

KJR

1. <u>REPORT DATE:</u>	January 8, 1992	2. <u>BUREAU AGENDA NO.</u>	JAN-92-T-74*
3. <u>BUREAU:</u>	Transportation		
4. <u>SECTION</u>	Technical Review	5. <u>PUBLIC MEETING DATE:</u>	January 30, 1992
6. <u>APPROVED BY:</u>			
Director:	Ernst 7-2154		
Supervisor:	Bigelow/Marzolf 3-5945		
7. <u>MONITOR:</u>			
8. <u>PERSON IN CHARGE:</u>	Zeigler 3-5946		
9. <u>DOCKET NO.:</u>	A-00109846		

10. (a) CAPTION (abbreviate if more than 4 lines)  
 (b) Short summary of history & facts, documents & briefs  
 (c) Recommendation

(a) Application of Edward G. Dilick, Spring Church, Armstrong County, for the right to begin to transport, as a common carrier by motor vehicle, property in bulk, in dump vehicles, for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in Pennsylvania.

(b) The application was opposed by a single carrier which later withdrew predicated upon our acceptance of a restrictive amendment which excludes the applicant from providing service to, from or between points in Somerset County. The applicant has shown that a need for the service as proposed, amended and modified does exist. The applicant has been serving the six shippers in this application proceeding indirectly through a lease arrangement with Adobe International, Inc., which is a common carrier holding a certificate at A-00101049. Adobe International, Inc., has decided to discontinue its trucking service and the applicant has filed this application so that it will have authority to serve the shippers. Adobe International, Inc., is to file an application for discontinuance of service and cancellation of its certificate within 60 days of the entry date of the instant order.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application as amended and as modified; a copy of the order to be forwarded to Adobe International, Inc., (CR) DE 13, Box 3629, Grove City, Pennsylvania 16127.

DOCUMENT  
ORDER

TZ:rs

DOCKETED  
FEB 11 1992

11. MOTION BY:	Commissioner Chm. Rolka	Commissioner	Holland	Yes
SECONDED:	Commissioner Rhodes	Commissioner		
CONTENT OF MOTION:	Staff recommendation adopted.			



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG, Pa. 17120

February 6, 1992

KOR

IN REPLY PLEASE  
REFER TO OUR FILE

A-00109846

WILLIAM A GRAY ESQUIRE  
2310 GRANT BUILDING  
PITTSBURGH PA 15219

DOCUMENT  
FOLDER

Application of EDWARD G DILICK

DOCKETED  
FEB 11 1992

Dear Sir:

Enclosed is the compliance order issued by the Commission in this proceeding.

A Certificate of Public Convenience evidencing the Commission's approval of the right to operate will not be issued until the applicant has complied with the following insurance and tariff requirements:

- I. Arrange through an insurance agent to have an insurance company file the following forms with the Commission.
  - a. A Form E as evidence of minimum public liability and property damage insurance coverage as shown on the back of this sheet.
  - b. A Form H or Form UCPC-31 as evidence of cargo insurance coverage in an amount not less than \$5,000 per vehicle. Under certain circumstances, exemption from the cargo insurance requirement may be secured by filing the enclosed Form PUC-288.
- II. Prepare and file a tariff according to the enclosed instructions except applicants for transfer of authority must file a tariff adoption supplement which will be forwarded by separate cover at a later date.

Minimum Limits for PA Public Utility Commission Authorized Service

Passenger Carriers:

- 15 passengers or less: \$35,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.
- \$25,000 first party medical benefits, \$10,000 first party wage loss benefits and \$1,500 first party funeral benefits for all passengers and pedestrians.
- \$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits for drivers (PA registered vehicles only).
- 16 to 28 passengers: \$1,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.
- 29 passengers or more: \$5,000,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.

Property Carriers:

- Common or Contract: \$300,000 combined single limit per accident per vehicle to cover liability because of bodily injury, death or property damage.
- \$10,000 first party medical benefits, \$5,000 first party wage loss benefits, and \$1,500 first party funeral benefits (PA registered vehicles only).
- Common only: \$5,000 per accident per vehicle for loss or damage to cargo.

No motor carrier shall operate or engage in any transportation until compliance with all of the above requirements and a certificate has been issued authorizing actual operations. A motor carrier operating without complying with the above requirements will be subject to the penalty provisions of the Public Utility Code.

