

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
June 4, 1993

In Re: A-00109226, F0001, Am-F

(See attached list)

Application of Gabler Trucking, Inc.

For amendment so as to permit the transportation of property (except household goods in use and commodities in bulk) between the Pennsylvania facilities of Cumberland Valley Distribution Services Company, Inc. and Cumberland Distribution Services Company, Inc., and from said facilities to points in Pennsylvania, and vice versa.

NOTICE

The Public Utility Code directs that hearings shall be commenced in this case by the Administrative Law Judge within 90 days after the proceeding is initiated.

In compliance with this directive, an initial hearing is hereby scheduled for Thursday, July 8, 1993 at 10:00 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania 17120.

The presiding officer in this proceeding is Administrative Law Judge Louis G. Cocheres. Judge Cocheres can be contacted at P.O. Box 3265, Harrisburg, Pennsylvania 17105-3265; telephone (717) 783-5452.

If you intend to file exhibits, please be advised that two copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

cc: Judge Cocheres
John Frazier -- PIO
Norma Lewis
Susan Licon
Beth Plantz
Docket Room

DOCKETED
JUN 8 1993

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JUN 07 1993

SECRETARY'S BUREAU
Information Control Division

**DOCUMENT
FOLDER**

INCL

A-00109226, F0001, Am-F - Parties of Record

Kenneth Zielonis, Esquire
Tucker Arensburg, P.C.
116 Pine Street
Harrisburg, PA 17101

Rex W. McQuaide, Esquire
1405 Eisenhower Boulevard
Richland Square, Suite 200
Johnstown, PA 15904

William Campbell, Vice President
Kane Freight Lines, Inc.
P.O. Box 931
Scranton, PA 18501-0931



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

RJR

IN REPLY PLEASE
REFER TO OUR FILE

June 7, 1993

TO: ALL PARTIES OF RECORD

RE: Application of Gabler Trucking, Inc.
Docket No. A-00109226, F0001, Am-F

RECEIVED
93 JUN - 8 AM 10:33
PA. P. U. C.
INFO. CONTROL DIV.

I have been assigned to preside over the above-captioned case. The purpose of this letter is to bring to the attention of all parties' representatives certain procedural rules, observation of which will serve to "secure the just, speedy and inexpensive determination" of this proceeding. 1 Pa. Code §1.2(a).

Motor carrier application proceedings are governed by, inter alia, 52 Pa. Code §3.381(f) and (g), which provide, in pertinent part:

(f) Scheduling hearings. The applications to which timely protests were filed will not be acted on by the Commission for a period of 20 days after the closing date for filing of protests, to permit the applicant to make restrictive amendments leading to the withdrawal of protests. In the event that all protests are withdrawn upon amendment, the Commission may dispose of the application in accordance with subsection (e). In the event that the application is still subject to protest, then after the expiration of the 20-day waiting period, the Commission will set the application for hearing and will notify all parties thereof. Absent good cause shown, no further amendments to the application will be considered after expiration of the 20-day period or the commencement of hearings.

(g) Requests for postponements. In the event that any scheduled hearing is postponed for any reason prior to the date thereof, notice of postponement and the date, time, and place of the continued hearing will be given by the presiding officer of the Commission to all parties. Requests for hearing postponements shall be submitted in writing to the Secretary of the Commission and the presiding officer with copies to parties of record, no later than 5 days prior to hearing. Hearings will not be postponed absent good cause. (Emphasis added.)

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In accordance with the foregoing, absent timely notice of settlement (i.e., no later than 5 days prior to the first scheduled hearing, on July 2, 1993), I anticipate that all parties to this proceeding shall be prepared to participate in the hearings scheduled to begin on July 8, 1993.

In connection with the foregoing, please bear in mind that restrictive amendments which result in undue and unreasonable fragmentation of authority have been held not to be in the public interest. Application of Central Valley Transportation, Inc., A-00103114 (Order adopted October 2, 1987, entered October 13, 1987); Application of Ace Motor Freight, Inc., A-00097068, F.1, Am-C (Order adopted May 17, 1978, entered May 24, 1978). Any amended authority will be expected to be clear, understandable and enforceable.

If you wish to offer into evidence at the hearing material in the form of documents (letters, bills, cancelled checks and the like), please bring with you the required number of copies (an original and 2 copies for the Commission, one copy for every other party in the case, and a copy for yourself). 52 Pa. Code §5.409.

