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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: A-00109/534, F001, Am-A, Application of
Joyco, Inc., t/a Rapid Delivery. Initial
Hearing.

Philadelphia, Pennsylvania
March 30, 1992

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BEFORE
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: A-00109534, F001, Am-A, Application of
Joyco, Inc., t/a Rapid Delivery. Initial
hearing.

Stenographic report of hearing held in
Hearing Room 3, State Office Building,
Philadelphia, Pennsylvania.

Monday
March 30, 1992
at 10:00 a.m.

BEFORE
ISADOR KRANZEL, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

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1 APPEARANCES: (Continued.)

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13 For - Mustang Expediting and Amour, Inc.,

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1 JUDGE KRANZEL: This is the application of Joyco
2 Incorporated, trading as Rapid Deliver at docket
3 A-109534,F001, Am-A. I am Isador Kranzel, Administrative
4 Law Judge in this matter. Appearing for the Applicant,
5 Leonard Zack, Esquire.

6 Appearing for Protestant, GTS Incorporated, Kenneth A.
7 Olsen, Esquire. Appearing for Protestant, Courier
8 Unlimited, Incorporated, Raymond A. Thistle, Jr., Esquire.
9 Appearing for New Penn Motor Express, Incorporated is James
10 D. Campbell, Jr., Esquire.

11 Appearing for Protestant De Penn Line, Incorporated is
12 John E. Fullerton, Esquire by James D. Campbell. And
13 appearing for Mustang Expediting Inc., and Jamour, Inc.,
14 t/d/b/a as Quick Courier Service is Edward L. Ciemniecki,
15 Esquire from the firm of Rubin, Quinn, Moss, Heaney &
16 Patterson.

17 Now, there should be noted that there are several
18 withdraws in this matter. I have here a statement from a
19 Joseph J. Carroll of STS Motor Freight Incorporated that
20 they have withdrawn their Protest to the application.

21 I also have a copy of a letter from William A. Gray of
22 the firm of Vuono, Lavelle, and Gray to Mr. Zack, dated
23 March 27, 1992 indicating that upon the approval of a
24 restrictive amendment, stating that no right, power or
25 privilege is granted to provide services for or to and from

1 facilities of banks and financial institutions, the United
2 States Cargo and Courier Service Incorporated will withdraw
3 its Protest.

4 I also I believe, I may not be correct, that Mr.
5 Loftness is no longer in this. Is that correct?

6 MR. ZACK: That is correct, Your Honor. We have
7 agreed to a restrictive amendment. A copy of which was
8 furnished to Mr. Rich on Friday signed by Mr. Wool which
9 eliminates all of the Protests except for the gentlemen in
10 this room, some of whom, also, I'm sure, would like to
11 withdraw their Protest, if you will accept that restrictive
12 amendment?

13 JUDGE KRANZEL: This restrictive amendment is as
14 follows: 1. No right, power or privilege is granted to
15 provide services for or to and from facilities of banks and
16 financial institutions.

17 2. No right, power or privilege is granted to
18 transport fresh or frozen foods including seafood.

19 3. No right, power or privilege is granted to
20 transport garments and wearing apparel on hangers.

21 4. No right, power or privilege is granted to
22 transport shipments exceeding 100 pounds in weight, with a
23 shipment defined as one lot of freight on one bill of
24 lading moving from one consignor to one consignor on one
25 calender day.

1 5. No right, power or privilege is granted to render
2 transportation in tractor trailer equipment. Now, is it my
3 understanding, do you know which firms are withdrawing on
4 this?

5 MR. ZACK: Everyone other than who is here today, I
6 think Mr. Olsen also would like to withdraw.

7 MR. OLSEN: Your Honor, if I may, based on the
8 submission of the restrictive amendments which you have
9 read into the record, and based upon the Commission and
10 Your Honor, incorporating that to any grant of authority,
11 if there is any in this proceeding, and approval by the
12 Commission, the Protestant, GTS Incorporated would be
13 withdrawn. And based on that, Your Honor, I would also ask
14 your permission to be excused from further hearings in this
15 proceeding.

16 JUDGE KRANZEL: One is, I accept the restrictive
17 amendment and you're certainly excused.

18 MR. OLSEN: Thank you, Your Honor.

19 MR. CAMPBELL: If I might be heard. I have only one
20 problem with the restrictive amendment, which I believe is
21 typographical. In right number four, which I had discussed
22 with Mr. Zack, rights number four and five are the ones of
23 interest to my client.

24 And the only thing that I would like to do is I
25 believe that the reference of moving from one consignor to

1 one consignor should be corrected to read from one
2 consignor to one consignee.

3 MR. ZACK: We will accept that amendment.

4 JUDGE KRANZEL: Well, that is --

5 MR. CAMPBELL: Having that been placed upon the record
6 and Your Honor having accepted the amendment, I'm
7 authorized and I do withdraw the Protest of New Penn Motor
8 Express, Incorporated.

9 It is my understanding that this amendment also
10 satisfies the interest of De Pen Lines and I would prefer,
11 however, if we could let Mr. Fullerton respond directly
12 with the Secretary and provide a copy after he has seen and
13 reviewed the amendment, which I'm just seeing for the first
14 time today.

