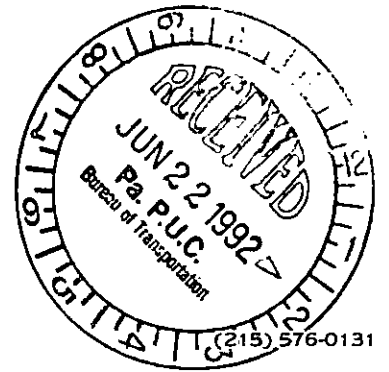


RAYMOND A. THISTLE, JR.
ATTORNEY AT LAW
206B BENSON EAST
100 OLD YORK ROAD
JENKINTOWN, PA. 19046



June 19, 1992

RECEIVED
JUN 22 1992
SECRETARY'S OFFICE
Public Utility Commission

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

Re: Application of Gabler Trucking, Inc.
Docket A-00109226, F.1, Am-E
Protest

Dear Secretary Alford:

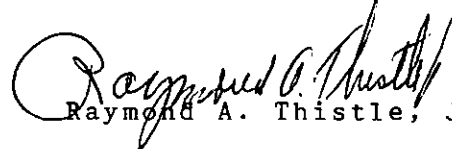
Enclosed herewith for filing are an original plus two copies of a Protest of Courier Unlimited, Inc., against the above captioned Permanent Authority Application.

Proper and timely mail service has been made per the Certificate of Service.

Please acknowledge receipt hereof on that provided.

Thank you for your attention and consideration in this matter.

Very truly yours,


Raymond A. Thistle, Jr.

RAT:mt

cc: Courier Unlimited, Inc.

DOCUMENT
FOLDER

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

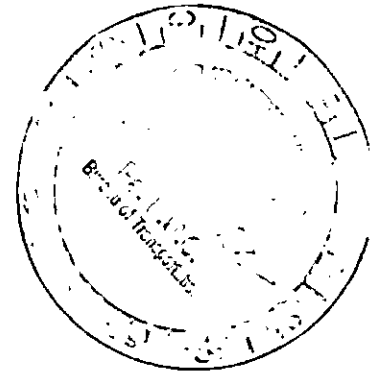
JUN 22 1992

SECRETARY'S OFFICE
Public Utility Commission

IN RE: APPLICATION OF GABLER TRUCKING, INC.

DOCKET A-00109226, FOLDER 1,
AMENDMENT-E

PROTEST AGAINST GRANT OF
APPLICATION FOR
PERMANENT AUTHORITY



AND NOW COMES the protestant identified below, by its attorney, and files this its Protest against the grant of the above captioned permanent authority application, the bases of which are as follows:

1. Applicant's name and docket number of the application:

Gabler Trucking, Inc.
P. O. Box 1089
Chambersburg, PA 17201

Docket A-00109226, F.1, Am-E

2. Name, business address and telephone number of the protestant:

Courier Unlimited, Inc.
660 Hollow Road
Oaks, PA 19456
(215) 666-0660

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
JUN 22 1992
ENTRY No. _____

3. Name, business address and telephone number of protestant's attorney:

Raymond A. Thistle, Jr.
206B Benson East
100 Old York Road
Jenkintown, PA 19046
(215) 576-0131

4. Statement of the nature of protestant's interest in the application and of the adverse impact upon protestant and the public:

(a) Nature of protestant's interest

The applicant seeks the following authority,

So as to permit the transportation of property (except property in bulk and household goods in use) between points in the county of Franklin, and from points in said county to points in Pennsylvania, and vice versa.

Courier Unlimited, Inc. possesses authority from the PA PUC which enables it to transport parcels and packages, no one parcel or package to exceed one hundred (100) pounds in weight, between points in Pennsylvania within 125 miles of the township of Upper Providence, Montgomery County (A-00097535, F.1, Am-D). In addition, protestant holds authority for like commodities (A-00097535, F.1, Am-E) which enables protestant to perform transportation (inter alia) of parcels and packages, each not exceeding 100 pounds in weight, from points within 125 miles of the township of Upper Providence to points beyond 125 miles of Upper Providence and vice versa. Such application also granted authority between points in that area of Pennsylvania beyond 125 miles of Upper Providence Township, subject to some restrictions. The authority sought which duplicates that held by protestant is as described above. See adverse impact statement.

