

1. <u>REPORT DATE:</u>	January 22, 1992	2. <u>BUREAU AGENDA NO.</u>	FEB-92-T-103*
3. <u>BUREAU:</u>	Transportation		
4. <u>SECTION</u>	Technical Review	5. <u>PUBLIC MEETING DATE:</u>	February 6, 1992
6. <u>APPROVED BY:</u>			
Director:	Ernst 7-2154		
Supervisor:	Bigelow/Marzolf 3-5945		
7. <u>MONITOR:</u>			
8. <u>PERSON IN CHARGE:</u>	Tim Zeigler 3-5946		
9. <u>DOCKET NO.:</u>	A-00109841		

10. (a) CAPTION (abbreviate if more than 4 lines)  
 (b) Short summary of history & facts, documents & briefs  
 (c) Recommendation

(a) Application of Gaylord L. Matthews, t/d/b/a Gaylord L. Matthews Trucking, Harrisville, Butler County, for the right to begin to transport, as a common carrier, by motor vehicle, property, in bulk in dump vehicles for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation, Kittanning Coal Company, Inc., and Medusa Aggregates Co., between points in Pennsylvania.

(b) The application was opposed by a single carrier which later withdrew predicated upon our acceptance of a restrictive amendment which excludes the applicant from providing service to, from or between points in Somerset County. The applicant has shown that a need for the service, as proposed, as amended and as modified, does exist. The applicant has been serving six of the seven shippers in this proceeding indirectly through a lease arrangement with Adobe International, Inc., which is a common carrier holding a certificate at A-00101049. Adobe International, Inc., has decided to discontinue its trucking service and the applicant has filed so that he will have the authority to serve the shippers. Adobe International, Inc., is to file an application for discontinuance of service and cancellation of its certificate.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application, as amended and as modified; a copy of the order to be forwarded to Adobe International, Inc., R.D. #3, Box 3629, Grove City, PA 16127.

TZ:np

11. MOTION BY: Commissioner Chm. Rolka Commissioner Holland - Yes  
 Commissioner  
 SECONDED: Commissioner Rhodes Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

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FOLDER

**DOCKETED**  
 FEB 18 1992  
 FEB 18 1992



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

February 18, 1992

IN REPLY PLEASE  
REFER TO OUR FILE

A-00109841

WILLIAM J LAVELLE ESQUIRE  
2310 GRANT BUILDING  
PITTSBURGH PA 15219

Application of Gaylord L. Matthews,  
t/d/b/a Gaylord L. Matthews Trucking

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.

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FEB 21 1992

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 February 6, 1992 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,



John G. Alford, Secretary

Enclosures  
Certified Mail  
Receipt Requested

GAYLORD L MATTHEWS  
T/A GAYLORD L MATTHEWS TRUCKING  
R D 1 BOX 129A  
HARRISVILLE PA 16038

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held February 6, 1992

Commissioners Present:

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

Application of Gaylord L. Matthews,  
t/d/b/a Gaylord L. Matthews Trucking,  
for the right to begin to transport, as  
a common carrier, by motor vehicle,  
(1) property, in bulk, in dump vehicles,  
for Adobe Mining Co., Adobe Coal Co.,  
Coal Associates, Inc., Darmac Coal,  
Inc., Darmac Associates Corporation and  
Kittanning Coal Company, Inc., between  
points in Pennsylvania; and (2) property,  
in bulk, in dump vehicles, for Medusa  
Aggregates Co., between points in  
Pennsylvania.

A-00109841

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William A. Gray for the applicant.

**DOCKETED**

**FEB 21 1992**

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O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed July 5, 1991. Public notice of the application was given in the Pennsylvania Bulletin of July 20, 1991. A protest filed by Bruce Trent Trucking, Inc., was later withdrawn predicated upon our acceptance of a restrictive amendment which excludes service to, from or between points in Somerset County.

The now unopposed application, as amended, is certified to the Commission for its decision without oral hearing. Verified statements were submitted by Gaylord L. Matthews, the applicant, Gregory E. Hindle, transportation manager for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc.; and by Michael J. Laheta, controller for Medusa Aggregates Co.

Gaylord L. Matthews set forth in his verified statement that he operates as a sole proprietor from R.D. #1, Box 129A, Harrisville, Butler County. He does not currently hold any authority from the Commission. He owns and operates three tri-axle dump trucks, four tractors and four dump trailers. This equipment is in good working order and is the type of

equipment required by the shippers. He indicates he will comply with all applicable safety regulations and will make sure that his equipment is operated in a safe manner. He will regularly inspect and maintain his equipment to ensure safe operations.

