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AUG 31 1993  
ORIGINAL  
SECRETARY'S OFFICE  
Public Utility Commission

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IN REPLY PLEASE  
REFER TO FILE NO.

RJR

20416.151.4 PAP

August 30, 1993

Office of the Secretary (Filing Unit)  
Pennsylvania Public Utility Commission  
P.O. Box 3265, North Office Building, B-18  
Harrisburg, PA 17105-3265

Sent UPS

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Re: Application of	Docket No.
JOYCO, INC. t/a RAPID DELIVERY	A-00109534 F.1, Am-C

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To the Secretary:

Enclosed for filing is the original and two copies of the Supplemental Petition by Applicant for Reconsideration Seeking Rescission of Part of the Order Approving Transfer Pursuant to 66 PA C.S. Sec. 703(g) in the above-captioned matter.

Kindly acknowledge receipt on the enclosed copy of this letter.

DOCUMENT  
FOLDER

Sincerely,



LOUIS J. CARTER  
Attorney for Petitioner

LJC/kmd

(C2/RdChLrTr.336)

Enclosures: As above

cc: Law Bureau

Joyco, Inc. t/a Rapid Delivery  
Michael Kaliner, Esq.  
Arthur Liebersohn, Trustee

ORIGINAL RECEIVED  
AUG 31 1993

Re: Application of  
JOYCO, INC., t/a RAPID DELIVERY

Docket No. **SECRETARY'S OFFICE**  
**Public Utility Commission**  
A-00109534 F.1, Am-C

(transfer of the authority of  
Chariots of Fire Messenger &  
Delivery Service, Inc.)

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SUPPLEMENTAL PETITION BY APPLICANT FOR RECONSIDERATION  
SEEKING RESCISSION OF PART OF THE ORDER APPROVING  
TRANSFER PURSUANT TO 66 PA C.S. SEC. 703(g)

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TO THE CHAIRMAN AND MEMBERS OF THE COMMISSION:

Joyco, Inc. t/a Rapid Delivery ("Rapid"), by its attorney Louis J. Carter, Esq., respectfully submit this supplement to its petition filed August 13, 1993 seeking reconsideration and rescission of part of the order approving the transfer.

DOCKETED

SEP 02 1993

A. History

1. By order adopted July 22, 1993 and entered July 28, 1993 the rights previously issued to Chariots of Fire Messenger and Delivery Service, Inc. (Chariots) were transferred to the petitioner. One of the ordering paragraphs provided as follows:

"IT IS FURTHER ORDERED:

That issuance of the certificate be withheld pending receipt of all outstanding assessments of the transferor."

DOCUMENT  
FOLDER

B. Background

2. Before agreeing to purchase the authority of Chariots, Petitioner's counsel inquired of the Secretary's Bureau whether there were any assessments due and counsel was advised that there were no assessments due by the transferor.

3. Counsel thereupon negotiated with the trustee in bankruptcy for the purchase of Chariots' rights which was set forth in an Agreement to Purchase dated January 10, 1993.

4. The application for transfer was filed February 9, 1993 by the applicant which was previously certificated in 1991.

5. Subsequently, on March 1, 1993, Rapid was advised that there was, in fact, an outstanding unpaid assessment balance due the Commission of \$3,571.

C. Supplemental Grounds for Relief Sought

Petitioner submits the following additional grounds for the basis and seeks relief from the imposition of the assessment on the Applicant-Petitioner:

For reasons of continuity, the numbering of the supplemental paragraphs follows the last paragraph 11 in the initial petition.

D. Supplemental Averments

12. At no time has staff denied that incorrect information was given verbally to petitioner's counsel concerning the fact that no assessment was due by this debtor.

13. The Commission's procedures for motor carrier transfers discriminates unfairly against motor carriers because those procedures make requirements with regard to the payment of assessments due by the transferor, which payments are not

required of other utilities, namely (a) for the transfer of taxi medallions; (b) when a utility abandons service; (c) when there is a transfer of an utility plant and (d) when there is a transfer of ownership by the transfer of stock or by merger. In all of said cases, commission approval is required but the burden of payment of the transferor's unpaid assessment is not placed on the transferee. Such discrimination violates Petitioner's right of equal protection of the law.

14. By reason of the procedures followed, the commission in effect places a lien on the certificate which prevents its final transfer. This is not provided for by the Public Utility Law. Commission procedures require specific authority in the statute.

15. The imposition of the requirement to pay the transferor's assessment binds the transferee to a kind of adhesion agreement since the commission has the greater bargaining advantage. This gives the weaker party, the applicant, with only the opportunity to accept the application or reject it.

The courts have held such adhesion contracts as being unconscionable as preventing a true meeting of the minds. The current situation is even more egregious since the purchase of the authority by applicant and the subsequent application was based on a misrepresentation of fact by a commission employee. If the commission supports the proposition that improper information given by a staff member is not subject to review, then the applicant in this case has been denied the right to relief in a contract which he could not refuse.

16. In further support of the alternative offer of petitioner to resolve the matter by a one time payment of one-half the claim, it is submitted that in many cases the commission has failed to take action to collect assessments and in reorganizations, not the least of which was the Penn Central Railroad, made substantial concessions to that carrier with respect to either forgiving or reducing the assessment.

Petitioner's position in this case is even stronger since in the transferor's bankruptcy proceeding, the staff took no action to assert a claim against the bankruptcy estate to collect the assessment. As between the true debtor and an innocent third party, fairness requires a finding for the latter, the Applicant-Petitioner.

WHEREFORE, Petitioner, for the reasons stated in the initial petition and in this supplement prays that the final order issued July 28, 1993 be amended by deleting the requirement of paying the assessment of \$3,571 or in the alternative to accept a compromise in the amount of \$1785.50; or (b) that a hearing be granted on the assessment issue while allowing the certificate to be issued to the transferee for the operating authority involved.

Respectfully submitted,



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LOUIS J. CARTER  
Counsel for  
Joyco, Inc. t/a Rapid Delivery

VERIFICATION

The undersigned states that he is counsel for the Applicant Petitioner in this proceeding and verifies that the statements made in the foregoing Supplemental Petition are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements therein made are subject to the penalties of 18 Pa.C.S. Sec. 4904 relating to unsworn falsification to authorities.



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LOUIS J. CARTER

Dated: August 30, 1993