Protestant is presently providing a complete service within the scope of protestant's authority which includes all of the area involved in applicant's application. Effectively, protestant has territorial authority between points in Pennsylvania.

(b) Adverse Impact

There is no need for additional authority as sought by applicant which would conflict with that held by protestant. The service of protestant within the scope of its pertinent authorities meets any public need. A grant of authority to applicant which would duplicate the transportation activity of protestant, would impair the operations of protestant to the extent, on balance, that it would be adverse to the public interest; there would be an adverse public impact by a grant of the application.

Protestant challenges the fitness of applicant to conduct the proposed service; there is no need for the authority.

5. List of all Commission Docket Numbers under which protestant operates (with pertinent authorities hereto designated and attached)

The PA PUC docket numbers under which protestant Courier Unlimited, Inc. operates are A-97535; A-97535, F.1, Am-A; A-00097535, F.1, Am-C; A-00097535, F.1, Am-D and A-00097535, F.1, Am-E; A-00097535, F.1, Am-F. Copies of pertinent portions of protestant's authority upon which it protests this application are attached.

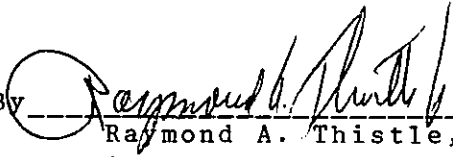
6. Proposed Restriction

Since the applicant's proposed authority would encompass considerable areas of protestant's authority, there appears to be no basis for amendment. However, protestant is receptive to any proposal by applicant, particularly one excluding transportation of property weighing 125 pounds or less, except when a component or replacement part of a heavier item weighing 500 pounds or more.

WHEREFORE, Protestant prays your Honorable Commission to deny the application for permanent authority.

Respectfully Submitted

COURIER UNLIMITED, INC.

By  _____
Raymond A. Thistle, Jr.
Attorney for Protestant

IN THE MATTER OF THE APPLICATION OF

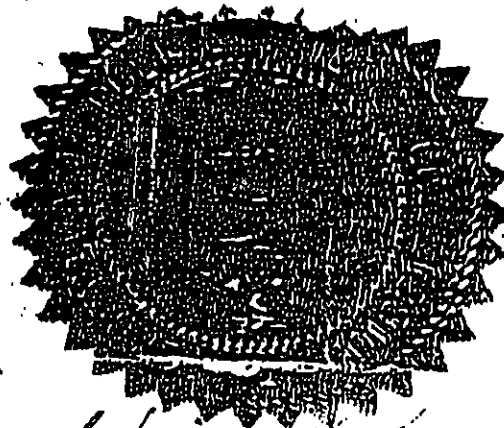
COUNTY DELIVERY CORPORATION, a
corporation of the Commonwealth
of Pennsylvania

CERTIFICATE
OF
PUBLIC CONVENIENCE

The Pennsylvania Public Utility Commission hereby certifies that after an investigation and/or hearing had on the above entitled application, it has, by its report and order made and entered, a copy of which is attached hereto and made a part hereof, found and determined that the granting of said application is necessary or proper for the service, accommodation, convenience and safety of the public, and this certificate is issued evidencing its approval of the said application as set forth in said report and order.

In Testimony Whereof, The PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 24th day of January, 1973.

Attest:



Mill Feltner

Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

George Bloom

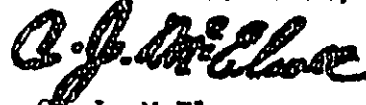
Chairman

It appearing that the holder of the certificate of public convenience in this proceeding requests that said certificate be amended to stand in the name of COURIER UNLIMITED, INC., and it further appearing that said certificate holder has properly filed with the Secretary of the Commonwealth to amend it name; THEREFORE,

IT IS ORDERED: That the certificate issued to COUNTY DELIVERY CORPORATION, a corporation of the Commonwealth of Pennsylvania, be and is hereby modified and amended to stand in the name of COURIER UNLIMITED, INC.

attest:

BY THE COMMISSION,



C. J. McElwee
Secretary

Order Adopted: June 15, 1978
Order Entered: June 27, 1978

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held

June 24, 1988

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice-Chairman
Linda C. Taliaferro
Joseph Rhodes, Jr.
Frank Fischl

Application of Courier Unlimited, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, property in parcels and packages, no parcel or package to exceed one hundred (100) pounds in weight, from points in the borough of Norristown, Montgomery County, to points within twenty-five (25) miles by the usually traveled highways of the limits of said borough, and vice versa: SO AS TO PERMIT the transportation of property, in parcels and packages, no parcel or package to exceed one hundred (100) pounds in weight, between points in the township of Upper Providence, Montgomery County, and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof.

