

PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	March 21, 1990	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU:</u>	Transportation	:	APR-90-T-410*
4. <u>SECTION</u>	Technical Review	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>		:	April 5, 1990
Director:	Ernst 7-2154	:	
Supervisor:	Bigelow/Marzolf 3-5945	:	
7. <u>MONITOR:</u>		:	
8. <u>PERSON IN CHARGE:</u>	White 7-4387	:	
9. <u>DOCKET NO.:</u>	A-00109226	:	
10. (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., a corporation of the State of Delaware, Chambersburg, Franklin County, for emergency temporary authority to operate the rights under the certificate issued at A-00083975 to H. C. Gabler, Inc., subject to the same limitations and conditions.

(b) In addition to the immediate application for emergency temporary authority, the applicant also filed applications for temporary and permanent authority. Upon review of the record we find that the applicant has failed to show that an emergency situation exists which creates an immediate need for the applicant to operate the rights of the transferor.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed tentative decision denying the application for emergency temporary authority for failure of the applicant to show that an emergency situation does exist.

RW:11

DOCKETED
SEP 24 1990



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

CONTENT OF MOTION: Staff recommendation adopted.

April 11, 1990

A-00109226

Christian V. Graf, Esquire
David H. Radcliff, Esquire
407 North Front St.
Harrisburg, PA 17101

Application of Gabler Trucking, Inc., a corporation of the State of Delaware, for emergency temporary authority

To Whom It May Concern:

This is to advise you that a Tentative Decision has been adopted by the Commission in public meeting held April 5, 1990.

A copy of this Tentative Decision has been enclosed for your records.

Very truly yours,

Jerry Rich, Secretary

DOCKETED

APR 27 1990

fao
Enclosure
Certified Mail

Copy of Tentative Decision to: Gabler Trucking, Inc.
1580 Gabler Road
Chambersburg, PA 17201

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 5, 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 emergency temporary authority to operate the rights under the certificate issued at A-00083975 to H. C. Gabler, Inc., subject to the same limitations and conditions.

A-00109226

1580 Gabler Road
Chambersburg, PA 17201

DOCKED
APR 27 1990

Graf, Andrews & Radcliff, by Christian V. Graf for the applicant.

TENTATIVE DECISION

BY THE COMMISSION:

This matter comes before the Commission by an application for emergency temporary authority filed on March 8, 1990. Applications for temporary and permanent authority were also filed on the same date.

The transferor, H. C. Gabler, Inc., holds a considerable amount of Pennsylvania intrastate operating authority at A-00083975, Folders 3, 4, 5 and 6, and has been providing service since 1957. In addition, it holds ICC authority together with intrastate authority in Virginia and North Carolina. The corporation desires to sell all of its operating authority; however, the corporation will continue in other business endeavors. Upon approval and consummation of the application for transfer of the operating authority, the business of H. C. Gabler, Inc., will be the tire business, the ownership and development of real estate in the nature of truck terminals and warehouses, and in equipment rental.

Gabler Trucking, Inc. (or applicant) has a temporary transfer application pending before the Interstate Commerce Commission and if granted, will necessitate Gabler Trucking, Inc., being able not only to handle interstate freight, but to also handle Pennsylvania intrastate traffic at the same time. Pennsylvania is the most important state so far as intrastate and interstate revenues are concerned. The inability to coordinate the intrastate and interstate traffic in the event the ICC grants temporary authority, would be difficult since Gabler Trucking, Inc. would try to provide interstate service and H. C. Gabler, Inc., would try to provide intrastate service.

The applicant has made arrangements to secure the necessary application forms for transfer of the Virginia and North Carolina authorities. Although every effort is being made to coordinate the transfer of all state operations as quickly as possible, these states are not as important as their operations can be deferred to some extent.

The stockholder in the applicant corporation has initially been designated as Ernest P. Wiemer who will hold the stock as nominee for ENW-IV Holdings, Inc., until such time as the transaction has been approved. Upon consummation, the stock will be turned over to the corporation at which time the sum of \$750,000 will be paid to the transferor. In the event payment is not made, the stock in Gabler Trucking, Inc., will then be issued to Harold C. Gabler; Harold C. Gabler, Jr.; Eleanor S. Gabler and P. Thomas Gabler.

The stockholders of H. C. Gabler, Inc., are Eleanor S. Gabler and Valley Bank and Trust Company, trustees for Harold C. Gabler, Sr., which consists of all of the preferred stock, both voting and non-voting. The voting and non-voting common stock is held by Harold C. Gabler, Jr., and P. Thomas Gabler. In effect, the operating authority will be placed in the hands of a new entity, rather than into the hands of the same entity with merely a change in operating name.

While the applicant has outlined its desires and plan of action for the purchase and take-over of the transferor's operating authority, we fail to recognize an emergency condition which necessitates the need to operate the authority immediately. Even in the event the ICC approves the application placed before it for temporary authority to operate the interstate authority, we do not believe the applicant would be subjected to severe hardship until such time as we have published and reviewed the application for temporary authority placed before us; THEREFORE,

IT IS ORDERED: That the application for emergency temporary authority be and is hereby denied for failure of the applicant to show that an emergency situation exists which creates an immediate need for the applicant to operate the rights of the transferor.

IT IS FURTHER ORDERED: That, unless exceptions are received within twenty (20) days of the date this order is entered, the order shall become final.

IT IS FURTHER ORDERED: That our action in this application will have no bearing on our decisions in the applications for temporary and permanent authority.

BY THE COMMISSION,

A handwritten signature in cursive script, appearing to read "Jerry Rich". The signature is written in black ink and is positioned above the printed name and title.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: April 5, 1990
ORDER ENTERED: APR 11 1990