If you need to subpoena witnesses for the hearing, please review 52 Pa. Code §5.421. You should submit your written application for subpoenas sufficiently in advance of the hearing so that the other parties will have the requisite ten days' notice to answer your application, and so that you will have enough time to receive the subpoenas and serve them.

My review of the record in this case suggests that at least one of the parties is not represented by counsel at this time. Because a protested motor carrier application proceeding is regarded as an adversarial proceeding, Commission regulations, 52 Pa. Code §§1.21-1.23, require all corporate parties to be represented by counsel at hearings. The laws of the Commonwealth of Pennsylvania pertaining to the practice of law support these regulations. Any corporate party which is not represented by counsel will not be permitted to participate in the hearings scheduled in this case.

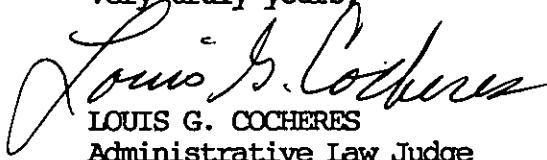
Finally, I would also like to bring to your attention 52 Pa. Code §5.331(b) which provides, inter alia, that "[p]articipant[s] shall endeavor to initiate discovery as early in the proceedings as reasonably possible," and 52 Pa. Code §5.322 which encourages participants to exchange information on an informal basis. I urge all parties to cooperate in discovery. Such cooperation is preferable to numerous or protracted discovery disagreements which require the presiding officer's participation for resolution. Please be aware that there are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa. Code §§5.361, 5.371-3.572.

Page -3-
June 7, 1993

For your convenience, I am enclosing a copy of the Commission's service list as of this date.

In closing, I hope for the cooperation of all parties in achieving a fair, prompt and efficient resolution of this case.

Very truly yours,


LOUIS G. COCHERES
Administrative Law Judge

IGC/tlt

Enclosure

A-00109226, F0001, Am-F - Parties of Record

Kenneth Zielonis, Esquire
Tucker Arensburg, P.C.
116 Pine Street
Harrisburg, PA 17101

Rex W. McQuaide, Esquire
1405 Eisenhower Boulevard
Richland Square, Suite 200
Johnstown, PA 15904

William Campbell, Vice President
Kane Freight Lines, Inc.
P.O. Box 931
Scranton, PA 18501-0931

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265
July 8, 1993

In Re: A-00109226, F0001, Am-F

(See letter of 6/4/93)

Application of Gabler Trucking, Inc.

For amendment so as to permit the transportation of property (except household goods in use and commodities in bulk) between the Pennsylvania facilities of Cumberland Valley Distribution Services Company, Inc. and Cumberland Distribution Services Company, Inc., and from said facilities to points in Pennsylvania, and vice versa.

NOTICE

This notice is to inform you that at the request of counsel for applicant the hearing scheduled for Thursday, July 8, 1993, was cancelled.

As soon as the restrictive amendment and letters withdrawing all protests are received in this office, the subject application will be referred to the Bureau of Transportation for review and report to the Commission.

cc: Judge Cocheres
John Frazier - PIO
Norma Lewis
Susan Licon
Beth Plantz
Docket Room

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JUL 14 1993

**DOCUMENT
FOLDER**

DOCKET NO. A-00109226, F0001, Am-F
CASE NAME Application of Gabler Trucking,
Inc.
HEARING LOCATION Harrisburg
HEARING DATE July 8, 1993
ALJ Cocheres

CHECK THOSE BLOCKS WHICH APPLY:

Hearing held YES NO
Testimony taken YES NO
Hearing concluded YES NO
Further hearing needed YES NO
Estimated add'l days _____
RECORD CLOSED YES NO
Date _____
Briefs to be filed YES NO
Date _____
BENCH DECISION YES NO

REMARKS: _____

Cancelled
RECEIVED
JUL 09 1993
Office of A. L. J.
Public Utility Commission

JUL 13 1993 *elp*

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD
PLEASE PRINT CLEARLY
INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

RECEIVED
PA. U. DIV.
JUL 11 11:24
INFO CONTROL

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
Telephone No. ()	City	State	Zip	
Telephone No. ()	City	State	Zip	
Telephone No. ()	City	State	Zip	

DOCUMENT FOLDER

CHECK THIS BOX IF ADDITIONAL PARTIES OR COUNSEL OF RECORD APPEAR ON BACK.