A-00097535
F. 1
Am-D

Raymond A. Thistle, Jr., for the applicant.
Graf, Andrews & Radcliff, by Christian V. Graf for protestant, Silver Line, Inc.
Joseph J. Carroll for protestant, S. T. S. Motor Freight, Inc.
Abrahams & Loewenstein, by Alan Kahn for protestants: Jamour, Inc.,
t/d/b/a Quick Courier Service and Choice Courier Systems.

There are 26 individual shippers supporting this application which represent a wide variety of business endeavors and an equally wide variety of commodities. There are eight banks, three manufacturers, three advertising agencies, a toy distributor, three printing companies, a healthcare organization and a law firm among the shippers, all professing a need for expedited transportation services. A wide range of commodities are involved, such as product samples, payroll documents, artwork, graphic designs, brochures, video tape, promotional material, medical records, banking documents, etc. The property description proposed by the applicant is well supported and justified.

There are 35 individual counties embraced within the proposed 125 airline mile radius of Upper Providence Township, Montgomery County. Collectively, the shippers have demonstrated a need for service either to, from or between points in each county. The very nature of the service dictates that in a majority of instances, those shipments moving from a shipper's place of business to a branch location or other customers, will in turn, result in shipments back to the shipper's place of business. Several shippers attest to the need for service locally between specified counties.

It is not necessary for an applicant to prove absolute need in every square mile of the territory proposed, but rather, within the territory generally through representative origins and destinations. We believe the applicant has successfully met this burden.

We find:

1. That the applicant has shown that a public need for the proposed service, as amended, does exist.
2. That the applicant is fit, ready, willing and able to render the proposed service as amended.
3. That approval of the application as amended is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved as amended and that the certificate issued to the applicant on January 24, 1973, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property, in parcels and packages, no single parcel or package to exceed one-hundred (100) pounds in weight, between points in the township of Upper Providence, Montgomery County, and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof;

subject to the following condition:

That no right, power or privilege is granted to transport wearing apparel and accessories.

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

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

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: June 24, 1980

ORDER ENTERED: JUN 30 1980

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held November 21, 1990

Commissioners Present:

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

Application of Courier Unlimited, Inc.,
a corporation of the Commonwealth of
Pennsylvania, for amendment to its common
carrier certificate, which grants the right,
inter alia, to transport, by motor vehicle,
property, in parcels and packages, no single
parcel or package to exceed one-hundred (100)
pounds in weight, between points in the town-
ship of Upper Providence, Montgomery County,
and within an airline distance of one hundred
twenty-five (125) statute miles of the limits
thereof; subject to the following condition:
That no right, power or privilege is granted
to transport wearing apparel and accessories:
SO AS TO PERMIT the transportation of property,
in parcels and packages, no single parcel or
package to exceed one-hundred (100) pounds
in weight, (1) between points in that part
of Pennsylvania beyond an airline distance
of one hundred twenty-five (125) statute
miles of the limits of the township of Upper
Providence, Montgomery County; and (2) from
points in the township of Upper Providence,
Montgomery County and within an airline
distance of one hundred twenty-five (125)
statute miles of the limits thereof to points
beyond one hundred twenty-five (125) statute
miles of the limits of the township of Upper
Providence, Montgomery County, and vice versa;
with the right to interline with Class A, B
and D carriers so authorized.

A-00097535
F. 1
Am-E

2. The applicant has the support of 47 parties which are representative of the type of service proposed in the amended territory.

3. Approval of the amended application is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved and that the certificate issued January 24, 1973, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property in parcels and packages, no single parcel or package to exceed one hundred (100) pounds in weight, between points in that part of Pennsylvania beyond an airline distance of one hundred twenty-five (125) statute miles of the limits of the township of Upper Providence, Montgomery County, and from points in the township of Upper Providence, Montgomery County, and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof, to points beyond one hundred twenty-five (125) statute miles of the limits of the township of Upper Providence, Montgomery County, and vice versa; with the right to interline with Class A, B and D carriers so authorized;

subject to the following conditions:

That no right, power or privilege is granted to provide transportation of human laboratory specimens, clinical laboratory instruments, and supplies therefore, and reports relative to human laboratory specimens, clinical laboratory instruments and supplies therefore, between points in the counties of Allegheny, Armstrong, Lawrence, Butler, Washington, Westmoreland, Greene, Indiana, Mercer, Somerset, Bedford and Beaver.

