

PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u> April 30, 1990	:	2. <u>BUREAU AGENDA NO.</u> MAY-90-T-582*
3. <u>BUREAU:</u> Transportation	:	
4. <u>SECTION</u> Technical Review	:	5. <u>PUBLIC MEETING DATE:</u> May 24, 1990
6. <u>APPROVED BY:</u> Director: Ernst 7-2154 Supervisor: Bigelow/Marzolf 3-5945	:	
7. <u>MONITOR:</u>	:	
8. <u>PERSON IN CHARGE:</u> Hoshour 7-5513	:	
9. <u>DOCKET NO.:</u> A-00109226	:	
10. (a) CAPTION (abbreviate if more than 4 lines)		
(b) Short summary of history & facts, documents & briefs		
(c) Recommendation		

(a) Application of Gabler Trucking, Inc., Chambersburg, Franklin County, a corporation of the State of Delaware, for approval of the transfer to the applicant of all of the rights held by H. C. Gabler, Inc. at A-00083975, Fs. 3, 4, 5 and 6; subject to the same limitations and conditions.

(b) The applicant seeks to acquire by transfer the 49 common carrier rights held by the transferor. In addition to the Pennsylvania authority, the applicant is also acquiring ICC authority, North Carolina and Maryland authority. The applicant is also acquiring certain assets and liabilities of the transferor as set forth in the order. Total consideration for the assets of the transferor has been set at \$750,000 which is to be paid at settlement. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the transfer application; and cancelling by supplemental orders the certificates issued at A-00083975, Fs. 3, 4, 5 and 6.

WH:11

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

CONTENT OF MOTION: Staff recommendation adopted.

DOCKETED
AUG 23 1990



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

May 31, 1990

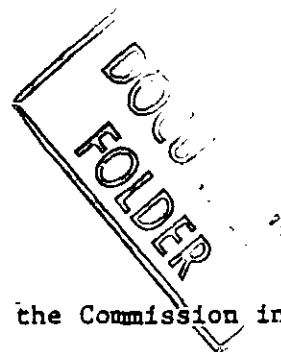
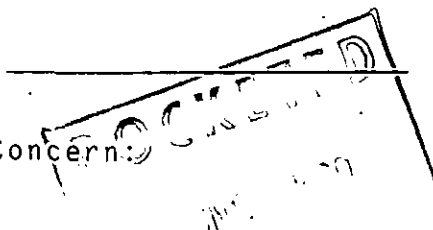
IN REPLY PLEASE
REFER TO OUR FILE

A-109226

David H. Radcliff, Esquire
Christian V. Graf, Esquire
407 north Front Street
Harrisburg, PA 17101

Application of Gabler Trucking, Inc., a corporation of the
State of Delaware

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.

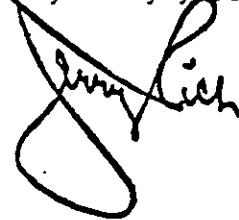
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of May 24, 1990 and dismiss the application without further proceedings.

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", written over a large, stylized loop.

Jerry Rich, Secretary

19

Enclosures
Certified Mail
Receipt Requested

cc:applicant
1580 Gabler Road
Chambersburg, PA 17201

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held May 24, 1990

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice-Chairman
Joseph Rhodes, Jr.
Frank Fischl
David W. Rolka

Application of Gabler Trucking, Inc., a corporation of the State of Delaware, for the transfer of all of the operating rights of H. C. Gabler, Inc. under the certificates issued at A-00083975, Fs. 3, 4, 5 and 6; subject to the same limitations and conditions.

A-00109226

Graf, Andrews & Radcliff, P.C. by David H. Radcliff for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed March 8, 1990. An application for temporary authority was also filed. Public notice of the applications was given in the Pennsylvania Bulletin of April 14, 1990. No protests were filed and the unopposed application is certified to the Commission for its decision without an oral hearing.

Gabler Trucking, Inc. (applicant), a corporation of the State of Delaware, is domiciled at 1580 Gabler Road, Chambersburg, Franklin County. The applicant was incorporated on January 17, 1990 and registered with the Commonwealth of Pennsylvania as a foreign corporation, on March 26, 1990. Officers and directors of the applicant are Harold C. Gabler, Jr., president/director; P. Thomas Gabler, vice president/director; Harmon C. Piper, secretary-treasurer; and Ernest P. Weimer, director.