15 I think Mr. Fullerton would have received this in the
16 mail today. I will tell him what transpired today and ask
17 him that he follow-up with a written withdrawal if this
18 meets his needs, which I understand it does.

19 JUDGE KRANZEL: That procedure is acceptable to me.

20 MR. CAMPBELL: I thank, Your Honor. If I could be
21 excused, I will withdraw.

22 MR. ZACK: Thank you, very much gentlemen.

23 JUDGE KRANZEL: This leaves Mustang Expediting
24 Incorporated and Jamour, Inc, t/d/b/a Quick Courier Service
25 and Courier Unlimited, Inc., as the remaining Protestants.

1 MR. THISTLE: Your Honor, I didn't hear any
2 representation from the Attorney in Scranton, Mr. Loftness,
3 whether he has indicated withdrawal based on these
4 amendments?

5 JUDGE KRANZEL: I don't know. I'm not making any
6 comments about Mr. Loftness. I don't know.

7 MR. ZACK: He indicated to me orally that he was going
8 to withdraw.

9 JUDGE KRANZEL: There was a phone call to my office
10 indicating he would be not there and that he was
11 negotiating. But I did not have any insurance and,
12 therefore, I have nothing on the record to indicate his
13 withdraw. Why don't we begin the case.

14 MR. CIEMNIECKI: As another preliminary matter, late
15 last week I spoke with Mr. Zack and his client regarding
16 the interest of one of my clients, Mustang Expediting, Inc.
17 And I faxed, I guess, Mr. Wool, actually in Mr. Zack's
18 absence, a proposed stipulation which eliminates
19 transportation for certain named shippers.

20 And Mr. Wool, on behalf of his company signed it and
21 faxed it back to me. It was my understanding that that
22 amendment was to be incorporated into the modifications to
23 be filed in this proceeding.

24 And I would just like some clarification as to whether
25 or not they would have withdrawn their agreement to follow

1 through on that restriction or where we stand with respect
2 to Mustang's interests.

3 MR. ZACK: Do you have a copy of that so that I can
4 see, sir? The fax did not arrive in my office. We
5 certainly will accept that and that would solve the
6 problems of Mustang.

7 JUDGE KRANZEL: This concerns Mustang's withdraw on
8 the basis of the following restrictive amendment. One
9 applicant restrictively amends the above captioned
10 application so as to now seek the following property
11 between points in the counties of Chester, Montgomery
12 Bucks and Lancaster.

13 Provided that no right, power, or privilege is granted
14 to provide service for, or to or from the facilities of the
15 following named shippers; a. Sorbus, Inc., b. AT&T
16 Technologies, Inc.; c. Tozour Energy Systems, Inc.; and d.
17 Bell of Pennsylvania.

18 (Pause.)

19 JUDGE KRANZEL: Let's begin.

20 MR. ZACK: Mr. Wool, I would like to call you as my
21 first witness. Would you sit overhear, please.

22 MR. THISTLE: Your Honor, just so the record is
23 absolutely clear, Courier Unlimited, Inc., is still a
24 Protestant. I just want to make the record clear. That's
25 all.

1 JUDGE KRANZEL: Please state your name.

2 HOWARD WOOL, called as a witness, having been duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. ZACK:

6 Q. Mr. Wool, you are connected with Joyco
7 Incorporated doing business as Rapid Delivery?

8 A. Yes.

9 Q. And what position do you occupy with respect to
10 that company?

11 A. President of the company.

12 Q. And how long have you been working with Rapid
13 Delivery?

14 A. Approximately three years.

15 Q. And would you please tell the Judge where your
16 office is located?

17 A. 1933 Chestnut Street, Philadelphia PA.

18 Q. And what type of delivery service do you engage
19 in?

20 A. We engage in picking up and delivering for our
21 clients in the Philadelphia Counties and areas.

22 Q. And what type of delivery service? What is the
23 general nature of the --

24 A. Our general nature is basically small packages,
25 envelopes, sometimes a box of computer paper. Basically

1 small envelopes, delivering throughout the center city
2 area.

3 Q. How do you do your deliveries? What type of
4 equipment are utilized?

5 A. Well, we have drivers and we have walkers.

6 Q. How many drivers do you have?

7 A. Approximately seven drivers.

8 Q. And how many walkers do you have?

9 A. Five walkers.

10 Q. And what is your office personnel consist of?

11 A. We have a dispatcher, we have an assistant
12 dispatcher, customer service person, a bookkeeper, and
13 secretary and two sales people.

14 Q. What are your hours of operation?

15 A. We are open from 7:30 in the morning till
16 approximately 6:00 at night.

17 Q. Have you ever been advised that there are PUC
18 Complaints against you?

19 A. No, sir.

20 Q. Now, I've asked you to bring with you a copy of
21 your most recent financial statement and I see a statement
22 dated 12/31/91. Is that your statement, sir?

23 A. Yes.

24 MR. ZACK: And I would like to move this into
25 evidence, if I could.

1 JUDGE KRANZEL: Why don't we mark it Exhibit A-1.

2 MR. ZACK: We'll make it exhibit A-1.

3 (A-1 was produced and marked and admitted in
4 evidence.)

