

1. <u>REPORT DATE:</u>	:	2. <u>BUREAU AGENDA NO.</u>
May 18, 1993	:	JUN-93-T-517*
3. <u>BUREAU:</u>	:	
Transportation	:	
4. <u>SECTION:</u>	:	5. <u>PUBLIC MEETING DATE:</u>
Technical Review	:	
6. <u>APPROVED BY:</u>	:	June 3, 1993
<i>BLE</i>	:	
Director: Ernst 7-2154	:	
Supervisor: Marzolf 3-5945	:	
7. <u>PERSON IN CHARGE:</u>	:	
White 7-4387	:	
8. <u>DOCKET NO.:</u>	:	
A-00109226, F. 1, Am-E	:	
9. (a) <u>CAPTION</u> (abbreviate if more than 4 lines)		
(b) Short summary of history & facts, documents & briefs		
(c) Recommendation		

(a) Application of Gabler Trucking, Inc., for amendment to its common carrier certificate: 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.

(b) Seven carriers protested the application. A hearing was held on November 18, 1992, with ALJ Louis Cocheres presiding. A series of restrictive amendments were submitted prior to and subsequent to the hearing which resulted in the withdrawal of all protestants. The authority has been amended to the extent as more particularly described in the order. The applicant has shown that a public need for the service as proposed and amended does exist, and that it is fit, ready, willing and able to render same.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application as amended.

RW:11

10. MOTION BY:	Commissioner Chm. Rolka	Commissioner Quain - Yes
SECONDED:	Commissioner Rhodes	Commissioner Hanger - Yes
CONTENT OF MOTION:	Staff recommendation adopted.	

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FOLDER

DOCKETED
SEP 8 1993



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

June 14, 1993

IN REPLY PLEASE
REFER TO OUR FILE

A-00109226
F.1, Am-E

DAVID H RADCLIFF ESQUIRE
2216 WALNUT STREET
HARRISBURG PA 17103

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

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

The application will not be permitted to operate or engage
in any transportation granted by the enclosed order until a tariff
has been prepared and filed in accordance with the enclosed instructions.

Motor carriers operating without complying with the above
requirement will be subject to the penalty provisions of the
Public Utility Commission.

Commission regulations require compliance with the above requirements
within sixty (60) days of the date of this letter. Failure to comply
within the sixty (60) day period will cause the Commission to rescind
the action of June 3, 1993 and dismiss the application without
further proceeding.

Very truly yours,

John G. Alford, Secretary

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FOLDER

DOCKETED

JUN 23 1993

smk
Encls.
Cert. Mail
Receipt Requested
Tariff Contact Person: Joseph Machulsky (717) 787-5521

GABLER TRUCKING INC
1089 GABLER ROAD
CHAMBERSBURG PA 17201

MODIFICATION

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held June 3, 1993

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice-Chairman
John M. Quain
John Hanger

Application of Gabler 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, property for Borden, Inc., Food Service Division, from its facility in the borough of Chambersburg, Franklin County, to points in Pennsylvania, and vice versa; subject to the following condition: That no right, power or privilege is granted to transport household goods in use, Classes A and B explosives, commodities in bulk, and commodities which, because of size or weight, require the use of special equipment or special permits for their transportation: 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.

A-00109226
F. 1
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David H. Radcliff for the applicant.

John E. Fullerton for protestants, W. H. Johns, Inc. and STS Motor Freight, Inc.
Caldwell & Kearns, by James D. Campbell, Jr., for protestant, New Penn Motor
Express, Inc.

Henry L. Wahls for protestant, A. Duie Pyle, Inc.

Pillar and Mulroy, by John A. Pillar for protestant, Courier Express, Inc.

Raymond A. Thistle, Jr., for protestant, Courier Unlimited, Inc.

Vuono, Lavelle & Gray, by William J. Lavelle for protestant, Brocius
Trucking, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on May 19, 1992, and published in the Pennsylvania Bulletin of June 6, 1992. Seven carriers filed protests and a hearing was held in Harrisburg on November 18, 1992, with ALJ Louis Cocheres presiding. A record of 89 pages of testimony was developed from the applicant and four supporting shippers. Prior to the hearing, a series of restrictive amendments resulted in withdrawal of four of the seven protestants. After the hearing, a final restrictive amendment resulted in withdrawal of the remaining three protestants.

The final restrictive amendment prohibits service either for, from or to the facilities of certain named shippers; prohibits transportation of shipments weighing less than 200 pounds; prohibits transportation of non-refrigerated shipments weighing less than 1,000 pounds; and prohibits transportation of specifically named commodities. The unopposed record is now certified to the Commission for its decision without further oral hearing. In addition to the oral testimony of the applicant and four shippers, written verified statements were submitted by two additional shippers.