That no right, power or privilege is granted to provide transportation between points in the county of Allegheny.

That no right, power or privilege is granted to provide transportation for the Pennsylvania Department Environmental Resources.

That no right, power or privilege is granted to pickup and deliver any shipment within the same calendar day between points in the counties of Crawford, Erie, Mercer and Venango.

That no right, power or privilege is granted to provide transportation for General Electric Company and Copes-Vulcan, Inc., from their facilities in the county of Erie, to points in Pennsylvania, and vice versa.

That no right, power or privilege is granted to pickup and deliver any shipment within the same calendar day from points in the city of Pittsburgh, Allegheny County, to points in Pennsylvania beyond the limits of the county of Allegheny, but which are within thirty (30) miles of the usually traveled highways of the City-County Building in the City of Pittsburgh, Allegheny County.

IT IS FURTHER ORDERED: That the authority granted herein to the extent that it duplicates authority now held by or subsequently granted to the applicant, 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 shall have complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of the Commission relative to the filing and acceptance of 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.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: November 21, 1990

ORDER ENTERED: NOV 28 1990

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held November 27, 1991

Commissioners Present:

William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Wendell F. Holland, Commissioner
David W. Rolka, Commissioner

Application of Courier Unlimited, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, property, in parcels and packages, no single parcel or package to exceed one-hundred (100) pounds in weight, between points in the township of Upper Providence, Montgomery County, and within an airline distance of one hundred twenty-five (125) statute miles of the limits thereof; subject to the following condition: That no right, power or privilege is granted to transport wearing apparel and accessories: SO AS TO PERMIT the transportation of property, in parcels or packages, no single parcel or package to exceed one hundred fifty (150) pounds in weight for IBM Corporation from its facilities in the township of East Pennsboro, Cumberland County, to the boroughs of Lewisburg, Union County, Huntingdon, Huntingdon County, Montoursville, Lycoming County and State College, Centre County, and vice versa.

A-00097535
F. 1
Am-F

Raymond A. Thistle, Jr., for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application initially filed April 26, 1991 and published in the Pennsylvania Bulletin of May 18, 1991. A corrected notice of the application, changing the shipper's origin

point, was published in the Pennsylvania Bulletin of August 3, 1991. No protests were filed to the application and it is now certified to the Commission for its decision without oral hearing. The record consists of verified statements filed by the applicant and the supporting shipper.

The initial application for emergency temporary authority was denied by a tentative decision adopted May 23, 1991. The corresponding temporary authority application, modified by the Commission to reflect the shipper's actual location, was approved by order adopted August 1, 1991. The republished temporary authority application is still pending and will be dismissed by our action in this permanent authority application.

Courier Unlimited, Inc. (Courier or applicant), is a Pennsylvania corporation, with its principal place of business in Oaks, Montgomery County. It was initially certificated in 1973 and operates under nine paragraphs of authority. Operations are conducted from a terminal in Valley Forge and branch offices are maintained in Allentown, Harrisburg, Philadelphia, Scranton and Williamsport. The applicant's fleet consists of eighty vehicles of various types; twenty-five are owned by the corporation and fifty-five are leased. A comprehensive safety program for drivers and vehicles is presently in operation. As evidence of its financial capacity to assume the additional burden of the proposed operation, Courier reports assets of \$735,163, with liabilities of \$549,919, leaving a shareholders' equity of \$185,244.

Raymond E. Pardee, program manager for rate structure management of IBM Corporation (IBM or shipper), submitted a verified statement in support of the amended application. IBM is a manufacturer of electronic and computerized machines and devices. As pertinent to this application, IBM requires the transportation of small parcels and packages, not to exceed one hundred and fifty pounds, from its facility in East Pennsboro, Cumberland County, to points in Lewisburg, Union County, Huntingdon, Huntingdon County, Montoursville, Lycoming County, and State College, Centre County, and vice versa. The shipper expects to utilize the applicant's service twice a week for inbound and outbound shipments of various machine parts and other related items.