5 JUDGE KRANZEL: It's so marked. You need two copies
6 of that for the Stenographer and one for me.

7 MR. THISTLE: I would like one.

8 MR. ZACK: I will furnish counsel, Your Honor. I need
9 five copies now.

10 BY MR. ZACK:

11 Q. Now, Mr. Wool, you have filed for authority --

12 JUDGE KRANZEL: Do you have copies now?

13 MR. ZACK: No, I do not. I have an extra copy here
14 that counsel can look at and I will furnish them after the
15 hearing.

16 JUDGE KRANZEL: Okay. You'll have to send them to the
17 Stenographer.

18 JUDGE KRANZEL: I'll have them delivered to the
19 Stenographer.

20 BY MR. ZACK:

21 Q. Mr. Wool, you have given me a summary of your
22 operation which basically describes those matters which
23 you've just advised us of and I have enough copies here for
24 everyone. Is this a true and correct summary of the state
25 of your company?

1 A. Yes, sir.

2 MR. ZACK: With the permission of the Court, I would
3 like to mark this as A-2.

4 JUDGE KRANZEL: It's so marked.

5 (A-2 was produced and marked for identification.)

6 BY MR. ZACK:

7 Q. Even though you've been involved with Rapid for
8 only three years, do you know the existence or how long
9 it's been in business in the Philadelphia community?

10 A. It's been in business for approximately 20 years.

11 Q. Now, in the three years that you have been
12 engaged in the delivery service business, have you received
13 requests from potential customers or present customers for
14 service into Bucks, Chester, Montgomery, as well Delaware
15 County, which you have applied for authority?

16 MR. THISTLE: Objection. Unless Counsel is prepared
17 to go forth with necessary details of the requests, which
18 the Commission has long held as to origin, destination,
19 approximately when, of what commodity, et cetera. Other
20 wise, it's hearsay.

21 MR. ZACK: There are witnesses in the Courtroom who
22 are going to testify.

23 MR. THISTLE: Well, if it's limited then to the
24 requests, then there's no problem.

25 JUDGE KRANZEL: Fine.

1 BY MR. ZACK:

2 Q. Would you please tell the Court the nature of the
3 requests for delivery service which you have been receiving
4 in these counties for which you seek this authority over
5 the last three years, sir?

6 A. Since I purchased the business three years ago,
7 I've had a lot of requests from customers that we're
8 serving at the present time in which I purchased -- I
9 bought the business.

10 The customers are often called me and said, Howard, I
11 want you to deliver to Bucks Counties or et cetera, all of
12 the counties in which we're applying for. And I told them
13 that it's very difficult for me to do that because the
14 authority doesn't provide that.

15 So they said, Well, I have to go to other couriers if
16 you can't service me. You're servicing me in the areas,
17 where you're doing a real great job, I want to give you all
18 of my business.

19 And unfortunately, some of the business I had to turn
20 down. From that instance, some of them went to our
21 couriers and some of them have stayed with he reluctantly
22 only because I've given them real good service and they
23 just want to do business with us.

24 Q. Now.

25 MR. CIEMNIECKI: Move to strike on the basis of

1 hearsay.

2 JUDGE KRANZEL: Well, I understand you're motion, Mr.
3 Ciemniecki, and I will allow the statement even though it
4 has almost minimal evidentiary value.

5 BY MR. ZACK:

6 Q. Now, Mr. Wool, if you were permitted by the
7 Public Utility Commission to expand your services, will
8 that mean you will need additional offices or what
9 additional facilities will be required of you?

10 A. Well, depending on how much business you get from
11 this, I believe we would need more drivers certainly to
12 deliver to the different areas. And I'm certain we would
13 need more help inside to cover the extra paperwork.

14 Q. But you would not expand in terms of offices?
15 You still maintain the same offices?

16 A. We would probably stay at the same place to see
17 if we can handle business. We're fully computerized. That
18 makes it a lot earlier on paperwork. We don't really need
19 a lot of space as far as housing trucks. So I feel that we
20 would stay in the same location.

21 Q. And do you get calls for service now in Chester
22 County, sir?

23 A. Yes.

24 Q. And Delaware?

25 A. Yes.

1 Q. And Montgomery?

2 A. Yes.

3 Q. Bucks?

4 A. And Lancaster.

5 Q. Approximately how many calls for service are you
6 receiving each month in these outlying counties, if you can
7 estimate?

8 MR. THISTLE: I'm going to object now, Your Honor.

9 JUDGE KRANZEL: First of all, do you have any
10 documentary evidence as to the clause?

11 MR. ZACK: I have people here. No documents.

12 JUDGE KRANZEL: Have you kept records of your calls?

13 MR. ZACK: No.

14 JUDGE KRANZEL: If you've not kept records of your
15 calls, then you will you're going to be limited to the
16 witnesses that you produce.

17 MR. ZACK: Fine. Thank you, Your Honor. Cross
18 examination at this time.

19 JUDGE KRANZEL: Go ahead.

20 MR. CIEMNIECKI: Your Honor, if I might just before I
21 get into cross examination, so that it's not interrupted, I
22 haven't had a chance to look at the financial statements
23 that were marked for identification. So I'm in no position
24 to cross-examine them on that.

