

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

171

1. <u>REPORT DATE:</u>	October 25, 1993	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU:</u>	LAW	:	NOV-93-L-900*
4. <u>SECTION(S):</u>	Motor Carrier	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>		:	
Director:	Povilaitis 7-5000	:	
Supervisor:	House 3-3713 H.B.H.	:	November 10, 1993
7. <u>MONITOR:</u>		:	
8. <u>PERSON IN CHARGE:</u>	John Herzog 3-3713	:	
9. <u>DOCKET NO:</u>	A-00109534, F001, Am-C	:	

10. (a) CAPTION (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs
 (c) Recommendation
- (a) Application of Joyco, Inc., t/d/b/a Rapid Delivery; Petition for Reconsideration.
- (b) By Order entered July 28, 1993, the Commission conditionally approved the transfer of authority from Chariots of Fire Messenger and Delivery Service, Inc., to Joyco, Inc. That Order conditioned the transfer upon payment of Chariots' outstanding assessment. Joyco requests reconsideration of the Order limited to this condition.
- (c) The Law Bureau recommends that reconsideration be denied.

11. MOTION BY: Commissioner Chm.Rolka Commissioner Rhodes - No
 Commissioner Crutchfield - Yes
 SECONDED: Commissioner Quain Commissioner Hanger - Yes

CONTENT OF MOTION: The Petition for Reconsideration should be granted; and the Law Bureau should prepare the appropriate Order consistent with this Motion.

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DOCKETED
MAR 04 1994



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

RJR

December 3, 1993

IN REPLY PLEASE
REFER TO OUR FILE

A-001095347
F.1, Am-C

LOUIS J CARTER ESQUIRE
7300 CITY LINE AVENUE
PHILADELPHIA PA 19151

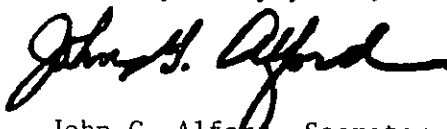
Application of Joyco, Inc.,
t/d/b/a Rapid Delivery
Petition for Reconsideration

To Whom It May Concern:

This is to advise you that an Order has been adopted by the Commission in Public Meeting on November 10, 1993 in the above entitled proceeding.

A copy of this Order has been enclosed for your records.

Very truly yours,


John G. Alford, Secretary

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DEC 15 1993

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held November 10, 1993

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice Chairman, Dissenting
John M. Quain
Lisa Crutchfield
John Hanger

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Application of Joyco, Inc.,
t/d/b/a Rapid Delivery

Docket No.
A-00109534, F001, Am-C

Petition for Reconsideration

Louis J. Carter, Esquire
For Petitioner.

JOYCO PETITION
DEC 15 1993

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on a Petition for Reconsideration. By way of background, Joyco, Inc., t/d/b/a Rapid Delivery ("Joyco"), filed an application for transfer of the operating rights of Chariots of Fire Messenger & Delivery Service, Inc. ("Chariots"). By Order entered July 28, 1993, we approved the transfer conditioned upon, inter alia, payment of Chariots' outstanding assessments. Joyco requests reconsideration of this portion of our July 28, 1993 Order.

The Public Utility Code grants the Commission broad discretionary powers concerning the reconsideration, amendment, rescission, or modification of its orders; such discretion is limited only by the due process considerations of providing notice and an opportunity to be heard by the parties. Pennsylvania Public Utility Commission v. Yellow Cab Co., 51 Pa. P.U.C. 149 (1977). Specifically, the Commission has the power to grant reconsideration of a previous order in light of newly discovered evidence, a change in circumstances justifying modification, or if persuaded that its previous decision was in error. Application of Commonwealth Telephone Co., 24 Pa. Commonwealth Ct. 243, 355 A.2d 611 (1976).

In its Petition, Joyco alleges that before agreeing to purchase Chariots' authority, its counsel inquired of the Commission's Secretary's Bureau in December, 1992, whether Chariots had any outstanding assessments and was advised that there were none. Thereupon, Joyco negotiated with the trustee in bankruptcy for the purchase of Chariots' rights, which culminated in an Agreement to Purchase dated January 10, 1993. Subsequently, on March 1, 1993, Joyco was advised by the Commission that there was an outstanding assessment due of \$3,571.00.

A review of Commission records indicates that in the transfer application filed February 9, 1993, Joyco agreed to assume and pay any general assessments that may be made against Chariots for any and all periods up to the date of the transfer. Joyco was advised on March 1, 1993, by the Commission's Bureau of Transportation that approval of the transfer application was contingent upon payment of Chariots' outstanding assessment of \$3,571.00. This assessment was based on Chariots' 1991 operating revenues. In response, Joyco's counsel wrote a letter to the Commission indicating that he spoke with Commission personnel on December 11, 1992 and was advised that there were no outstanding assessments due. By letter dated March 23, 1993, Joyco's counsel was advised by the Bureau of Transportation that notwithstanding its allegations, Chariots' assessment was due and payable.

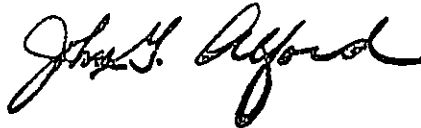
Based on the foregoing, we will exercise our discretion and relieve Joyco of the obligation to pay Chariots' 1992 \$3,571.00 outstanding assessment. For some unexplained reason, the Commission provided Joyco with inaccurate factual information. Had Joyco been made aware of the 1992 outstanding assessment, it could have factored this obligation into the negotiations with the bankruptcy trustee. Under these circumstances, we will not require Joyco to pay Chariots' 1992 \$3,571.00 outstanding assessment. THEREFORE,

IT IS ORDERED:

1. That the Petition for Reconsideration filed by Joyco, Inc., t/d/b/a Rapid Delivery, is hereby granted.

2. That Joyco, Inc., t/d/b/a Rapid Delivery, is relieved from paying the 1992 outstanding assessment of \$3,571.00 of Chariots of Fire Messenger & Delivery Service, Inc., as a condition of transfer.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: November 10, 1993

ORDER ENTERED: DEC 03 1993