After a complete review of the record before us, we find:

1. That the applicant has shown that there is a public need for the proposed service.
2. That the applicant possesses the necessary equipment, experience, and financial capacity to perform the proposed service.
3. That approval of the application is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved and that the certificate issued to the applicant on January 24, 1973, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property, in parcels or packages, no single parcel or package to exceed one hundred and fifty (150) pounds in weight, for IBM Corporation, from its facilities located in East Pennsboro Township, Cumberland County, to the boroughs of Lewisburg, Union County, Huntingdon, Huntingdon County, Montoursville, Lycoming County and State College, Centre County, and vice versa.


IT IS FURTHER ORDERED: That the corrected application for temporary authority be and is hereby dismissed.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Pennsylvania Public Utility Code and the rules and regulations of the Commission relative to 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 applicant, shall not be construed as conferring more than one operating right.

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.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: November 27, 1991

ORDER ENTERED: DEC 9 1991

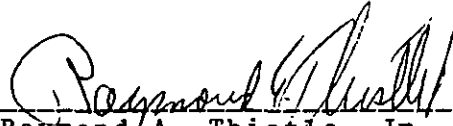
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, he served a copy of the foregoing Protest upon all known parties of record, or their counsel, at their proper addresses as indicated below, by placing a copy thereof with the United States Postal Service, first class mail, postage prepaid:

Gabler Trucking, Inc.
P. O. Box 1089
Chambersburg, PA 17201

David H. Radcliff, Esquire
407 North Front Street
Harrisburg, PA 17101

Dated at Jenkintown, PA this 19th day of June, 1992.



Raymond A. Thistle, Jr.
Attorney for Protestant
Courier Unlimited, Inc.

PROTEST DUE: June 29, 1992
PROTEST POSTED: June 19, 1992

RAYMOND A. THISTLE, JR.

ATTORNEY AT LAW
206B BENSON EAST
100 OLD YORK ROAD
JENKINTOWN, PA. 19046

(215) 576-0131

June 19, 1992

Gabler Trucking, Inc.
P. O. Box 1089
Chambersburg, PA 17201

RECEIVED
JUN 22 1992

SECRETARY'S OFFICE
Public Utility Commission

Re: Your PA PUC Application
Docket A-00109226, F.1, Am-E
First Set of Interrogatories

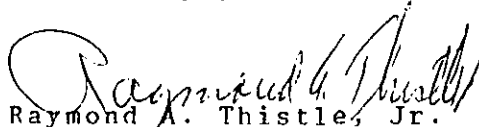
Gentlemen:

Enclosed herewith are an original plus one copy of protestant Courier Unlimited, Inc.'s First Set of Interrogatories.

I have sent a copy to your attorney who can advise you concerning these Interrogatories.

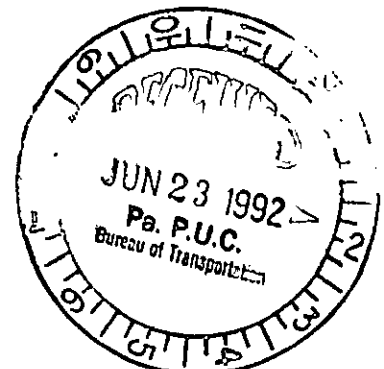
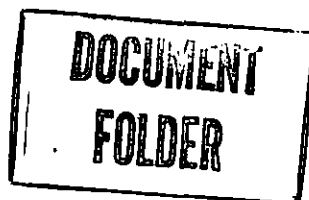
Thank you for your attention and consideration in this matter.

Very truly yours,


Raymond A. Thistle, Jr.

RAT:mt

cc: ✓ Honorable John G. Alford, Secretary
PA PUC (letter only)
David H. Radcliff, Esquire
Courier Unlimited, Inc.