HOLBERT ASSOCIATES

Reporter

✓
LDA

July 9, 1993

John G. Alford, Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
93 JUL -9 PM 2:06
PA. P. U. C.
INFO. CONTROL DIV.

RE: APPLICATION OF GABLER TRUCKING, INC.
DOCKET NO. A-00109226 *Final Am't*

Dear Secretary Alford:

Enclosed for filing are an original and two copies of the Restrictive Amendment for Gabler Trucking, Inc. in the above-captioned matter. As evidenced by the attached Certificate of Service, all parties to this proceeding have been served a copy of this document.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

TUCKER ARENSBERG, P.C.

James P. Melia
JAMES P. MELIA

DOCUMENT
FOLDER

JPM:th
gabler\alford.ltr
ENCLOSURES

cc: Rex W. McQuade, Esquire
Frank Ziskowski, Esquire
David Weise, Gabler Trucking

AMV *W*

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Application of Gabler
Trucking, Inc.

:
: Docket No. A-00109226 71 Am 7

RESTRICTIVE AMENDMENT

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JUL 9 1993

SECRETARY'S OFFICE
Public Utility Commission

AND NOW COMES, Gabler Trucking, Inc. ("Applicant"), by its counsel, Tucker Arensberg, P.C., pursuant to Section 5.235 of the Pennsylvania Public Utility Commission's ("Commission") Rules of Practice and Procedure, 52 Pa. Code §5.235, and requests the Commission adopt this Restrictive Amendment in this proceeding. In support thereof, Applicant avers as follows:

1. On February 23, 1993, Applicant filed its Application in this proceeding. Applicant requested the following authority:

To transport, as a Class D carrier, property (except household goods in use and commodities in bulk) between the facilities of Cumberland Valley Distribution Services Company, Inc. and Cumberland Distribution Services Company, Inc., and from said facilities to points in Pennsylvania, and vice-versa.

2. On April 14 and 15, 1993 respectively, said Application was protested by Kane Freight Lines, Inc. and W.C. McQuade, Inc. ("Protestants").

3. After discussions with Protestants, Applicant is proposing the following Restrictive Amendment:

To transport, as a Class D carrier, property (except household goods in use and commodities in bulk) between the facilities of Cumberland Valley Distribution Services Company, Inc. and Cumberland Distribution Services Company, Inc., and from said facilities to points in Pennsylvania, and vice-versa.

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JUL 29 1993

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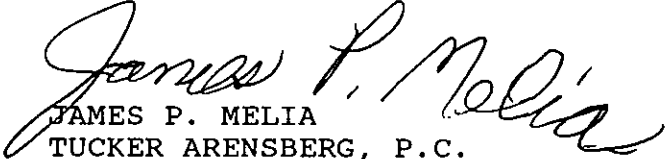
PROVIDED THAT all such transportation shall be limited to commodities unloaded or reloaded at such facilities for bona fide storage and for which a warehouse receipt has been or will be issued by Cumberland Valley Distribution Services Company, Inc. or Cumberland Distribution Services Company, Inc.

6. Applicant believes and avers that Protestants will file a written withdrawal of protests in the above docket based on the Restrictive Amendment.

7. Applicant therefore requests that this matter be disposed of pursuant to the Commission's Modified Procedure.

WHEREFORE, for all the foregoing reasons, Applicant, Gabler Trucking, Inc., requests this Restrictive Amendment be adopted.

Respectfully submitted,



JAMES P. MELIA
TUCKER ARENSBERG, P.C.
116 Pine Street, Suite 403
Harrisburg, PA 17101
(717)238-2900

Dated: July 9, 1993

Attorney for Applicant,
GABLER TRUCKING, INC.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION


In Re: Application of Gabler :
Trucking, Inc. : Docket No. A-00109226

CERTIFICATE OF SERVICE

I hereby certify that this 9th day of July, 1993, I have served a true and correct copy of the foregoing Restrictive Amendment upon the person(s) set forth below by first class mail, postage prepaid, (unless service is otherwise indicated) in accordance with the requirements of 52 Pa. Code Sections 1.54 and 1.55:

Rex W. McQuade, Esquire
1405 Eisenhower Boulevard
Richland Square
I-Suite 200
Johnstown, PA 15904

Frank Ziskowski, Esquire
Kane Freight Lines, Inc.
P.O. Box 931
Scranton, PA 18501


JAMES P. MELIA
TUCKER ARENSBERG, P.C.
116 Pine Street, Suite 403
Harrisburg, PA 17101
(717) 238-2900

Attorney for Applicant,
GABLER TRUCKING, INC.



