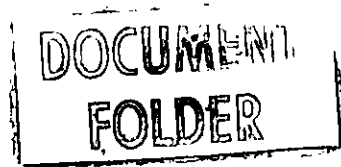
Very truly yours,

John G. Alford, Secretary

JZ
Encls.
Certified Mail
Receipt Requested

Copy of Tentative Decision to: See attached list.

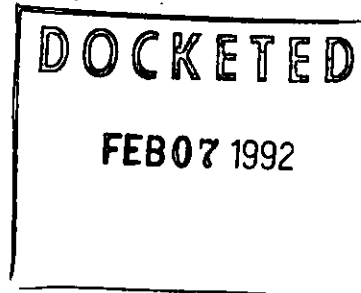
PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265



Public Meeting held January 30, 1992

Commissioners Present:

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



Application of Joyco, Inc., a corporation
of the Commonwealth of Pennsylvania, for
temporary authority to transport property,
between points in the counties of Chester,
Montgomery, Bucks and Lancaster.

A-00109534
F. I
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(TA)

Leonard Zack for the applicant.
Henry L. Wahls for the protestant, A. Duie Pyle, Inc.
Kenneth A. Olsen for the protestant, GTS, Inc.
James D. Campbell for the protestant, New Penn Motor Express, Inc.
John A. Pillar for the protestant, Courier Express, Inc.
Victor Marano for the protestant, Marty's Express, Inc.
Peter G. Loftus for the protestant, Seaboard Tank Lines, Inc.
Edward L. Ciemniecki for the protestants, Mustang Express, Inc., and Jamour,
Inc.
Joseph J. Carroll for the protestant, S.T.S. Motor Freight, Inc.
William H.R. Casey for the protestant, Hatboro Delivery Service, Inc.
Raymond A. Thistle for the protestant, Courier Unlimited, Inc.
William A. Gray for the protestant, United States Cargo and Carrier Service,
Inc.
Edward D. Reibman for the protestant, Calvin L. Schiffer and Michael J.
Schiffer, copartners, t/d/b/a H.O. Schiffer & Sons.
John E. Fullerton for the protestant, DePen Lines, Inc.

TENTATIVE DECISION

BY THE COMMISSION:

This matter comes before the Commission on an application for
temporary authority filed September 25, 1991. A corresponding application

for permanent authority was also filed. Both applications were published in the Pennsylvania Bulletin of November 30, 1991. The record consists of verified statements submitted by the applicant and letters from twelve supporting shippers. Fifteen protests have been filed to the applications.

Joyco, Inc., t/d/b/a Rapid Delivery (Joyco or applicant), is a Pennsylvania corporation, with its principal place of business in Philadelphia. It was initially certificated in 1991 and presently operates under one paragraph of authority, allowing the transportation of property between points in Philadelphia. By this application, Joyco seeks temporary authority to transport property between points in the counties of Chester, Montgomery, Bucks and Lancaster.

SUPPORT EVIDENCE

The following businesses submitted letters in support of this temporary authority application and the entire body of each letter is quoted:

1. Dianne Green, property manager, 215 South Broad Associates, 100 North 17th Street, Philadelphia: "We support the emergency grant of authority in the following counties: Chester County, Bucks County, Montgomery County."

2. Dianne Green, property manager, Philadelphia Design & Distribution Center, 100 North 17th Street, Philadelphia: "We support the emergency grant of authority in the following counties: Delaware County, Lancaster County, Chester County."

3. Dianne Green, property manager, 1429 Walnut Street, 100 North 17th Street, Philadelphia: "We support the emergency grant of authority in the following counties: Montgomery County, Lancaster County."

4. Dianne Green, property manager, Robert Morris Building Associates, 100 North 17th Street, Philadelphia: "We support the emergency grant of authority in the following counties: Chester County, Bucks County, Delaware County."

5. Charles P. Donato, controller, Robinson Luggage, Route 70, Pine Tree Plaza, Cherry Hill, New Jersey: "We support the emergency grant of authority in the following counties: Montgomery County, Delaware, Bucks and Lancaster County."

6. Jill Segal, director of business development, Jefferson Bank, 31 South 18th Street, Philadelphia: "We support the emergency grant of authority in the following counties: Montgomery, Chester, Delaware, Bucks and Lancaster."