LAW OFFICES

VUONO, LAVELLE & GRAY

2310 GRANT BUILDING

PITTSBURGH, PA. 15219-2383

(412) 471-1800

JOHN A. VUONO
WILLIAM J. LAVELLE
WILLIAM A. GRAY
MARK T. VUONO
RICHARD R. WILSON
DENNIS J. KUSTURISS
CHRISTINE M. DOLFI
PETER J. SCANLON

June 26, 1992

RECEIVED

JUN 26 1992

SECRETARY'S OFFICE
Public Utility Commission

TELECOPIER
(412) 471-4477

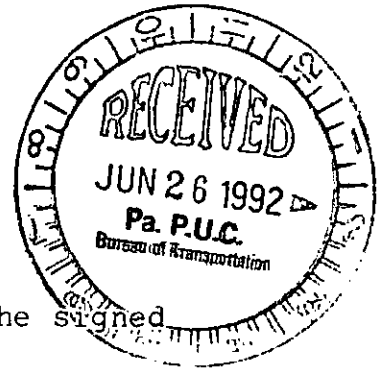
* ALSO MEMBER OF FLORIDA BAR

Re: Gabler Trucking, Inc.
Docket No. A-00109226, F. 1, Am-E

FILE

MAILED WITH U. S. POSTAL SERVICE
CERTIFICATE OF MAILING FORM 3817

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



Dear Mr. Alford:

We enclose for filing with the Commission the signed original of a protest to the above application.

Please acknowledge receipt and filing of the enclosed on the duplicate copy of this letter of transmittal and return it to the undersigned in the self-addressed, stamped envelope provided.

Sincerely yours,

VUONO, LAVELLE & GRAY

William J. Lavelle
William J. Lavelle

pz
Enclosure
cc: David H. Radcliff, Esq.

**DOCUMENT
FOLDER**

RECEIVED

JUN 26 1992

SECRETARY'S OFFICE
Public Utility Commission

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION



DOCKET NO. A-00109226, F. 1, Am-E

GABLER TRUCKING, INC.

FILE

PROTEST AND REQUEST
FOR ORAL HEARING

The motor carrier shown on Appendix A hereof (herein called protestant) protests the above application and requests that the application be assigned for oral hearing and in support thereof respectfully represents as follows:

1. By this application, notice of which has been published in the Pennsylvania Bulletin, applicant seeks authority as set forth in Appendix A.

2. Protestant holds authority from this Commission at the docket numbers shown in Appendix A and the relevant portions of the authority are attached to the protest. Unless otherwise indicated in Appendix A, protestant will withdraw the protest only in the event an amendment is made which will totally eliminate the conflict between the authority sought by the application and the authority presently held by protestant.

DOCUMENT
FOLDER

DOCKETED
APPLICATION DOCKET
JUN 29 1992

ENTRY No. MW

3. Approval of this application is neither necessary nor proper for the service, accommodation, safety or convenience of the public since (a) protestant presently holds authority to provide service in the area affected by the application, (b) protestant and other existing carriers are providing adequate service to the shipping public in the areas involved in the application, (c) there is no need for the service proposed by applicant and approval of the application will result in the diversion from existing carriers of tonnage and revenue necessary to sustain their existing operations, and (d) approval of the application will adversely affect protestant and other existing carriers which have a substantial investment in facilities and equipment and are willing and able to provide service in the application area.

4. Protestant requests that the application be set for oral hearing and that applicant be required to prove by competent evidence the elements of proof required by statute. If an oral hearing is held, protestant will appear and present evidence of protestant's own operations and particular interest unless this application is amended so as to eliminate that interest as set forth in this protest.

WHEREFORE, protestant requests that the granting of the application be withheld; the proceeding be assigned for oral hearing with leave to protestant to participate fully therein;

and applicant be required to make available at the hearing competent witnesses for examination on all material and relevant facts bearing on the application.

Respectfully submitted,

BROCIOUS TRUCKING, INC.

By: William J. Lavelle
William J. Lavelle
Attorney for Protestant

VUONO, LAVELLE & GRAY
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
Of Counsel

Dated: June 26, 1992

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the above protest and request for oral hearing upon applicant or upon applicant's attorney or representative as shown in the Pennsylvania Bulletin notice.

Dated at Pittsburgh, Pa. this 26th day of June, 1992.

William J. Lavelle
William J. Lavelle

Re: Gabler Trucking, Inc.
Docket No. A-00109226, F.1, Am-E

APPENDIX A

SCOPE OF AUTHORITY SOUGHT:

By application published in the Pennsylvania Bulletin on June 6, 1992, applicant seeks authority to operate as a common carrier, transporting:

Property (except property in bulk and household goods in sue) between points in the county of Franklin and from points in said county to points in Pennsylvania and vice versa.