Rex W. McQuaide

Thomas W. Cartwright

1405 Eisenhower Blvd.
Richland Square I - Suite 200
Johnstown, Pennsylvania 15904
Telephone (814) 266-2070
Fax (814) 266-5108

July 16, 1993

RECEIVED

JUL 21 1993

Mr. John G. Alford, Secretary
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, PA 17120

SECRETARY'S OFFICE
Public Utility Commission

RE: APPLICATION OF GABLER TRUCKING, INC.
Docket No. A-00109226, Folder 1, Am-F

Dear Mr. Alford:

I have received an amendment submitted by James P. Melias' letter of July 9, 1993, and in consideration of and in reliance of this particular restrictive amendment, a copy of which is attached hereto, do now withdraw the Protest of W.C. McQuaide, Inc., to the above-captioned application.

I do desire to remain a party of record for the receipt of all orders which may be issued.

Very truly yours,

Rex W. McQuaide
Attorney at Law

RWM/k1
Enclosures

cc: Mr. William F. McQuaide
James P. Melia, Esquire
Gabler Trucking, Inc.

DOCKETED
AUG 17 1993

DOCUMENT
FOLDER

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Application of Gabler
Trucking, Inc.

:

: Docket No. A-00109226

7/ Am 7

RESTRICTIVE AMENDMENT

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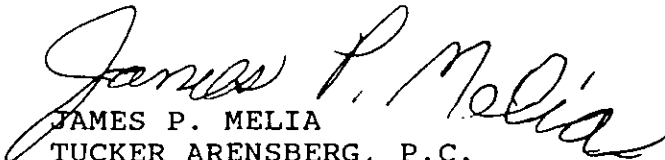
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WHEREFORE, for all the foregoing reasons, Applicant, Gabler Trucking, Inc., requests this Restrictive Amendment be adopted.

Respectfully submitted,



JAMES P. MELIA
TUCKER ARENSBERG, P.C.
116 Pine Street, Suite 403
Harrisburg, PA 17101
(717)238-2900

Dated: July 9, 1993

Attorney for Applicant,
GABLER TRUCKING, INC.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION


In Re: Application of Gabler :
Trucking, Inc. : Docket No. A-00109226

CERTIFICATE OF SERVICE

I hereby certify that this 9th day of July, 1993, I have served a true and correct copy of the foregoing Restrictive Amendment upon the person(s) set forth below by first class mail, postage prepaid, (unless service is otherwise indicated) in accordance with the requirements of 52 Pa. Code Sections 1.54 and 1.55:

Rex W. McQuade, Esquire
1405 Eisenhower Boulevard
Richland Square
I-Suite 200
Johnstown, PA 15904

Frank Ziskowski, Esquire
Kane Freight Lines, Inc.
P.O. Box 931
Scranton, PA 18501


JAMES P. MELIA
TUCKER ARENSBERG, P.C.
116 Pine Street, Suite 403
Harrisburg, PA 17101
(717) 238-2900

Attorney for Applicant,
GABLER TRUCKING, INC.

ORIGINAL
kane
isable, Inc.

Kane Freight Lines, Inc.
Kane Warehousing, Inc.
Post Office Box 931,
Scranton, PA 18501-0931
(717) 222-9801
1-800-688-KANE

July 19, 1993

DOCKETED

AUG 17 1993

Mr. John G. Alford
Secretary
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
Room B18
North Office Building
North Street and Commonwealth Avenue
Harrisburg, PA 17105-3265

Dear Mr. Alford:

On April 14, 1993 our office filed with the Commission a protest to the application of Gabler Trucking, Inc. A-00109226, Folder 1-AM-F.

It is requested this date that said protest of Kane Freight Lines, Inc. be withdrawn.

Thanking you for your assistance and cooperation.

Sincerely,



KANE FREIGHT LINES, INC.
William E. Campbell
Vice President

WEC/hto

cc: Gabler Trucking, Inc.
James P. Melia, Esq:

DOCUMENT
FOLDER

RECEIVED

JUL 23 1993

SECRET
Public Utility Commission