Dennise James Weiss is vice president of operations, sales and marketing for Gabler Trucking, Inc. (applicant) and presented oral testimony at the hearing. The applicant holds a substantial amount of Pennsylvania P.U.C. common carrier operating authority and also holds both common carrier and contract carrier authority from the I.C.C. The applicant came into existence on January 17, 1990, and prior to that time, operated in the name of H. C. Gabler, Inc. The ownership of both entities has always been the same, and operations are conducted from general offices in Chambersburg, Franklin County. Other Pennsylvania terminals are located in Aspers, Adams County and New Kingstown, Cumberland County.

The applicant submitted an equipment list which indicates that it operates with 93 tractors, 306 van trailers, 35 temperature controlled trailers, five flatbed trailers and one drop deck trailer, all of which are company-owned. There are 51 owner-operators under permanent lease to the applicant.

An unaudited balance sheet shows that as of September 30, 1992, the applicant had current assets of \$1,043,234, total assets of \$3,210,022, and current liabilities of \$1,893,206, with total liabilities of \$3,022,741, leaving stockholders' equity of \$187,281.

Dennis J. Perry, general manager of Franklin Storage, Inc., 2294 Molly Pitcher Highway South, Chambersburg, Franklin County, gave oral testimony at the hearing. The company conducts business as a general public warehouse, providing storage and distribution services for customers throughout eastern United States. At present, it serves approximately 60 accounts and loads outbound trailers and unloads inbound trailers at the rate of as many as 127 truckloads in one 10-hour shift. The outbound freight is destined to points such as Erie, Altoona, Scranton, Wilkes-Barre, the Dauphin, Adams and Franklin County areas, and, in fact, most all geographic areas are covered. To have the

applicant's services available on a statewide basis will enhance the warehouse operation by providing its customers with access to additional motor carrier service.

Jeffrey W. Nitterhouse, executive vice president and one of the owners of Nitterhouse Concrete Products located in Chambersburg, Franklin County, states that the company manufactures concrete masonry products, precast concrete products and pre-stress concrete products which generally move on flatbed trailers up to as many as 40 loads per day. The company's work is construction related and involves a wide range of jobs from single-family housing units to multi-family units, and institutional type buildings such as hospitals and prisons. Representative points of destination for the outbound traffic are Allentown, Bethlehem, Scranton, Wilkes-Barre, Hazleton, Altoona, State College, Pittsburgh; etc. Although, in most instances, the vendor pays the freight and selects the carrier, there is some inbound freight from Pennsylvania points including steel from Milton, Northumberland County. There are times when the existing carriers cannot supply enough flatbed trailers. Approval of this application will provide another source for trailers.

Michael C. Hair, product sales manager for Sollenberger's Silo Corporation located in Guilford Township, Franklin County, has testified that the company manufactures pre-cast concrete structures such as concrete farm silos, structures used in wastewater treatment systems and for containment walls for recycling materials. Shipments require transportation in flatbed trailers and are destined to points such as Indiana, Troy, the Philadelphia area, the Pittsburgh area, the Harrisburg area, and points throughout Franklin, Bradford, Adams and Cumberland Counties.

Paul Lehman, owner of Paul E. Lehman, Inc., states that his company is located in Greene Township, approximately six miles from Chambersburg, Franklin County, and is a designer-builder of all types of commercial and industrial facilities, including shielded chambers and automatic retrieval systems. The shielded chambers are clean rooms with total isolation from outside elements and is used for testing electronic equipment such as radar. The automatic retrieval systems are actually robotic warehouses where everything is controlled by computer and all work is done with robots. Recently, a system for storing cash was completed for the Federal Reserve in New York City. The systems could go in buildings from 20 foot high to as much as 90 foot high. The company constructs the buildings and has need for truck transportation to deliver the components to the sites.

The chamber panels are fabricated at the Greene Township facility, some are fabricated in Quincy, Franklin County and some are fabricated at the Sunset Commercial Industrial Park just outside of Chambersburg in Franklin County. The rack systems are fabricated at Visworth Metal Manufacturing in Chambersburg. Shipments are made in truckload quantity to potentially any area of the state. Previous shipments have been made to the Pittsburgh area, the Philadelphia area, State College, Punxsutawney, Letterkenny Ordnance Depot in Franklin County, etc. There are movements from Quincy and Visworth Metal to the

plant in Greene Township. On an inbound basis, there are shipments of electronic equipment, insulation, raw steel, fabricated steel, building materials, etc., which originate with vendors at Pittsburgh, Philadelphia, Harrisburg, Homer City and points in Franklin County.

James A. Rubel is director of operations for Ingram Books Co., and has submitted a supporting verified statement. The company is a wholesaler of books and, as pertinent here, operates out of the warehouse facilities of Franklin Storage, Inc., located in Chambersburg, Franklin County. The books are shipped by the printer to the Chambersburg warehouse, where in turn, they are shipped out in consolidated shipments by Ingram to its nationwide distribution centers. Customer orders are filled at the centers and include accounts such as retail bookstores, some college bookstores and libraries, and major retailers like K-Mart. There are daily inbound shipments to the Franklin County warehouse from vendors and publishers at Scranton, Blue Ridge Summit, York, Bristol, Harrisburg, Pittston, Fairfield, Philadelphia and Williamsport. Shipments are made from the warehouse back to the publishers and vendors, and other Pennsylvania points such as Manchester and Dunmore. The applicant is presently being used for interstate traffic and the service is good.