25 JUDGE KRANZEL: Would you like me to delay cross

1 examination and have these supporting witness go on now?

2 MR. CIEMNIECKI: If I could just have three minutes to
3 maybe make copies so Mr. Thistle and I can each have one to
4 look over and then review them for about three minutes so
5 we can cross-examine them on the.

6 JUDGE KRANZEL: Off the record.

7 REDIRECT EXAMINATION

8 BY MR. ZACK:

9 Q. Mr. Wool, approximately how many accounts are you
10 servicing currently in the Philadelphia area? Total
11 number?

12 A. I would say on our list, there's approximately
13 maybe 200, 175 to 200 customers of which some of are
14 weekly, some are monthly accounts, some are yearly
15 accounts.

16 JUDGE KRANZEL: I've a couple of questions. First of
17 all, is this a corporation?

18 THE WITNESS: Yes, sir.

19 BY JUDGE KRANZEL:

20 Q. And who are the shareholders?

21 A. Myself.

22 Q. Right.

23 A. My wife.

24 Q. Right.

25 A. My son.

1 Q. What proportion does everyone hold on the shares?

2 A. I believe my wife and I hold 45 each and my son
3 holds ten percent.

4 Q. Does the corporation own any real estate?

5 A. No, sir.

6 Q. None?

7 A. No, Your Honor.

8 Q. And the other question I have is what kind of
9 assets would you have to have your expansion -- how were
10 you expansion come out?

11 A. Well, I've purchased a computer. I believe that
12 we're the only courier business that I've heard of or know
13 of that is fully computerized from a phone call to the end
14 result billing. The capacity of the machine can probably
15 put ten times the amount of business that I presently have
16 onto this computer.

17 Q. I guess, my deeper question is do you expect to
18 expand any further resources in order to make that
19 expansion in dollars?

20 A. No, no, Your Honor.

21 Q. You do not?

22 A. No, maybe I don't understand the question.

23 Q. Do you have to make any further investments in
24 the company in order to accomplish the expansion?

25 A. No, sir.

1 Q. You do not?

2 A. No.

3 Q. Do you own your own trucks?

4 A. No, Your Honor.

5 Q. You lease all vehicles?

6 A. All of the vehicles -- all of my people are
7 independent contractors.

8 Q. All right. Okay.

9 A. If necessary and I had to put my more financial
10 equity into it, I'm willing to do so.

11 Q. Give me a sense of your financial position which
12 is not readily available? Could you please tell me what
13 kind of assets you have?

14 A. I own my own home.

15 Q. Where at?

16 A. Pardon me?

17 Q. Where?

18 A. In Montgomery County.

19 Q. What is the current value of your home?

20 A. Current value of the home is approximately
21 \$250,000.00. And the balance on the mortgage is
22 approximately \$100,000.00. We have a piece of property in
23 Florida which is currently owned by my sister and myself,
24 which is approximately \$50,000.00.

25 Q. And are you prepared to expend further money if

1 necessary?

2 A. Yes, Your Honor. I've been in contact with our
3 bank and they are willing to extend my line of credit,
4 financial credit.

5 Q. All right. Have you ever been convicted of a
6 civil or criminal?

7 A. No, Your Honor.

8 JUDGE KRANZEL: Okay. Mr. Ciemniecki.

9 CROSS EXAMINATION

10 BY MR. CIEMNIECKI:

11 Q. Good morning, Mr. Wool.

12 A. Good morning.

13 Q. Does Rapid Deliver currently hold any operating
14 authority issued by the Pennsylvania Public Utility
15 Commission?

16 A. Yes, sir.

17 Q. Could you describe that authority for us?

18 A. The authority is to deliver small packages in
19 about the Philadelphia -- Philadelphia area.

20 Q. Now, how do you define the Philadelphia area?

21 A. That's the County of Philadelphia.

22 Q. And you've indicated that you've been involved in
23 the ownership of Rapid for approximately three years?

24 A. Yes, sir.

25 Q. How did you obtain the ownership in Rapid?

1 A. The company was for sale approximately three
2 years ago. And I got in touch with the broker. We went to
3 see the company. It was located at 13th and Cypress. It
4 was approximately, I guess, a 250 square feet building.

5 And we gave a deposit for the company. And I worked
6 there for approximately two months before we made
7 settlement on the business and spent every day there. I
8 spent approximately a minimum of five hours a day learning
9 the business and then we made settlement and bought it.

10 Q. Did you purchase the stock of Joyco, Inc, or did
11 you purchase the operating authority of a former carrier?

12 A. We purchased the stock and the PUC license.

13 MR. ZACK: Subject to transfer.

14 BY MR. CIEMNIECKI:

15 Q. Did you file a stock transfer application with
16 the Pennsylvania Public Utility Commission?

17 A. I believe I did, sir.

18 Q. You're not certain. I'm asking you, do you
19 recall signing and filing with the Pennsylvania Public
20 Utility Commission a application seeking approval of your
21 purchase of all of the stock of your company?