Ernest P. Weimer will initially hold the stock of the applicant as nominee for ENW-IV Holdings, Inc. (ENW-IV). After payment of the consideration for the rights and other assets of H. C. Gabler, Inc. (transferor), Mr. Weimer's stock will be turned over to ENW-IV or its nominee. In the event payment of

the consideration is not made, the stock of the applicant will be held by Harold C. Gabler, Harold C. Gabler, Jr., Eleanor Gabler and P. Thomas Gabler.

The applicant is seeking to acquire by transfer, the forty-nine (49) common carrier rights held by the transferor at A-00083975, Folders 3, 4, 5 and 6. In addition to the common carrier rights of the transferor, the applicant is also acquiring the following assets and liabilities, as of December 31, 1989:

Total Current Assets	-	\$1,855,250.71
Total Tangible Property	-	\$2,096,914.97
Other Property	-	\$ 20,154.46
Total Assets	-	<u>\$3,972,320.14</u>
Total Current Liabilities	-	\$2,013,463.59
Total Long-Term Debt	-	\$1,288,207.68
Total Deferred Credits	-	\$ 88,657.54
Total Liabilities/ Stockholders' Equity	-	\$3,390,328.81
Net Worth	-	\$ 581,991.33

The Transfer Agreement, dated November 1, 1989, between ENW-IV and the transferor, sets forth that ENW-IV will acquire the authority issued by the Interstate Commerce Commission, the Pennsylvania Public Utility Commission and the State Commissions of Maryland and North Carolina and the hereinbefore described assets and liabilities for the total consideration of \$750,000. The total consideration to be paid in cash at settlement. Upon approval of the transfer application, the transferor will retain no motor carrier operating authority.

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. That the applicant is fit, willing and able to provide the service proposed.

2. That 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 applicant the following rights:

- (1) To transport, as a Class D carrier, milk from points in the townships of Saint Thomas and Hamilton to the boroughs of Chambersburg, Mercersburg and Greencastle, Franklin County, and the borough of Shippensburg, Cumberland County;
- (2) To transport, as a Class D carrier, fruit and vegetables from farms and orchards to canneries and packing, storage and freight houses between points in the counties of Franklin and Adams;
- (3) To transport, as a Class D carrier, farm products, farm machinery and supplies from points in the townships of Hamilton and Saint Thomas to the borough of Chambersburg, Franklin County, and vice versa; provided such transportation shall either originate or terminate at a farm;
- (4) To transport, as a Class D carrier, heavy or bulky machinery for the Chambersburg Implement Company from the city of Harrisburg, Dauphin County to points within fifteen (15) miles by the usually traveled highways of the limits of the borough of Chambersburg, Franklin County, excluding the said borough;
- (5) To transport, as a Class D carrier, apples and apple products from the plant of the Knouse Corporation in the borough of Chambersburg, Franklin County, to the village of Peach Glen, Adams County, and vice versa;
- (6) To transport, as a Class D carrier, powdered milk from the plant of the Hershey Creamery Company in the borough of Chambersburg, Franklin County, to points within one hundred fifty (150) miles by the usually traveled highways of the limits thereof, excluding transportation from the Hershey Creamery Company's plant in the borough of Chambersburg, Franklin County, to points on the route of Horn's Motor Express and the routes of its connecting carriers, namely, Motor Freight Express, from the city of Harrisburg, Dauphin County, to the cities of Lancaster and Philadelphia, and Hall's Motor Transit Company, from the city of Harrisburg, Dauphin County, to the cities of Sunbury, Williamsport, Wilkes-Barre and Scranton;

- (7) To transport, as a Class D carrier, cream from the borough of Chambersburg, Franklin County, to the city of Harrisburg, Dauphin County;
- (8) To transport, as a Class D carrier, apples and peaches from points in the counties of Franklin and Adams to points within two hundred (200) miles by the usually traveled highways of the limits thereof;
- (9) To transport, as a Class C carrier, apples and apple products for the Knouse Corporation located in the borough of Chambersburg, Franklin County, and the village of Peach Glen, Adams County, to points within two hundred (200) miles by the usually traveled highways of the limits thereof;
- (10) To transport, as a Class D carrier, packing house supplies, cannery supplies, farm supplies and food products in containers between canneries, packing houses, storage houses and freight houses in the counties of Franklin and Adams, and from said places to farms in the said counties, and vice versa;
- (11) To transport, as a Class D carrier, frozen foods from the plants of Knouse Foods, Inc., and Knouse Foods Cooperative, Inc. in the villages of Peach Glen and Orrtanna, Adams County, to points in Pennsylvania, and vice versa;
- (12) To transport, as a Class D carrier, empty containers and materials and supplies used in the production of food products from points in Pennsylvania west of U.S. Highway Route 15 to the plants of Knouse Foods, Inc., and Knouse Foods Cooperative, Inc., in the village of Orrtanna, Adams County;
- (13) To transport, as a Class D carrier, dry sugar in bulk from points in Pennsylvania to the plants of Knouse Foods, Inc., and Knouse Foods Cooperative, Inc., in the borough of Chambersburg, Franklin County;