INTEREST OF PROTESTANT:

Brocius Trucking, Inc., P. O. Box 261, Brockway, PA 15824 (814-265-1765) holds authority at Docket No. A-00088072. Its pertinent authority is set forth in paragraphs 3 and 4 of its authority at Folder 3, Am-E, a copy of which is attached to this protest. Brocius will consider withdrawing its protest if the application is restrictively amended so as to eliminate any duplication of its existing authority.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held January 12, 1989

Commissioners Present:

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

Application of Brocius Trucking, Inc., a corporation of the State of Delaware, for amendment to its common carrier certificate, which grants the right, inter alia, to transport by motor vehicle, glass products for the Brockway Glass Company, Inc., from its plant in the borough of Brockway, Jefferson County, to points in the cities of Pittsburgh, Allegheny County, Williamsport, Lycoming County, and Philadelphia, Philadelphia County, excluding intermediate points: SO AS TO PERMIT the transportation of (1) glass products for Owens-Brockway, Inc., from its plant in the borough of Brockway, Jefferson County, to points in the cities of Pittsburgh, Allegheny County, Williamsport, Lycoming County, and Philadelphia, Philadelphia County, excluding intermediate points; (2) plastic containers for Owens-Brockway, Inc., from its plants or other facilities in the borough of Brockway and the township of Snyder, Jefferson County, to points in the cities of Pittsburgh, Allegheny County, Williamsport, Lycoming County and Philadelphia, Philadelphia County; and returned or rejected shipments and pallets from the said cities of Pittsburgh, Williamsport and Philadelphia, to the above-named points of origin on return; (3) property, for Owens-Brockway, Inc., from points in the borough of Brockway, Jefferson County, and the townships of Snyder, Warsaw, Washington and Polk, Jefferson County, to points in Pennsylvania, and vice versa; with Right No. 3 subject to the following conditions: That no right, power or privilege is granted to transport property, in bulk in tank or hopper-type vehicles, except on emergency shipments; That no right, power or privilege is granted to transport property, in bulk in

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dump vehicles, to or from points within fifty (50) miles of the limits of the city of Pittsburgh, or to or from the city of Erie, except on emergency shipments; and (4) property, from the facilities of or those utilized by Owens-Brockway, Inc., located in the county of Clearfield, to points in Pennsylvania and vice versa; with Right No. 4 subject to the following conditions: That no right, power or privilege is granted to transport commodities in bulk; and That no right, power or privilege is granted to transport household goods in use.

Vuono, Lavelle & Gray, by William J. Lavelle for the applicant.
Graf, Andrews & Radcliff, by Christian V. Graf for protestant, R. T.
Merryman Trucking, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on April 1, 1988, and published in the Pennsylvania Bulletin of April 23, 1988. One carrier protested the application but withdrew upon reconsideration of its interest in the matter. The unopposed record is now certified to the Commission for its decision without oral hearing. A verified statement was submitted by the applicant and the shipper.

DISCUSSION AND FINDINGS

Brocius Trucking, Inc., has held a common carrier certificate from this Commission since September 19, 1961. It holds authority at Folder 2 to transport coal and sewer pipe in and around the borough of Brockway, Jefferson County. It also holds authority at Folder 3 to transport specific products and property, with some of the authority limited to serving specifically named shippers.

As pertinent to this application, one of the named shippers it has been serving under the Folder 3 authority for a long time, Brockway Glass Company, Inc., has undergone a recent merger resulting in a series of shipper name changes. Specifically, Brockway Glass Company, Inc. was merged into Owens-Illinois, Inc. in early 1988. The applicant was subsequently advised that the surviving entity was to be named Owens-Brockway, Inc., and it therefore initiated the application in order to correct the name of the shipper in its existing authority.

It later came to the applicant's attention that the operations would actually be conducted under the name of Owens-Brockway Container Division of Owens-Illinois, Inc. Accordingly, the applicant submitted a Petition for Modification requesting that the application be processed to conclusion without the necessity of reservicing the application in order to reflect the minor variation in the shipper name.

The applicant is not seeking additional authority, but rather, seeks to correct the name of a shipper it has been serving for many years. Jerry Dollard, assistant manager of transportation for Owens-Brockway Glass Container Division of Owens-Illinois, Inc., has entered a supporting affidavit in which he avers that the new entity's shipping requirements remain exactly as those of its predecessor, Brockway Glass Company, Inc.

We concur with the applicant in that the change in shipper name is not so severe as to deceive or hide the shipper identity from the public and require reservicing of the application. In fact, the protestant of record was served a copy of the Petition for Modification, and its interests were satisfied sufficiently to withdraw the protest.