Matthews is familiar with the transportation requirements of the shippers and anticipates no difficulty in providing the service required. He has in the past and is currently leasing equipment to a company affiliated with all but one of the shippers that company being Adobe International, Inc.

As evidence of his financial capacity to provide the proposed service, the applicant provided a recent balance sheet reporting total assets of \$748,000 with total liabilities of \$162,000.

Michael J. Laheta, controller of Medusa Aggregates Co., set forth in his verified statement that he is familiar with the transportation needs of the company and is authorized to submit a verified statement in support of the application. The supporting shipper is involved in the production of aggregates. Medusa will require the applicant to transport sand, gravel and limestone. It is anticipated ten shipments per month will move within Pennsylvania.

Medusa Aggregates Co. has shipments originating in Lawrence County near Edinburg and West Pittsburg and in Butler County near Boyers. Shipments are destined to points including Mars, Kennerdell, Shipperville, Butler, Eastbrook and West Sunbury. The applicant often ships to road projects and destination points change from year to year. The shipper is familiar with the equipment and services of Matthews and is confident the applicant will be able to provide the type of service required.

Gregory E. Hindle, transportation manager for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc. (These shippers will hereinafter be referred to Adobe shippers), set forth in his verified statement that he is familiar with the transportation needs of the six shippers and that he is involved in the handling of transportation activities for them. He is authorized to execute a verified statement on their behalf in support of the application.

The Adobe shippers are involved in the mining and sale of coal. The applicant will be required to transport coal, coal refuse, limestone, sand and gravel. The limestone, sand and gravel is used for road construction and road maintenance at mine sites.

The applicant currently leases equipment to Adobe International, Inc., which is a subsidiary of AOI Coal Company. Adobe International, Inc., holds authority from the Commission at A-00101049 to provide service for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in that part of Pennsylvania on and west of U.S. Highway Route 15.

All of the Adobe shippers ship from and to basically the same points. Adobe Mining has cleaning plants in Mercer County, Darmac Associates has cleaning plants in Armstrong County and Kittanning Coal has a cleaning plant in Armstrong County and two portable blending facilities which are located in Lawrence County. These shippers have active mines in the counties of Armstrong, Indiana, Venango, Butler and Lawrence. Shipments are made from these mines to the cleaning plants and the blending facilities and also from the mines directly to customers. In addition shipments are made from the cleaning plants and blending facilities to customers. The Adobe shippers also purchase coal from other companies and then ship that coal to customers in Pennsylvania. Some of the shippers from whom coal has recently been purchased include Altmire Coal in Armstrong County, D.W.L. Coal in Mercer in Butler County, TDK Coal in Clarion County and Reddinger Coal in Armstrong County. The Adobe shippers have traffic moving to such points as Pittsburgh, New Castle, Ford City, West Pittsburg, Warren, Homer City, Shelocta, Reesedale, Dilltown, Irvine, Mercer, Erie and Grove City among other western Pennsylvania points.

Each of the Adobe shippers previously supported the application of Adobe International, Inc., which like the six shippers is a subsidiary of AOI Coal Company. Adobe has leased equipment from numerous individuals including the applicant to provide service pursuant to the authority issued to it by the Commission. Adobe International, Inc., has decided to discontinue its trucking operations and the six shippers have agreed to support each of the applicants for their own authority.

#### DISCUSSION AND FINDINGS

Gaylord L. Matthews seeks to initiate common carrier service in Pennsylvania so that he may transport property in bulk in dump vehicles for seven shippers between points in Pennsylvania. He now leases equipment to Adobe International, Inc., which is a certificated carrier at A-00101049. The certificate of Adobe International, Inc., authorizes it to serve the six Adobe shippers named in this application for transportation between points in that part of Pennsylvania on and west of U.S. Highway Route 15. Adobe International, Inc., has made a decision to discontinue its common carrier operations and the six supporting Adobe shippers, in order to maintain service, have agreed to support the applications of truckers presently leasing equipment to Adobe International, Inc. This application is one of 22 which are involved in this current method of distribution.

As previously noted, the authority held by Adobe International, Inc., authorizes it to provide service for the six Adobe shippers between points in Pennsylvania on and west of U.S. Highway Route 15. The applicant has proposed to transport property for these same six shippers between all points in Pennsylvania, which is a substantial broadening of the authority held by Adobe International, Inc., and which is in part the service the applicant seeks to replace. The statement entered on behalf of the Adobe shippers has not provided any evidence of need for service between points in the entire state. The six Adobe shippers have shown their transportation needs to exist in that part of Pennsylvania on and west of U.S. Highway Route 15 which mirrors the territory now served by Adobe International, Inc.