with Right Nos. 12 and 13 subject to the following conditions:

That no right, power or privilege is granted to transport any property from the borough of Martinsburg, Blair County, and points within an airline distance of thirty (30) miles of the limits of said borough;

That no right, power or privilege is granted to transport glass containers from the borough of South Connellsville, Fayette County;

That no right, power or privilege is granted to transport commodities in bulk in tank vehicles or in hopper-type vehicles, except dry sugar in bulk;

- (14) To transport, as a Class D carrier, fruits, fresh and canned, farm products and supplies, from points in the county of Adams to points in Pennsylvania, and vice versa;
- (15) To transport, as a Class D carrier, fruits from storage houses in the county of Adams to other points in Pennsylvania;
- (16) To transport, as a Class D carrier, fresh fruit from orchards and packing houses in the counties of Adams, Franklin, Cumberland and York for Musselman Fruit Products Division of Pet, Inc. to its canneries at Gardners and Biglerville, Adams County.
- (17) To transport, as a Class D carrier, canned products from such canneries to other points in Pennsylvania, and empty containers, supplies and returned goods from other points in Pennsylvania to the canneries;
- (18) To transport, as a Class D carrier, fresh fruit for the Knouse Corporation of the same nature and in the same manner as for Musselman Fruit Products Division of Pet, Inc. to its cannery at Peach Glen, Adams County.
- (19) To transport, as a Class D carrier, feed, constituent parts of feed, and fertilizer for L.A. Gulden from Philadelphia, to applicant's warehouse at Biglerville, Adams County, and to farmers and dealers in the counties of York, Adams, Franklin, Fulton, Perry, Cumberland and Dauphin either directly from Philadelphia or from the applicant's warehouse;
- (20) To transport, as a Class D carrier, foodstuffs from canneries, packing houses and storage places operated in connection therewith in Adams County, and materials and supplies used in said canneries and packing houses to points in Pennsylvania, and vice versa;

with Right No. 20 subject to the following condition:

That no right, power or privilege is granted to transport frozen or other commodities requiring refrigeration trucks from points in the city of Harrisburg, Dauphin County,

and points within an airline distance of ten (10) miles of the limits of said city;

- (21) To transport, as a Class D carrier, packing house supplies and equipment and clay products between points in the county of Adams.
- (22) To transport, as a Class D carrier, packing house supplies and equipment and clay products, from points in the county of Adams to other points in Pennsylvania, and vice versa;
- (23) To transport, as a Class D carrier, building materials between points in the counties of Adams, Cumberland, York, Franklin, Perry, Lancaster and Dauphin, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of disposal, and excluding the transportation of brick or by-products of brick from the city of Harrisburg, Dauphin County, as a point of origin;
- (24) To transport, as a Class B carrier, property between points in the borough of Biglerville, Adams County;
- (25) To transport, as a Class D carrier, fruits and vegetables and fruit and vegetable products, canned or packed, in metal or glass containers, vinegar, cereal products and baby foods, from canneries, packing houses and storage places operated in connection therewith in Adams County, and materials and supplies used by said canneries and packing houses to points in Pennsylvania, and vice versa;

with Right No. 25 subject to the following condition:

That no right, power or privilege is granted to transport frozen or other commodities requiring refrigeration trucks from points in the city of Harrisburg, Dauphin County, and points within an airline distance of ten (10) miles of the limits of said city;

- (26) To transport, as a Class D carrier, sugar in bags from points in the city and county of Philadelphia to points in the county of Franklin;
- (27) To transport, as a Class D carrier, grass stop, in rolls, metal stove shovels, metal roofing and siding and fabricated metal building products, from the plant site of Penn Supply and Metal Corporation in the city and county of Philadelphia to points in Pennsylvania, with

the right to return materials and supplies used in the manufacture of said commodities;

with Right No. 27 subject to the following conditions:

That no right, power or privilege is granted to provide service to or from points in the city and county of Philadelphia and points within an airline distance of thirty-five (35) statute miles of the Philadelphia City Hall;

That no right, power or privilege is granted to provide service from the plants of the Bethlehem Steel Corporation in Cambria County;

- (28) To transport, as a Class D carrier, such merchandise as is dealt in by wholesale, retail and chain grocery food business houses (except commodities in bulk), between points in the borough of Hanover and the township of Penn, York County, and from points in said borough and township to points in that part of Pennsylvania west of U.S. Highway Route 219, and vice versa;
- (29) To transport, as a Class D carrier, property from the plant site of PPG Industries, Inc., in the township of South Middleton, Cumberland County, to points in Pennsylvania, and vice versa;

with Right No. 29 subject to the following conditions:

That no right, power or privilege is granted to transport commodities in bulk in dump vehicles or tank vehicles;

That no right, power or privilege is granted to transport property which, because of size or weight, requires special handling or the use of special equipment such as winch trucks or tractors, pole trailers, extendible trailers or carryalls;

That no right, power or privilege is granted to transport household goods in use;

That no right, power or privilege is granted to transport junk, scrap iron, metal borings and metal turnings for Maryland Metals, Inc. to points in the borough of Lewistown, Mifflin County, and to that part of Pennsylvania bounded on the east by U.S. Highway Route 219 and on the north by U.S. Highway Routes 322 and 62, including

points on said routes, and to plants of the Bethlehem Steel Company in the county of Cambria;

- (30) To transport, as a Class D carrier, foodstuffs, pet foods, drugs, waxes and polishes, and paper and wrapping items (excluding commodities in bulk), from the warehouse of D. Westervelt, Inc., in the borough of Hanover, York County, to points in that part of Pennsylvania on and east of U.S. Highway Route 219 and vice versa;

with Right No. 30 subject to the following condition:

That no right, power or privilege is granted to transport any single shipment weighing less than 10,000 pounds;

- (31) To transport, as a Class D carrier, foodstuffs (except in bulk) in vehicles equipped to protect from heat or cold, from the facilities of Hershey Foods Corporation in the township of Derry, Dauphin County, to points in Pennsylvania; and the return of materials and supplies (except in bulk) used in the production of foodstuffs, in vehicles equipped to protect from heat or cold;
- (32) To transport, as a Class D carrier, foodstuffs (except in bulk) from the facilities of San Giorgio Macaroni, Inc., in the city of Lebanon, Lebanon County, to points in Pennsylvania; and the return of materials and supplies (except in bulk) used in the production of foodstuffs;

with Right No. 32 subject to the following conditions:

That no right, power or privilege is granted to render service to or from points in the counties of Berks, Blair, Bucks, Carbon, Centre, Chester, Clinton, Columbia, Delaware, Huntingdon, Juniata, Lackawanna, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Schuylkill, Snyder, Union and Wyoming.

That no right, power or privilege is granted to transport containers, closures, cartons or boxes from Brockway Glass Company, Inc., in the city of Washington, Washington County.

- (33) To transport, as a Class D carrier, property from the facilities of Calgon Consumer Products Company, Inc., subsidiary of Merck & Co., Inc., in Falls Township,

Bucks County, to points in Pennsylvania (excluding points in the counties of Philadelphia, Chester, Delaware, Bucks, Montgomery, Franklin, Perry, Adams, Dauphin, York, Lancaster and Lebanon);

with Right No. 33 subject to the following conditions:

Provided that transportation to points in the county of Cumberland shall be limited to the facilities of Dauphin Distribution Services Co.

Provided that no right, power or privilege is granted to perform transportation to points in the city of Pittsburgh, Allegheny County, and points within an airline distance of thirty-five (35) statute miles of the limits of said city; points in the borough of Lewistown, Mifflin County, and points within an airline distance of ten (10) statute miles of the limits thereof; points in the borough of State College, Centre County, and points within an airline distance of ten (10) statute miles of the limits thereof; and points in the borough of Huntingdon, Huntingdon County, and points within an airline distance of five (5) statute miles of the limits thereof;

- (34) To transport, as a Class D carrier, soap, soap products and cleaning compounds marketed by Armour-Dial, Inc., from the plant site of Purex Corp., in the borough of Bristol, Bucks County, to points in Pennsylvania (excluding points in the counties of Philadelphia, Chester, Delaware, Bucks, Montgomery, Franklin, Perry, Adams, Dauphin, York, Lancaster and Lebanon);

with Right No. 34 subject to the following conditions:

Provided that deliveries to points in Cumberland County shall be limited to the facilities of Dauphin Distribution Services Co.;

Provided that no right, power or privilege is granted to perform transportation to points in the city of Pittsburgh, Allegheny County, and points within an airline distance of thirty-five (35) statute miles of the limits of said city; points in the borough of Lewistown, Mifflin County, and points within an airline distance of ten (10) statute miles of the limits thereof; points in the borough of State College, Centre County, and points within an airline distance of

ten (10) statute miles of the limits thereof; and points in the borough of Huntingdon, Huntingdon County, and points within an airline distance of five (5) statute miles of the limits thereof;

Provided that no right, power or privilege is granted to perform transportation to points in the borough of Martinsburg, Blair County, and points within an airline distance of thirty (30) statute miles of the limits of said borough, plus the city of Johnstown, Cambria County, and the boroughs and townships contiguous thereto;

(35) To transport, as a Class D carrier, such merchandise as is dealt in by wholesale, retail, and chain grocery food houses (except commodities in bulk), from the plant sites, warehouses and distribution centers of:

1. Hanover Terminals, Inc. and Hanover Brands, Inc. in the borough of Hanover and the township of Penn, York County;
2. D. Westervelt, Inc., in the boroughs of Hanover, New Freedom, and Shrewsbury and the township of Penn, York County;
3. California Cannery and Growers in the township of Conewago, Adams County;

with Right No. 35 subject to the following conditions:

Provided that no right, power or privilege is granted:

To perform transportation of containers from the city of Clarion and the township of Paint, Clarion County;

To transport any single shipment weighing less than 10,000 pounds from points in the borough of Hanover and the township of Penn, York County, to points on the east of U.S. Highway 219, and vice versa; and

To transport any single shipment weighing less than 10,000 pounds from the boroughs of New Freedom and Shrewsbury, York County, and the township of Conewago, Adams County, to points in Pennsylvania, and vice versa, except to and from points on and west of U.S. Highway 220 and points on and south of U.S. Highway 22;

(36) To transport, as a Class D carrier, such merchandise as is dealt in by wholesale, retail and chain grocery food business houses (except commodities in bulk) from the plant sites and warehouses of Dauphin Distribution Services Co., in the borough of Camp Hill and the township of Hampden, Cumberland County, to points in Pennsylvania;

with Right No. 36 subject to the following condition:

That no right, power or privilege is granted to render service to the borough of Martinsburg, Blair County, and points within an airline distance of thirty (30) statute miles of the limits of said borough, except on multiple delivery shipments involving destinations both within and beyond said territory on the same truckload;

(37) To transport, as a Class D carrier, such merchandise as is dealt in by wholesale, retail and chain food grocery business houses, except commodities in bulk, from points in that part of Pennsylvania on and west of U.S. Highway Route 219, and from the shipping facilities of the Durkee Foods Division of SCM Corporation in the city of Bethlehem, Lehigh and Northampton Counties, the borough of Pen Argyl, and the township of Plainfield, Northampton County, to the facilities of Dauphin Distribution Services Co., in the borough of Camp Hill and the township of Hampden, Cumberland County;

with Right No. 37 subject to the following condition:

That transportation from the shipping facilities of the Durkee Foods Division of SCM Corporation shall be limited to shipments of thirty thousand (30,000) pounds or more;

(38) To transport, as a Class D carrier, animal feed, from the facilities of Perk Foods Company, Division of C.H.B. Foods, Inc., located in the township of Lower Allen, Cumberland County, to points in Pennsylvania;

(39) To transport, as a Class D carrier, such commodities as are dealt in by wholesale, retail, chain grocery and food business houses, from points in the county of Cumberland, to points in Pennsylvania, and vice versa;

(40) To transport, as a Class D carrier, such commodities as are dealt in by wholesale, retail, chain grocery and food business houses, from the facilities of H.J.

