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PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	July 27, 1990	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU:</u>	Transportation	:	AUG-90-T-918*
4. <u>SECTION</u>	Technical Review	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>		:	August 16, 1990
Director:	Ernst 7-2154	:	
Supervisor:	Bigelow/Marzolf 3-5945	:	
7. <u>MONITOR:</u>		:	
8. <u>PERSON IN CHARGE:</u>	Keener-Farley 7-4386	:	
9. <u>DOCKET NO.:</u>	A-00109368	:	
10. (a) CAPTION (abbreviate if more than 4 lines)			
(b) Short summary of history & facts, documents & briefs			
(c) Recommendation			

(a) Application of John K. Kane, Horsham, Montgomery County, for the transfer of all of the operating rights of Paul Efstration, t/d/b/a Hercules Movers, under the certificate issued at A-00105102 subject to the same limitations and conditions.

(b) Transferor proposes to transfer all of his PUC operating authority (\$8,000) and other assets (\$12,000) for a total consideration of \$20,000.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the transfer application and that the certificate issued to the transferor be cancelled by supplemental order and that a copy of the order be forwarded to the Department of Revenue.

LKF:kmb

DOCKETED
OCT - 9 1990

**DOCUMENT
FOLDER**

11. MOTION BY:	Commissioner	Chm. Smith	Commissioner	Rhodes - Yes
			Commissioner	Fischl - Yes
SECONDED:	Commissioner	Rolka	Commissioner	

CONTENT OF MOTION: Staff recommendation adopted.



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

August 27, 1990

IN REPLY PLEASE
REFER TO OUR FILE

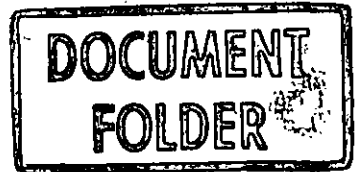
A-109368

John K. Kane
79 Woodbine Court
Horsham, PA 19044

DOCKETED

SEP 26 1990

Application of John K. Kane



To Whom It May Concern:

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.

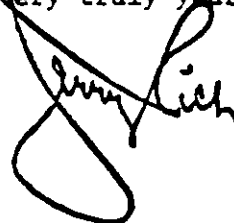
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of August 16, 1990 and dismiss the application without further proceedings.

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,

A handwritten signature in black ink, appearing to read "Jerry Rich". The signature is written in a cursive style with a large loop at the bottom.

Jerry Rich, Secretary

lg

Enclosures
Certified Mail
Receipt Requested

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held August 16, 1990

Commissioners Present:

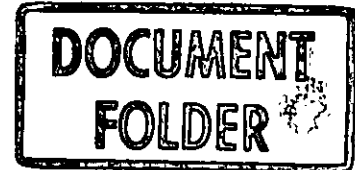
William H. Smith, Chairman
Joseph Rhodes, Jr.
Frank Fischl
David W. Rolka

DOCKETED
SEP 26 1990

Application of John K. Kane
for the transfer of all of the
operating rights of Paul Efstration,
t/d/b/a Hercules Movers, under the
certificate issued at A-00105102
subject to the same limitations and
conditions.

A-00109368

O R D E R



BY THE COMMISSION:

This matter comes before the Commission on an application filed June 1, 1990. Public notice of the application was given in the Pennsylvania Bulletin of July 14, 1990. The unopposed application is certified to the Commission for its decision without oral hearing.

John K. Kane (applicant) is a sole proprietor who seeks to begin operation as a common carrier by transfer of the rights presently held by Paul Efstration, t/d/b/a Hercules Movers (transferor). Kane has been involved in the moving business for five years and is experienced in the various phases of the business. As part of the transfer, Kane will purchase the transferor's equipment and thus will be fully prepared to commence operations. A comprehensive safety program for drivers and vehicles will be instituted. As evidence of his financial capacity to begin operations, Kane reports assets of \$44,756, with liabilities of \$11,606, leaving a net worth of \$33,150.

The total consideration for the rights and other assets including vehicles, equipment, goodwill and covenant not to compete is \$20,000. The rights have been assigned a value of \$8,000 with the remainder assigned to the other assets. The sales agreement requires the consideration to be paid

as follows: \$2,000 at execution of the agreement on May 29, 1990, and the balance at closing after approval of this transfer..