We advised the applicant's attorney by letter of December 5, 1991, that the current record did not support a grant of authority between all points in Pennsylvania for the six Adobe shippers, but did support authority to serve points on and west of U.S. Highway Route 15. By letter of December 9, 1991, the applicant's legal counsel advised the Commission that no additional evidence would be submitted and that the Adobe shippers have no objections to a grant of authority limited to the area on and west of U.S. Highway Route 15.

In this application and all the companion applications filed, the underlying reason for the filing is the fact that the current carrier Adobe International, Inc., has elected to terminate its trucking operations. Accordingly, Adobe International, Inc., should submit an application for discontinuance of service and cancellation of its certificate at A-00101049 in keeping with the provisions of Section 1102(a)(2) of the Public Utility Code. This application for discontinuance of service and cancellation of the certificate is to be filed within 60 days of the entry date of the instant order.

In addition to the authority requested to provide service for the six Adobe shippers, the applicant is also requesting authority to provide service for Medusa Aggregates Co., between points in Pennsylvania. The verified statement of Michael J. Laheta, indicates that the supporting shipper has traffic originating in Lawrence County and Butler County. Shipments are destined to points including Mars, Kennerdale, Shippensville, Butler, Eastbrook and West Sunbury. The witness also indicates that shipments do change from time to time due to the changing location of projects to which Medusa supplies its aggregates.

The verified statement of Richard J. Laheta does not support a grant of authority to permit service between all points in Pennsylvania, however it does support authority to allow the applicant to transport property, in bulk, in dump vehicles from points in the counties of Lawrence and Butler to points in Pennsylvania. The applicant was afforded the opportunity to supply additional information to support the application as it was filed, however, the applicant elected to not file supplemental information and have the grant of authority determined from the record now before us. From the record it is our determination that authority should be granted to allow the applicant to provide service for Medusa Aggregates Co., from points in the counties of Lawrence and Butler to points in Pennsylvania. A grant of such authority will meet the stated needs of the shipper and is in conformance with the record before us.

The applicant is requesting the right to transport property which would include limestone, sand and gravel which according to the Adobe shippers will for the most part used for road construction and road maintenance purposes at mine sites. In addition, the statement of Medusa Aggregates Co. indicates that some of its materials go to project sites which involve road construction and maintenance. We recognize that any service provided to this extent for road construction and maintenance is exempt from the Commission's jurisdiction at 66 C.S. §102(4).

We find:

1. The applicant seeks authority to transport property for seven named shippers between all points in Pennsylvania.
2. The carrier presently serving the six Adobe shippers has decided to discontinue its regulated common carrier service.
3. The six Adobe shippers have not shown need for service between all points in Pennsylvania.
4. The six Adobe shippers have shown a need for service between points in Pennsylvania which are located on and west of U.S. Highway Route 15.
5. The support of Medusa Aggregates Co. is representative of service from points in the counties of Lawrence and Butler to points in Pennsylvania.
6. The applicant stands ready, willing and able to provide the proposed service, as amended, and as further modified.
7. Approval of the application, as amended and as further modified, is proper for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, as further modified, be and is hereby approved granting the following rights:

1. To transport, as a Class D carrier, property, in bulk in dump vehicles, for Medusa Aggregates Co., from points in the counties of Lawrence and Butler, to points in Pennsylvania.
2. To transport, as a Class D carrier, property, in bulk in dump vehicles, for Adobe Mining Co., Adobe Coal Co., Coal Associates, Inc., Darmac Coal, Inc., Darmac Associates Corporation and Kittanning Coal Company, Inc., between points in that part of Pennsylvania on and west of U.S. Highway Route 15;

rights 1 and 2 subject to the following condition:

That no right, power or privilege is granted to provide service to, from or between points in Somerset County.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until he shall have complied with the requirements of the Public Utility Code and the rules and regulations of the

Commission relating to the filing and acceptance of a tariff establishing just and reasonable rates and the filing of evidence of insurance.

IT IS FURTHER ORDERED: That upon compliance with the requirements hereinbefore set forth, a certificate shall issue evidencing the Commission's approval of the rights to operate as above determined.

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 application in all other respects be and is hereby denied for lack of proof of necessity.

IT IS FURTHER ORDERED: That Adobe International, Inc., shall file an application for discontinuance of service and cancellation of its certificate of public convenience and necessity at A-00101049.

IT IS FURTHER ORDERED: That a copy of this order be forwarded to Adobe International, Inc., R.D. #3, Box 3629, Grove City, PA 16127.

IT IS FURTHER ORDERED: That in the event the applicant has not, on or before sixty (60) days from the date of service of the order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

BY THE COMMISSION,



John G. Alford  
Secretary

(SEAL)

ORDER ADOPTED: February 6, 1992

ORDER ENTERED: FEB 18 1992