Heinz Company, located in the county of Allegheny, to points in Pennsylvania, and vice versa;

with Right Nos. 39 and 40 subject to the following condition:

That no right, power or privilege is granted to provide service from the facilities of Ralston Purina Company;

- (41) To transport, as a Class D carrier, commodities as are dealt in by wholesale, retail and chain grocery and food business houses, for the Pittsbury Company, from the plantsite of said company, located in the township of West Sadsbury, Chester County, to points in Pennsylvania, and vice versa.
- (42) To transport, as a Class D carrier, milk and farm products, fruit and vegetables from points in the townships of Greene, Guilford and Southampton, Franklin County, and within three (3) miles of the limits of said townships to other points in Pennsylvania within fifty (50) miles by the usually traveled highways of the limits of said townships, and vice versa;
- (43) To transport, as a Class D carrier, household goods, in use, from points in the borough of Chambersburg, Franklin County, and within three (3) miles of the limits of said borough to other points in Pennsylvania, and vice versa, provided that such transportation shall originate or terminate at a farm or a rural dwelling;
- (44) To transport, as a Class D carrier, fruit from orchards and packers in the county of Franklin to other points in Pennsylvania;
- (45) To transport, as a Class D carrier, fruit juices from the village of Scotland, Greene Township, Franklin County, to points in Pennsylvania, and the return of empty containers to points in the said village, provided that no fruit juices shall be transported to points on the direct lines of Horn's Motor Express, nor shall any empty containers be transported from or to points on the direct lines of Horn's Motor Express;
- (46) To transport, as a Class D carrier, containers and container parts, from the plant site of Continental Can Company in the city of Lancaster, Lancaster County and its warehouses in the county of Lancaster, to points in Pennsylvania (except points in the county of Adams);

with Right No. 46 subject to the following condition:

That the service herein authorized shall be limited to transportation in high-cube and extra high-cube van trailers having a rear door opening of one hundred (100) inches or more;

- (47) To transport, as a Class D carrier, dry pyrophyllite, in flatbed vehicles, dump vehicles and pneumatic tank vehicles, from points in the townships of South Middleton and Dickinson, Cumberland County, to points in Pennsylvania; provided that transportation to points within thirty (30) miles of the limits of the borough of Martinsville, Blair County, shall be confined to transportation in dump vehicles and pneumatic tank vehicles;
- (48) To transport, as a Class D carrier, slate dust, in bulk, and ground, crushed and pulverized slate, in bulk, from the plant of Roofing Granule Division of the Ruberoid Company in the township of Peach Bottom, York County, to points in Pennsylvania;
- (49) To transport, as a Class D carrier, raw milk, in bulk in tank trucks, for Cherry Lane Dairy, Shively's Dairy and Chambersburg Dairy Products, all located in the borough of Chambersburg, Arthur's Dairy located in the borough of Waynesboro and Miller and Read's Dairy located in the borough of Shippensburg, between points in the borough of Chambersburg, Franklin County, and within sixty (60) miles of the limits of the borough of Chambersburg and from points in the said territory to points within two hundred fifty (250) miles of the limits of the said borough of Chambersburg;

with Right No. 49 subject to the following conditions:

FIRST: That no right, power or privilege is granted to perform transportation for:

- (1) Abbott's Dairies, Inc.;
- (2) Sealtest Supplee Division of National Dairy Products;
- (3) Harbison's;
- (4) Foremost Dairies;
- (5) Breyer's Ice Cream Co. Division of National Dairy Products;
- (6) Lancaster Milk Co.;
- (7) Penn-Dairies, Inc.;
- (8) Hershey Creamery, Inc.;
- (9) Hershey Chocolate Company;
- (10) Rakestraw's Dairy Products;
- (11) Harrington Dairies, Inc.;

their present or future subsidiaries, affiliates, successors or assigns;

SECOND: That no right, power or privilege is granted to perform transportation to points in the cities of Harrisburg, York and Philadelphia and points in the counties of Northumberland, Union, Snyder, Centre and Clinton.

subject to the following 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 its 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, \$750,000, being the amount of the consideration payable by it 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 its 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 certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock 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. Section 1102(a)(3).

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.

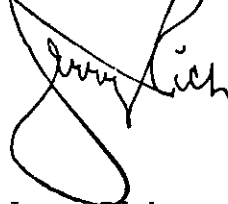
IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it has complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of evidence of insurance and a tariff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

IT IS FURTHER ORDERED: That 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, H. C. Gabler, Inc., at A-00083975, Fs. 3, 4, 5 and 6 be cancelled and the record be marked closed.

IT IS FURTHER ORDERED: That the application for temporary authority filed at A-00109226 be and is hereby dismissed.

BY THE COMMISSION,

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

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: May 24, 1990

ORDER ENTERED: MAY 31 1990