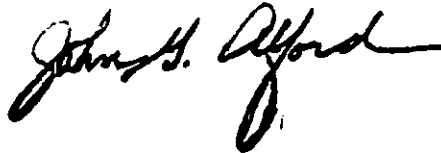
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of January 30, 1992 and dismiss the application without further proceedings.

If you foresee problems in meeting these requirements, please direct your questions to the following contact persons:

Insurance Filings: Mr. James McCarthy-Insurance Section  
(717) 783-5933

Tariff Filings: Mr. Joseph Machulsky-Tariff Section  
(717) 787-5521

Very truly yours,



John G. Alford, Acting Secretary

<sup>jz</sup>  
Enclosures  
Certified Mail  
Receipt Requested

cc applicant  
STAR ROUTE BOX 89  
SPRING CHURCH PA 15686

DOCUMENT  
FOLDER

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 Edward G. Dilick, for the right to begin to transport, as a common carrier, by motor vehicle, property in bulk, in dump vehicles, for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in Pennsylvania.

A-00109846

DOCKETED  
  
FEB 11 1992

\_\_\_\_\_  
William A. Gray for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed June 27, 1991. Public notice of the application was given in the Pennsylvania Bulletin of July 27, 1991. A protest filed by Bruce Trent Trucking, Inc., was later withdrawn, predicated upon our acceptance of a restrictive amendment which excludes service to, from or between points in the county of Somerset.

The now unopposed application, as amended, is certified to the Commission for its decision without oral hearing. Verified statements were submitted by Edward G. Dilick and Gregory E. Hindle, transportation manager for the six named shippers.

Edward G. Dilick set forth in his verified statement that he operates as a sole proprietor from Star Route, Box 89, Spring Church, Armstrong County. He does not currently hold authority from the Commission. He owns and operates four tri-axle dump trucks which is the type of equipment required by the shippers. This equipment is in good working order. He

indicates that he is familiar with the safety requirements of the Commission, the Pennsylvania Department of Transportation and the Federal Department of Transportation and will comply with these rules and regulations.

Dilick is familiar with the transportation requirements of the shippers and anticipates no difficulty in providing the required service. He is currently leasing equipment to a company which is affiliated with all the shippers that company being Adobe International, Inc.

As evidence of his financial capacity to provide the proposed service, the applicant entered a balance sheet dated December 4, 1990 reporting total assets of \$790,365 with total liabilities of \$46,113.

Gregory E. Hindle, transportation manager for each of the shippers supporting the instant application, set forth in his verified statement that he is familiar with the transportation needs of all of the shippers and is involved in the handling of the transportation activities of the shippers. He is authorized to execute a verified statement in support of the application.

The supporting shippers are involved in the mining and sale of coal. The applicant will be requested to transport coal, coal refuse, limestone, sand and gravel. The limestone, sand and gravel is used for road construction and road maintenance at mine sites.

The applicant currently leases equipment to Adobe International, Inc., which is a subsidiary of AOI Coal Company. Adobe International, Inc., holds authority from the Commission at A-00101049 and is authorized to provide service for each of the shippers between points in that part of Pennsylvania on and west of U.S. Highway Route 15.

All the supporting shippers ship from and to basically the same points. The following shippers have cleaning plants, Adobe Mining in Mercer County, Darmac Associates in Armstrong County, Kittanning Coal in Armstrong County and two portable blending facilities which are located in Lawrence County. The supporting shippers have active mines in the counties of Armstrong, Indiana, Venango, Butler and Lawrence. Shipments are made from these mines to the cleaning plants and the blending facilities and also from mines directly to customers. In addition, shipments are made from the cleaning plants and blending facilities to customers. The supporting shippers also purchase coal from other coal companies and ship that coal to customers in Pennsylvania. Some of the vendors from whom coal has recently been purchased include Altmire Coal in Armstrong County, D.W.L. Coal in Mercer and Butler Counties, T.D.K. Coal in Clarion County and Reddinger Coal in Armstrong County.

The shippers have traffic moving to such points as Pittsburgh, New Castle, Ford City, West Pittsburgh, Warren, Homer City, Shelocta, Reesedale, Dilltown, Irvine, Mercer, Erie and Grove City among others.