Marvin H. Weiner, chief executive officer and owner of Chambersburg Cold Storage, states that he is in the process of constructing a new public cold storage facility in an industrial park adjacent to Exit 5 of Interstate 81 in Franklin County. He supports the applicant through a verified statement in which he states that all products into and out of the warehouse require the use of temperature controlled vehicles. It will receive, store and redistribute frozen food products from the west coast to markets throughout the Eastern Seaboard, including all of Pennsylvania. Representative destinations for outbound traffic are Allentown, Bedford, Chambersburg, Erie, Hazleton, Lancaster, Lock Haven, Pottsville, Oil City, West Chester, Altoona, Berwick, Carlisle, Harrisburg, Lebanon, Pittsburgh, Somerset, Sunbury and York, to name a few. Inbound traffic will originate at Erie, Sharon, Pittsburgh, Johnstown, Williamsport, Harrisburg, Green Castle, Hanover, York, Reading, Easton, Norristown, Philadelphia, etc. The applicant is providing service from the shipper's facility in Maryland and the same degree of good service is desired in Pennsylvania.

DISCUSSION AND FINDINGS

Gabler Trucking, Inc., seeks to amend the authority it holds at Folder 1 so that it will have the right to transport property (except property in bulk and household goods in use) between points in Franklin County and from points in said county to points in Pennsylvania, and vice versa. Certain conditions imposed by restrictive amendment prohibit service either for, from or to the facilities of certain named shippers, prohibits transportation of shipments weighing less than 200 pounds, prohibits transportation of non-refrigerated shipments weighing less than 1,000 pounds, and prohibits transportation of specifically named commodities.

We find the evidence of need as submitted by the six shippers sufficient to sustain a favorable finding of public need for the service as proposed and amended. The applicant and its predecessor is a prominent carrier of long-standing in Pennsylvania intrastate traffic and we find it to be well-qualified to provide the service adequately.

We believe it necessary to comment on two of the conditions contained in the restrictive amendment in order to avoid future problems of interpretation. Specifically, we refer to that restriction which prohibits transportation of shipments weighing less than 200 pounds, and the restriction prohibiting transportation of non-refrigerated shipments which weigh less than 1,000 pounds. The 200-pound overall restriction was inserted in order to satisfy the interests of the courier-type carriers protesting the application and includes both refrigerated and non-refrigerated traffic. The 1,000-pound restriction actually raises the weight limit of shipments which may not be handled from 200 to 1,000 pounds, but is applicable only to non-refrigerated shipments. In effect, a shipment requiring refrigeration that is less than 1,000 pounds can be handled if it is also above 200 pounds.

We find:

1. That a public need for the service as proposed and amended does exist.
2. That the applicant is fit, ready, willing and able to provide the service as proposed and 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 October 26, 1990, as amended, be further amended to include the following right:

To transport, as a Class D carrier, property, between points in the county of Franklin and from points in said county, to points in Pennsylvania, and vice versa;

subject to the following conditions:

- (1) That no right, power or privilege is granted to transport property in bulk.
- (2) That no right, power or privilege is granted to transport household goods in use.
- (3) That no right, power or privilege is granted to provide transportation to or from hospitals.

- (4) That no right, power or privilege is granted to provide service for Owens-Brockway Glass Container Division or to or from the facilities of that company located in the borough of Brockway, Jefferson County, the townships of Snyder, Warsaw, Washington and Polk, Jefferson County, or in the county of Clearfield.
- (5) That no right, power or privilege is granted to transport shipments which weigh less than 200 pounds, a shipment being defined as a lot of parcels and packages moving from one consignor to one consignee on one day on one bill of lading.
- (6) That no right, power or privilege is granted to provide service for the Commonwealth of Pennsylvania and its agencies.
- (7) That no right, power or privilege is granted to transport checks, deposit tickets, notes, money orders, drafts, traveler's checks, commercial papers, documents, written instruments, office supplies, cash, letters, evidence of indebtedness and securities, either for, to or from banks and banking institutions.
- (8) That no right, power or privilege is granted to transport property for Reynolds and Reynolds of Chambersburg; T. B. Woods and Son Company of Chambersburg; Frick Company of Waynesboro; Jerry Conn Associates, Inc., of Chambersburg; and Jerr Dan of Greencastle.
- (9) That no right, power or privilege is granted to transport non-refrigerated shipments which weigh less than 1,000 pounds, a shipment being defined as a lot of freight moving from one consignor to one consignee on one day on one bill of lading.
- (10) That no right, power or privilege is granted to provide service to or from the facilities of James River Corporation in the borough of Chambersburg, Franklin County.

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 of 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,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: June 3, 1993

ORDER ENTERED: JUN 14 1993