22 A. I believe I did, sir.

23 Q. That would have been approximately three years
24 ago?

25 A. That's correct.

1 Q. Who was the seller?

2 A. A woman by the name of Eleanor Zimone.

3 Q. And did the Pennsylvania Public Utility
4 Commission act affirmatively on your application?

5 A. Yes, sir.

6 Q. Okay. Does Rapid Delivery hold any authority
7 issued by the Interstate Commerce Commission?

8 A. No, there's presently an application with the
9 ICC.

10 Q. So at the present time the authority held by
11 Rapid is limited to transportation between points in the
12 City and County of Philadelphia?

13 A. That's correct.

14 Q. You've indicated that the vehicles operated by
15 Rapid are owned by independent contractors. Is that
16 correct?

17 A. Yes, sir.

18 Q. Does the company presently have any employees?

19 A. Yes, sir.

20 Q. How many?

21 A. We have --

22 Q. Who are the employees of the company?

23 A. We have, myself, my wife, Joyce Wool.

24 MR. CIEMNIECKI: Excuse me, Your Honor. May I ask
25 that Mr. Wool not confer with his Counsel?

1 JUDGE KRANZEL: I agree.

2 THE WITNESS: There is Joyce Wool, son, Brad Wool, a
3 dispatcher, assistant dispatcher, customer service person,
4 my wife, who is the bookkeeper and also a secretary and a
5 part-time salesperson.

6 BY MR. CIEMNIECKI:

7 Q. So for each of those individuals, you pay
8 worker's compensation insurance?

9 A. We have five walkers on our payroll. I'm sorry.

10 Q. They are considered employees?

11 A. Yes, sir.

12 Q. Where do the walkers operate?

13 A. They operate out of 1933 Chestnut.

14 Q. Are they defined to a certain territory?

15 A. Generally so because they can only walk so far.
16 So it would generally be the center city area.

17 Q. You've indicated that you've received requests
18 from your current customers for additional service. Is
19 that correct?

20 A. Yes, sir.

21 Q. Service beyond the territory within which you
22 presently operate?

23 A. Yes, sir.

24 Q. Where is that service to originate?

25 A. Montgomery County, Chester County, Delaware

1 County, and Bucks County.

2 Q. Moving into what area?

3 A. Generally, the same areas. We have customers who
4 have locations in those areas and they deliver to their
5 customers in that area, also. We would pick up from them
6 and deliver in that general area.

7 Q. Do you currently have customers out in the
8 Chester and Montgomery and Lancaster County areas?

9 A. Yes, sir.

10 Q. You do?

11 A. Yes.

12 Q. What type of service are you providing for them?

13 MR. ZACK: Excuse me. I think the question has been
14 misstated.

15 JUDGE KRANZEL: Objection overruled.

16 MR. CIEMNIECKI:

17 Q. What type of service are you presently providing
18 for the customers you currently have in Chester,
19 Montgomery, Bucks and Lancaster County areas?

20 A. I'm not providing any service for them now. I
21 provide service for them in the Philadelphia area because
22 they have -- a law firm might have a branch out in
23 Montgomery and Chester County and they also have a branch
24 in Philadelphia County.

25 So they want me to work with them out there because

1 I'm doing such a good job here. And I tell them I don't
2 have the authority to do that. And they sort of get upset
3 because I'm doing such good job and they say that I have to
4 get another courier.

5 Q. Okay. You said some of the business you've
6 received, you've turned down. Is there some other service
7 that you've not turned down, service you've not turned
8 down?

9 A. Sometimes the service yes, on occasions, if I can
10 work it out with someone else to do the deliveries. I'll
11 be glad to do that.

12 Q. Okay. Who else do you work things out with to
13 provide service like that?

14 A. Other couriers.

15 Q. Can you give some examples for me, please?

16 A. Do you think it would be proper to name the
17 courier?

18 JUDGE KRANZEL: Sure. Of course.

19 THE WITNESS: Action Courier, Eastern Connection
20 Courier, sometimes Diamond Courier.

21 BY MR. CIEMNIECKI:

22 Q. What territories do they serve for you?

23 A. They serve the Montgomery County Bucks County.
24 They have authority to do that also there's another network
25 courier.

1 Q. And how does that work when you receive a why for
2 service to a point that you're not authorized to serve
3 physically or how does that work? Who contacts who?

4 A. Let's say one of my customers has of pick up in
5 Chester County and a delivery Chester County or Montgomery
6 County can you can you handle it? I can't handle it now.
7 I'll say, I'm too busy. Or, No problem. I'll take it.
8 Where do I pick it up? And they pick it up and deliver it
9 they bill me.

10 Q. Who contacts you and requests the service?

11 A. The customer.

12 Q. After you have received that service request,
13 what do you do?

14 A. I would call another courier and ask them if they
15 can handle this delivery.

16 Q. And the other courier would make the pick up and
17 the delivery?

18 A. Yes.

19 Q. Who bills the customer?

20 A. Who bills the customer?

21 Q. Yes, sir?

22 A. Generally, I would bill the customer because it's
23 my customer and they know me.

24 Q. And so the money would come into you. Is that
25 correct? The customer would pay you?

1 A. Yes, sure.

2 Q. And how would the other courier company get paid?

3 A. I would pay them.

4 Q. Do you have any written agreements with these
5 other courier companies for this service?

6 A. No, sir.

7 Q. How do you determine how much you tender to the
8 other courier company in terms of fees for services?

9 A. They will tell me what their price is and I pay
10 it.

11 Q. Do you currently solicit any business for
12 transportation beyond points in the City and County of
13 Philadelphia?