Each of the supporting shippers previously supported the application of Adobe International, Inc., which, like the supporting shippers, is a

subsidiary of AOI Coal Company. Adobe has leased equipment from numerous individuals including the applicant to provide service pursuant to the authority issued to it by the Commission. Adobe International, Inc., has decided to discontinue its trucking operations and the shippers have agreed to support each of the applicants for their own authority.

#### DISCUSSION AND FINDINGS

Edward G. Dilick now leases equipment to Adobe International, Inc., which is a certificated carrier at A-00101049. The certificate of Adobe International, Inc., authorizes it to serve the six shippers named in this application for transportation between points in that part of Pennsylvania on and west of U.S. Highway Route 15. Adobe International, Inc., has made a decision to discontinue its common carrier operations and the supporting shippers, in order to maintain their service, have agreed to support the applications for the trucks presently leasing equipment to Adobe International, Inc. This application is one of 22 carriers which are involved in this method of distribution.

As previously noted, the authority held by Adobe International, Inc., authorizes it to provide service for the six shippers between points in Pennsylvania on and west of U.S. Highway Route 15. The applicant has proposed transportation between all points in Pennsylvania which is a substantial broadening of the authority held by Adobe International, Inc., and which is service the applicant seeks to replace. The statement entered on behalf of the shippers has not provided any evidence of need for service between points in the entire state. The shippers have shown their transportation needs to exist in that area of Pennsylvania on and west of U.S. Highway Route 15 which basically mirrors the territory served by Adobe International, Inc.

We advised the applicant's attorney by letter dated December 5, 1991 that the current record did not support a grant of authority between all points in Pennsylvania, but did support authority to serve points on and west of U.S. Highway Route 15. By letter dated December 9, 1991, the applicant's legal counsel advised the Commission that no additional evidence would be submitted and that the shippers would have no objection to a grant of authority limited to that area on and west of U.S. Highway Route 15.

The applicant is requesting the right to transport property which will include limestone, sand and gravel which according to the shipper will for the most part be used for road construction and road maintenance purposes at mine sites. We recognize that any service provided to this extent for road construction and maintenance is exempt from the Commission's jurisdiction at 66 C.S. §102(4).

In this application and all companion applications filed, the underlying reason for the filing is the fact that the current carrier, Adobe International, Inc., has elected to terminate its trucking operations. Accordingly, Adobe International, Inc., should submit an application for discontinuance of service and cancellation of the certificate it holds at A-00101049 in keeping with the provisions of Section 1102((a)(2) of the Public Utility Code. The application for discontinuance of service and cancellation

of the certificate is to be filed within 60 days of entry of the instant order.

We find:

1. The applicant seeks authority to transport property for six named shippers between points in Pennsylvania.
2. The carrier presently serving the six named shippers has decided to discontinue its regulated common carrier service.
3. The six named shippers have not shown need for service between all points in Pennsylvania.
4. The six shippers have shown a need for service between points in Pennsylvania which are located on and west of U.S. Highway Route 15.
5. The applicant stands ready, willing and able to provide the proposed service as amended as further modified.
6. Approval of the application, as amended and as further modified is proper for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, as further modified, be and is hereby approved and that a certificate issue granting the following right:

To transport, as a Class D carrier, property in bulk in dump vehicles, for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in that part of Pennsylvania on and west of U.S. Highway Route 15;

subject to the following condition:

That no right, power or privilege is granted to provide service to, from or between points in Somerset County.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until he shall have complied with the requirements of the Public Utility Code and the rules and regulations of the Commission relating to the filing of evidence of insurance and the filing and acceptance of a tariff establishing just and reasonable rates.

IT IS FURTHER ORDERED: That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the carrier, shall not be construed as conferring more than one operating right.


IT IS FURTHER ORDERED: That the application in all other respects be and is hereby denied for lack of proof of necessity.

IT IS FURTHER ORDERED: That Adobe International, Inc., shall file an application for discontinuance of service and cancellation of the certificate of public convenience of necessity at A-00101049 within sixty (60) days of the date of entry of the order.

IT IS FURTHER ORDERED: That a copy of this order be forwarded to Adobe International, Inc., R.D. #3, Box 3629, Grove City, Pennsylvania 16127.

IT IS FURTHER ORDERED: That in the event the applicant has not, on or before sixty (60) days from the date of service of the order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

BY THE COMMISSION,

  
John G. Alford  
Secretary

(SEAL)

ORDER ADOPTED: January 30, 1992

ORDER ENTERED: FEB 06 1992