7. Simon J. Denenberg, partner, Abramson & Denenberg, P.C., 1200 Walnut Street, Philadelphia: "We support the emergency grant of authority in the following counties: Montgomery, Delaware County."

8. Gina C. Vare, office manager, Greater Philadelphia Economic Development Coalition, 123 South Broad Street, Philadelphia: "We support the emergency grant of authority in the following counties: Montgomery County, Chester County, Delaware County, Bucks County, Lancaster County."

9. John P. Claypool, executive director, Greater Philadelphia First Corporation, 123 South Broad Street, Philadelphia: "We support the emergency grant of authority in the following counties: Montgomery County, Chester County, Delaware County, Bucks County, Lancaster County."

10. Richard E. Danoff, assistant director, GPIN, 123 South Broad Street, Philadelphia: "We support the emergency grant of authority in the following counties: Montgomery County, Chester County, Delaware County, Bucks County, Lancaster County."

11. R. Scott Horner, senior vice president, United Valley Bank, 1601 Market Street, Philadelphia: "We support the emergency grant of authority in the following counties for the above referenced: Montgomery, Chester, Delaware, Bucks, Lancaster."

12. Ira J. Pressman, Attorney at Law, 1429 Walnut Street, Philadelphia: "I support the emergency grant of authority in the following counties: Chester County, Bucks County, Montgomery County."

DISCUSSION AND FINDINGS

Pursuant to 52 Pa. Code §3.383(c)(3)(ii), statements in support of temporary authority shall contain the following information:

- (A) A description of the specific commodity which will be transported, if the transportation of property is involved.
- (B) Points or areas to, from or between which the transportation will be provided.
- (C) A statement of the shipper's current and recent needs concerning volume of traffic, frequency of movement and manner of transportation.
- (D) A statement indicating when the service shall be provided.
- (E) A statement indicating how long the need for service will continue and whether the supporting shipper or witness will support the permanent authority application.
- (F) An explanation of the consequences of not having the service made available.
- (G) A description of the circumstances which created an immediate need for the requested service.

- (H) A statement of whether efforts have been made to obtain the service from existing carriers, including the data and results of these efforts.
- (I) Names and addresses of existing carriers who have failed or refused to provide the service and the reasons given for the failure or refusal.
- (J) A statement of whether the supporting shipper or witness has supported a recent application for permanent, temporary or emergency temporary authority covering all or part of the requested service, the carrier's name, address and docket numbers, if known, and whether the application was granted or denied and the date of the action, if known.
- (K) Names and addresses of labor unions which represent, or which within the past 12 months have represented, or which have filed a petition to represent the employees of the supporting shipper with the National Labor Relations Board or the Pennsylvania Labor Relations Board.

While we are quite liberal in accepting supporting statements that do not conform exactly to our regulations, we find it impossible to make any finding of an immediate need for service based on the single sentence (or slight variation): "We support the emergency grant of authority in the following counties" We have been given no information on such important points as to the commodities involved, attempts to obtain service from existing carriers, or origins and destinations. An examination of the supporting witnesses' addresses appear to indicate that they are not even located in the area of application. We must, therefore, find that no competent evidence has been submitted to prove an immediate need for the service.

Other than noting that there are fifteen protests to the temporary and permanent authority applications, by carriers that claim to be ready to perform all or part of the proposed service, we find it unnecessary to reach the issue of whether these protests have merit. Since the applicant, through its supporting shippers, has failed to meet its burden of proving an immediate need for the service, the burden of going forward with the case does not shift to the protestants.


After a complete review of the record before us, we find that the applicant has failed to meet its burden of proving a situation which creates an immediate need for the proposed service; THEREFORE,

IT IS ORDERED: That the application for temporary authority be and is hereby denied for failure of the applicant to establish a situation which creates an immediate service need.

IT IS FURTHER ORDERED: That unless exceptions are filed within twenty (20) days from the date of service, this tentative decision shall become final.

IT IS FURTHER ORDERED: That the action taken on this application for temporary authority shall have no bearing on our decision in the application for permanent authority.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: January 30, 1992

ORDER ENTERED: FEB 06 1992