We find:

1. That the applicant has held authority to provide service for Brockway Glass Company, Inc., for many years.
2. That Brockway Glass Company, Inc., merged with Owens-Illinois, Inc.
3. That at the time of filing the application, the shipper's name was Owens-Brockway, Inc.
4. That the name of the shipper was subsequently changed, and is now Owens-Brockway Glass Container Division of Owens-Illinois, Inc.
5. That, along with verified statements, the applicant submitted a Petition for Modification of the Scope of the Application for acceptance of the shipper's new name without reservicing the application.
6. That the applicant is not seeking to enlarge the territory in which it is currently authorized to serve the shipper.
7. That, subsequent to receipt of a copy of the Petition for Modification, the protestant withdrew the protest.
8. That the applicant's Petition for Modification of the Scope of the Application has merit and a grant thereof would have no adverse impact on existing carriers.
9. That a public need for the service as proposed and modified does exist.

10. That approval of the application, as modified, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved as modified and that the certificate issued to the applicant on September 19, 1961, as amended, be further amended so that the second and third rights in the Report and Order of June 26, 1961; the right contained in our order adopted April 20, 1968; and the right contained in our order adopted November 19, 1982, be changed so that they shall now read as follows:

- (1) To transport, as a Class D carrier, glass products for Owens-Brockway Glass Container Division of Owens-Illinois, Inc., from its plant in the borough of Brockway, Jefferson County, to points in the cities of Pittsburgh, Allegheny County; Williamsport, Lycoming County; and Philadelphia, Philadelphia County, excluding intermediate points.
- (2) To transport, as a Class D carrier, plastic containers for Owens-Brockway Glass Container Division of Owens-Illinois, Inc., from its plants or other facilities in the borough of Brockway and the township of Snyder, Jefferson County, to points in the cities of Pittsburgh, Allegheny County; Williamsport, Lycoming County; and Philadelphia, Philadelphia County; and returned or rejected shipments and pallets from the said cities of Pittsburgh, Williamsport and Philadelphia to the above-named points of origin on return.
- (3) To transport, as a Class D carrier, property, for Owens-Brockway Glass Container Division of Owens-Illinois, Inc., from points in the borough of Brockway, Jefferson County, and the townships of Snyder, Warsaw, Washington and Polk, Jefferson County, to points in Pennsylvania, and vice versa;

with Right No. (3) subject to the following conditions:

That no right, power or privilege is granted to transport property, in bulk in tank or hopper-type vehicles, except on emergency shipments.

That no right, power or privilege is granted to transport property, in bulk in dump vehicles, to or from points within fifty (50) miles of the limits of the city of Pittsburgh, or to or from the city of Erie, except on emergency shipments.

(4) To transport, as a Class D carrier, property, from the facilities of or those utilized by Owens-Brockway Glass Container Division of Owens-Illinois, Inc., located in Clearfield County, to points in Pennsylvania, and vice versa;

with Right No. (4) subject to the following conditions:

That no right, power or privilege is granted to transport commodities in bulk.

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

IT IS FURTHER ORDERED: That the Petition for Modification of the Scope of Authority be granted.

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

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

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: January 12, 1989

ORDER ENTERED: JAN 20 1989

ORIGINAL

DAVID H. RADCLIFF, P.C.
407 NORTH FRONT STREET
HARRISBURG, PA 17101

KIRBY

DAVID H. RADCLIFF

TELEPHONE: (717) 236-9318

August 13, 1992
File: 49.479

RE: GABLER TRUCKING, INC., A.109226, F.1, Am-E
(Franklin County)

RECEIVED

John Alford, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17120

AUG 14 1992

SION

Dear Mr. Alford:

The applicant in the above proceeding waives the applicability of Act 294. Discussions are ongoing with the protestants.

I have been in contact with Mr. Huntingdon in the Scheduling Office and will discuss the scheduling of a hearing with him further in two weeks.

DOCUMENT
FOLDER

Very truly yours,

David H. Radcliff
David H. Radcliff

DHR/br
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DOCKETED

AUG 25 1992

cc: Harold C. Gabler, Jr., President
Gabler Trucking, Inc.
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AUG 13 1992

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Public Utility Commission

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AUG 13 1992

Office of A. L. J.
Public Utility Commission