14 A. My solicitation is generally in Philadelphia.
15 These clients have branches all throughout the Delaware
16 Valley.

17 Q. Okay. But when you contact them you only seek to
18 provide service between points in the City and County of
19 Philadelphia?

20 A. That's correct.

21 Q. Do you hold yourself out at all to provide
22 service to the surrounding counties?

23 A. Hold myself out.

24 Q. Do you have new literature or advertisements that
25 say, Contact me and I'll provide service for points beyond

1 the City and County of Philadelphia?

2 A. We have a price list if that's what you're
3 asking.

4 Q. Does that include prices for service beyond?

5 A. That's correct, sir.

6 Q. When was that price list prepared?

7 A. When was it prepared?

8 Q. Yes, sir.

9 JUDGE KRANZEL: Wait. Are you telling me that you
10 send the customers a price list?

11 THE WITNESS: I don't sent anybody anything.

12 JUDGE KRANZEL: I would like to see the price list.
13 This concerns me a great deal. If we have here either a
14 brokerage matter or an offering of service, I have a
15 serious problem with any testimony in regard to that.

16 MR. ZACK: I would like to see the price list, also,
17 Your Honor, and review it with my client.

18 JUDGE KRANZEL: I think this is very serious. We have
19 here a potential of illegal service. And if, in fact,
20 there's been illegal service, you see, to any of the
21 witnesses that you bring forth, they cannot testify in
22 support of your client.

23 MR. ZACK: Well, the reason I don't understand the
24 questioning is because I know he doesn't offer service into
25 our counties.

1 JUDGE KRANZEL: Well, if he has a price list that
2 prices carry beyond Philadelphia, then it seems to me that
3 that's a question that has to be raised. I have to raise
4 that's with every single witness.

5 MR. CIEMNIECKI: I would like to have this marked as
6 Protestant Exhibit Number One

7 JUDGE KRANZEL: So marked.

8 (P-1 was produced and marked for identification.)

9 MR. ZACK: I'm going to object to that.

10 MR. CIEMNIECKI: I'm just asking for it be marked for
11 identification at this point. May I Counsel for Applicant
12 be directed not to converse with his witness while the
13 witness is on the stand?

14 JUDGE KRANZEL: I direct you. I realize you have
15 brought in a lot of witnesses today, counsel, I realize
16 you've not handled cases before this Commission in the
17 past. But the matter of legality of service is crucial in
18 these proceedings. And I don't know that it serves us very
19 well by having this other testimony until this matter is
20 clarified.

21 MR. ZACK: Well, the only point I wish to raise, Your
22 Honor, the only reason I objected to the marking is that
23 this is not his document.

24 JUDGE KRANZEL: It's not?

25 MR. ZACK: No, it's not. He didn't create it. And I

1 don't think it's proper that it be part of this record.

2 MR. CIEMNIECKI: It's not part of this record at this
3 point. And I'm just offering it for identification. I was
4 going to ask the witness some questions about it. He can
5 testify under oath as to whether or not what's reflected on
6 this.

7 JUDGE KRANZEL: Why don't you go ahead.

8 BY MR. CIEMNIECKI:

9 Q. Do you have in front of you a document that's
10 been identified as Protestant Exhibit Number One?

11 A. Yes, sir.

12 Q. Does the information contained in Protestant
13 Exhibit Number One look familiar to you?

14 A. Yes.

15 Q. You referred to a price list in your testimony a
16 short time ago. The right hand portion of what's been
17 identified as Protestant Exhibit One does that reflect the
18 price list that you have distributed to certain of your
19 customers?

20 A. This is the price list. That's correct, sir.

21 Q. Okay. Is this -- let me retract that. When
22 was the price list produced, sir?

23 A. It was originally produced when I purchased the
24 business. They had these prices.

25 Q. Have the prices been changed at all since you've

1 purchased the company?

2 A. Yes.

3 Q. So this price list has actually been updated in
4 the past three years?

5 A. Yes.

6 Q. Okay. To whom is the price list distributed?

7 A. It's not distributed. We have it on file. And
8 if a person wants to know what our prices are if they have
9 any literature of what we do and where we go with Court
10 filings, subpoenas, airports, various of things, then we
11 would send them the prices.

12 Q. So you do send the prices, if you receive an
13 inquiry?

14 A. That's correct.

15 Q. Do you have some estimation of the number of
16 copies of the price list that have been distributed to
17 customers?

18 A. No.

19 Q. You do have a salesman, do you not, sir?

20 A. That's correct.

21 Q. Would your salesman deliver copies of this price
22 list to entities that he solicits?

23 A. He doesn't deliver them. If their say, where do
24 you go? We use the price list for that. That's correct.

25 Q. In response to the question, Where you do you go,

1 you would give them this price list?