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.
2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the transfer application be and is hereby approved and that a certificate be issued granting the following rights:

1. To transport, as a Class D carrier, household goods, personal effects and property used or to be used in a dwelling where a part of the furnishings, equipment or supplies of such dwelling are an incidental part of the removal by the householder from one dwelling to another; between points within a radius of eight miles of the post office at the village of Berwyn, Eastown Township, Chester County.
2. To transport, as a Class D carrier, household goods, in use, from points in the county of Delaware to other points in Pennsylvania.
3. To transport, as a Class D carrier, property usual to use in a household when a part of such household equipment or supply; furniture, fixtures, equipment and the property usual in a store, office, museum, institution, hospital or other establishment when a part of the stock, equipment or supply of such store, office, museum, institution, hospital or other establishment; works of art, furniture, musical instruments, displays, exhibits, and articles requiring specialized equipment and equipment usually employed in moving household goods, between points in the county of Delaware.

subject to the following general conditions:

1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
2. That applicant shall not record in his utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
3. That the applicant charge to Account 1550, Other Intangible Property, \$3,000, being the amount of the consideration payable by him for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above; and subject to further adjustment due to any normal interim transactions to the date of actual transfer.
4. That the accounts of the transferee shall reflect the same book values as the records of the transferor at the effective date of the transfer, any previously recorded appreciation having been deleted therefrom; provided that the applicant shall not record in his utility accounts any amounts representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
5. That the operating authority granted herein, or now held or subsequently granted to the applicant to the extent that it is duplicative shall not be construed as conferring more than one operating right.
6. That the certificate holder shall not transfer, sell or in any way convey any of his interest to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 PA C.S.A. §1102(a)(3).

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

IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a certificate issue evidencing the Commission's approval of the right to operate as above-determined.

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

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor Paul Efstration, t/d/b/a Hercules Movers, at A-00105102 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over a large, stylized, looped scribble.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: August 16, 1990

ORDER ENTERED: AUG 27 1990



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

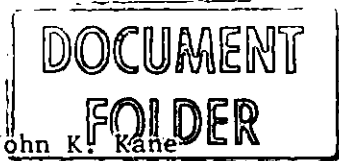
RJR

August 31, 1990

IN REPLY PLEASE
REFER TO OUR FILE

R-16

John K. Kane
79 Woodbine Court
Horsham, PA 19044



Re: A-00109368 - John K. Kane



Dear Mr. Kane:

Under date of August 27, 1990, the Secretary's office transmitted to you the Commission's compliance order adopted August 16, 1990, evidencing approval of the above application which is in effect a transfer of the rights formerly held by Paul Efstration, t/d/b/a Hercules Movers at A-00105102. The letter transmitting the order directs attention to the requirement for the filing of a tariff.

Pa. Code, Title 52, Section 23.13(c) provides that in the case of change in ownership, etc., if feasible to do so, the tariffs of the former operator shall be adopted by the new operator, and no change in rates is permitted to cover the transfer of rights.

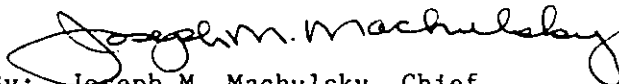
In this instance it is not possible to meet the tariff requirements by the adoption of the former tariff for the reason that the present tariff's description of operating authority does not conform with the approval of this application.

It will be necessary, therefore, to file a new tariff which should be designated Freight Pa. P.U.C. No. 1. The tariff should name the same rates, rules and regulations as were filed by the former operator and may be issued to become effective on one day's notice under authority of Pa. Code, Title 52, Section 23.42.

We notice that rates for a part of the authorized service being transferred are provided in tariffs published by Tristate Household Goods Tariff Conference, Agent.

Should you elect to participate in the agency publication(s), two copies of a suitable power of attorney should be included with the filing. If you do not elect to participate in the agency publication(s), a new tariff or tariffs should be filed containing the same rates, rules and regulations currently on file, for a minimum of 30 days.

Very truly yours,
Barry L. Ernst, Director
Bureau of Transportation


By: Joseph M. Machulsky, Chief
Financial Document Section

cc: Tristate
P.O. Box 9023
Lester, PA 19113
New power of attorney to be designated:
Pa. F. 1 No. 1 cancels 1 (series of transferor)

Contact Person: G. L. Baker
(717) 783-5936