2 A. That's correct.

3 Q. Have you provided service to the points listed in
4 the price list?

5 A. We haven't but our contract carriers have. Most
6 of our dealings with our salespeople are center city. Most
7 of our, you know, customers are located in the center city,
8 Philadelphia area.

9 Q. I understand that, sir. The question was Does
10 Rapid Delivery or has Rapid Delivery in the past three
11 years provided service to the points shown on the price
12 list?

13 A. Only on occasion.

14 Q. Okay. What kind of occasion would that be?

15 A. If a customer says I got to have this delivered
16 right now, threatening me, then if another contract can't
17 do it, I have to do it.

18 Q. You said before that your contract carriers would
19 provided this service. Are these the couriers companies
20 you were referring to before?

21 A. That's correct, yes.

22 Q. Do you distribute any price lists for those other
23 contract carriers to show the points that they serve?

24 A. No.

25 Q. To the extent you've distributed this to one of

1 your customers, and they, for example, would say I need
2 service to have this delivered, they would call Rapid and
3 anticipate that Rapid would provide that service, would
4 they not?

5 A. That's correct.

6 JUDGE KRANZEL: I want to speak to the attorneys in
7 private.

8 (Whereupon, a brief recess was taken.)

9 JUDGE KRANZEL: First of all, why don't we continue --
10 why don't we finish the cross examination on this exhibit
11 at this point. Mr. Thistle, all suggest is that I will not
12 stop you from also cross examining later but not at the
13 moment.

14 MR. THISTLE: How about on this issue?

15 JUDGE KRANZEL: Fine.

16 BY MR. CIEMNIECKI:

17 Q. Mr. Wool, does Exhibit P-1 represent an accurate
18 representation of the materials that you supplied to your
19 customers, potential customers when requested to do so?

20 A. Is this accurate in prices?

21 Q. We've basically been discussing the price list
22 itself. On the left side of Exhibit P-1 is additional
23 information regarding court filings and serving subpoenas
24 and things of that nature.

25 Is the exhibit taken into it's entirety, an accurate

1 representation of the materials that you supply to
2 potential customers even though it's a photocopy?

3 A. Yes.

4 Q. Just so the report is clear. The prices
5 contained in Exhibit P-1 -- all of the service represented
6 in those prices is to be originated in what area, sir?

7 A. Philadelphia area. That's correct.

8 Q. Okay. And is it not correct that if this
9 application is approved as applied for, that you would
10 still not be authorized to provide the service reflected in
11 the price list shown on P-1?

12 A. Can you repeat that one more time?

13 Q. Is it not an accurate statement that even if this
14 application is granted in its entirety that you would not
15 be permitted to provide service, for example, from
16 Philadelphia to Abington?

17 A. Yes.

18 Q. Since this application does not provide for
19 transportation either two and from points in Philadelphia?

20 A. Yes, sir.

21 Q. As a general rule, for example, are you familiar
22 with your operations on a day-to-day basis?

23 A. Yes, sir.

24 Q. You're there when your dispatcher receives
25 service requests?

1 A. In my office, but in and out.

2 Q. Do you instruct your dispatchers as to how to
3 respond to a request for service?

4 A. Yes.

5 Q. When a service request comes in for a point
6 outside of Philadelphia, how have you instructed your
7 dispatchers to respond thereto?

8 A. Tell them to call another courier or call me and
9 say, Howard, I got a pick up in so and so and I'll call
10 another courier.

11 Q. So either you or your dispatcher does that?

12 A. Mainly me. It does not happen every day.

13 MR. CIEMNIECKI: Your Honor, I have other questions
14 that tangentially relate to this.

15 JUDGE KRANZEL: I wouldn't not want you to go into
16 that now. We're just talking about this exhibit. I will
17 let you finish with this exhibit and we will be back here
18 on another day.

19 BY MR. CIEMNIECKI:

20 Q. Mr. Wool, can you give me an estimate as to the
21 percentage of your business that involves transportation
22 between points in the city and county of Philadelphia as
23 opposed to that moving to a point outside of Philadelphia?

24 A. I would think most of our business is in
25 Philadelphia. When I purchased the business she had very,

1 very little business outside of Philadelphia. It was a
2 real small company. They had, I guess, 300 to 400 square
3 feet.

4 Most of it was walkers around the cities. You know,
5 we got into driving to Germantown or wherever when we
6 purchased the business. They had, like, two vehicles. We
7 expanded on that. That's when our customers started saying
8 to us, we want you to do this, this, and this. They just
9 did letters. Now, we do small packages.

10 Q. You said that this price list or prior version
11 there was in effect when you bought the business?

12 A. Right. Basically, you know, we wanted -- she
13 wanted to have a full price list and that's what she did.
14 We just expanded this area and made it look a little nicer.
15 But it was the same.

16 Q. Expanded what area?

17 A. Here in the Philadelphia area, we had where to go
18 it was just one price for the Philadelphia.

19 JUDGE KRANZEL: I'm a little confused.

20 THE WITNESS: The center city area.

21 JUDGE KRANZEL: This exhibit -- is this exhibit or
22 something like it exist before you took the company?

23 THE WITNESS: Yes, sir.

24 BY JUDGE KRANZEL:

25 Q. Now, do you have a copy of the original exhibit .

1 that was utilized by Rapid before you took the company?

2 A. I don't think so.

3 Q. Now, I understand?

4 A. I have to look.

5 Q. The important question to me is, did the Borough
6 of Pottstown appear on that exhibit?

7 A. Yes.

8 Q. Did Allentown --

9 A. Yes.

10 Q. -- appear on that exhibit?

11 A. Basically, everything appeared on here and the
12 only thing --

13 Q. What changed? Tell me what has changed, you
14 know, what changes did you make in this exhibit? Do you
15 know?

16 A. I'm thinking. It's three years ago. I'm trying
17 to think. We changed, I know the center city area. They
18 had one price. We outlined it in two or three different
19 prices. Now, that's the main -- that was the main change.

20 Q. Are you telling me that the list of communities
21 listed on exhibit P-1 was the same?

22 A. Yes, sir.

23 Q. As the list that appears now?

24 A. I'll be glad to see if I can find.

25 Q. It will be very helpful. For the record, I would

1 consider it fairly important to see the original exhibit?

2 A. I'll do my best.

3 MR. ZACK: I'll have him to look for it and produce
4 it.

5 BY MR. CIEMNIECKI:

6 Q. I believe, and correct me if I'm wrong, you did
7 indicated that the prices shown for each of these
8 communities or some of these communities has changed since
9 you've purchased the company. Is that not correct?

10 A. There has been maybe one or two little changes.
11 But it's a possibility. I don't remember exactly. If I
12 got the original prices, I'll be glad to bring it and show
13 it to you.

14 Q. And clearly those prices aren't set forth in
15 Commission tariff of Rapid. Correct?

16 A. Yes, sir. This is the same --

17 JUDGE KRANZEL: Same format? Are you telling me it is
18 the same format?

19 THE WITNESS: Yes.

20 JUDGE KRANZEL: All right.

21 THE WITNESS: The reason I remember is I happen to
22 like the outline of Philadelphia. I thought it was good
23 format. That's how I remembered it.

24 JUDGE KRANZEL: Okay.

25 BY MR. CIEMNIECKI:

1 Q. Have you filed any new tariffs since you've
2 purchased the company?

3 A. No, I don't believe so.

4 MR. CIEMNIECKI: I believe that's all I have at this
5 time.

6 MR. THISTLE: This will be as, Your Honor, indicated,
7 limited to this exhibit.

8 CROSS EXAMINATION

9 BY MR. THISTLE:

10 Q. Do you recall filing an application for temporary
11 authority in this application?

12 A. Yes, sir.

13 Q. Do you recall that attached thereto as part of
14 the answer to "E" it says proposed rates are attached as
15 Exhibit B, do you recall that?

16 A. I believe so.

17 Q. Okay. Can you see that?

18 A. Yes.

19 Q. Okay. Isn't it so that there rates are the same
20 as they appear on here?

21 A. Yes.

22 MR. THISTLE: Your Honor, I would like you for
23 whatever value it may have at some later time, I would ask
24 that you take judicial notice of this -- actually I don't
25 have a copy.

1 JUDGE KRANZEL: I would even like it to be an exhibit.
2 Why don't you make it Exhibit P-2 and send copies to the
3 Stenographer.

4 (P-2 was produced and marked for identification.)

5 MR. THISTLE: The unfortunate thing, the copy I got
6 from Harrisburg didn't copy the figures in the last column.

7 JUDGE KRANZEL: Well, then ask the witness to supply
8 -- Mr. Zack to supply the corrected figures.

9 MR. ZACK: Sure. Did you want the proposed tariff
10 that was in the temporary application.

11 MR. THISTLE: Those are all of the questions that I
12 have at this time.

13 JUDGE KRANZEL: I'm going to continue this generally.
14 I will not set another hearing until I hear from you, Mr.
15 Zack.

16 MR. ZACK: Thank you, Your Honor.

17 MR. CIEMNIECKI: Before we close, Your Honor, I would
18 like to move for the admission of my exhibit P-1.

19 MR. THISTLE: And P-2.

20 JUDGE KRANZEL: Mr. Zack, do you want to move for the
21 admission of A-1 and A-2?

22 MR. ZACK: I do.

23 JUDGE KRANZEL: They are made a part of the record.

24 (Exhibits A-1 and A-2 were admitted in evidence.)

25 (Exhibits P-1 and P-2 were admitted in evidence.)

1 MR. ZACK: I would formally like to request an
2 adjournment at this time to a later date.

3 JUDGE KRANZEL: Fine. Thank you very much. It's
4 continued generally.

5 MR. CIEMNIECKI: I'm sorry. It occurs to me that I
6 did not, although there's a stipulate, I don't think I
7 withdrew on the record the Mustang Expediting Protest.

8 JUDGE KRANZEL: Mustang is now withdrawn. Thank you
9 very much.

10 (Whereupon, at 11:15 a.m., the hearing concluded.)
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1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me
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