

PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	July 5, 1991	:	2. <u>BUREAU AGENDA NO.</u>	AUG-91-T-709*
3. <u>BUREAU:</u>	Transportation	:		
4. <u>SECTION</u>	Technical Review	:	5. <u>PUBLIC MEETING DATE:</u>	August 1, 1991
6. <u>APPROVED BY:</u>		:		
	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-00109648, F. 2	:		
10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines)				
(b) Short summary of history & facts, documents & briefs				
(c) Recommendation				

DOCKETED
DEC 16 1991

(a) Application of Marianne Industries, Inc., a corporation of the Commonwealth of Pennsylvania, Shippenville, Clarion County, for the transfer to it of all of the rights authorized under the certificate issued at A-00108377 to Rosie Banner Amsler and Sheila A. Brocius, Copartners, t/d/b/a Marianne Industries, subject to the same limitations and conditions.

(b) The application is unopposed. The applicant will purchase the operating rights of the transferor for the sum of \$30,000. No tangible assets are involved. The record shows that an Order to Show Cause, docketed at A-00108377C901, was entered against the transferor on August 31, 1990, for failure to have filed an Assessment Report for 1989. The Assessment Report has been filed and the assessment has been satisfied. The applicant has shown that it is fit, ready, willing and able to render the service sought.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application and that the Order to Show Cause docketed at A-00108377C901 entered on August 31, 1990, be dismissed.

RW:rs

DOCUMENT
FOLDER

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

CONTENT OF MOTION: Staff recommendation adopted.

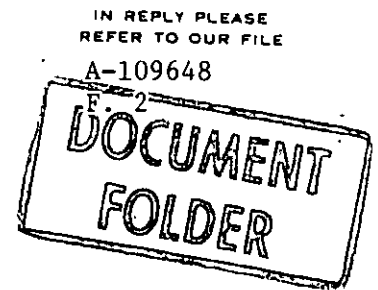
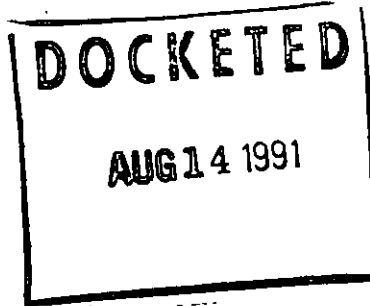


COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

KJR

August 9, 1991

WILLIAM J LAVELLE ESQUIRE
2310 GRANT BUILDING
PITTSBURGH PA 15219



Application of Marianne Industries, Inc., a corporation of the
Commonwealth of Pennsylvania

To Whom It May Concern:

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.

80

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.

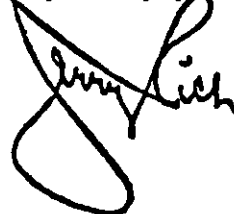
Commission regulations require compliance with all of the above requirements within sixty days of the date of this letter. Failure to comply within the sixty day period will cause the Commission to rescind the action of August 1, 1991 and dismiss the application without further proceedings.

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,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over a large, stylized loop.

Jerry Rich, Secretary

lg

Enclosures
Certified Mail
Receipt Requested
cc:applicant
MARIANNE INDUSTRIES INC
PO BOX 300
SHIPPENVILLE PA 16254

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held August 1, 1991

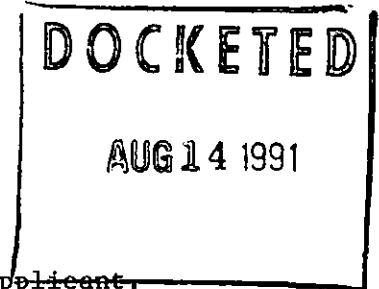
Commissioners Present:

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



Application of Marianne Industries, Inc., a corporation of the Commonwealth of Pennsylvania, for the transfer to it of all of the rights authorized under the certificate issued at A-00108377 to Rosie Banner Amsler and Sheila A. Brocious, Copartners, t/d/b/a Marianne Industries, subject to the same limitations and conditions.

A-00109648
F. 2



Vuono, Lavelle & Gray, by William J. Lavelle for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application for transfer of operating authority filed on May 28, 1991, and published in the Pennsylvania Bulletin of June 15, 1991. There are no protests and the record is now certified to the Commission for its decision without oral hearing.

Marianne Industries, Inc. (applicant or transferee) was organized under the laws of Pennsylvania on July 15, 1988, and has its principal place of business located in Shippenville, Clarion County. Rosie B. Amsler is president and Sheila A. Brocious is secretary. Each hold 10 shares of common stock. They are also the partners which control the transferor in this proceeding, and neither the partners nor the applicant corporation have any affiliation with other carriers.

The applicant does not hold authority from this Commission, but it has held authority from the I.C.C. since January 25, 1989. Prior to that date, the interstate authority was held in the partnership name. The partnership obtained the initial Pennsylvania intrastate authority from this Commission on February 9, 1989. There will be no material changes in the operation

as the result of the transfer of authority in this proceeding. An unaudited balance sheet shows that as of December 31, 1990, the applicant had current assets of \$4,412, total assets of \$87,435, with current liabilities of \$2,298, and total liabilities of \$85,725, leaving stockholders' equity of \$1,710.

Under the terms of an agreement of sale dated May 13, 1991, the applicant will pay the transferor the sum of \$30,000 for the operating rights. No tangible assets are involved. Settlement will be made within 30 days of the date of receipt of our order approving the transaction.

The transferor's record shows that an Order to Show Cause, docketed at A-00108377C901, was entered against them on August 31, 1990, for failure to have filed an Assessment Report for 1989. The record further shows that the matter was placed in abeyance; however, the report has been filed and the assessment was satisfied. The Order to Show Cause will be dismissed accordingly.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing public need, which may be overcome only by evidence to the contrary. In re: Byerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.
2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved and that a certificate be issued granting the applicant the right to operate as follows:

1. To transport, as a Class D carrier, coal, from mines and stripping operations in the county of Clarion to points within an airline distance of one hundred (100) statute miles of the point of origin.
2. To transport, as a Class D carrier, building materials and limestone between points in the counties of Clarion, Armstrong and Jefferson, provided no haul shall exceed a

distance of twenty-five (25) miles from point of origin to point of destination, excluding the transportation of brick and clay products to, from or between points in the counties of Jefferson and Clarion.

3. To transport, as a Class D carrier, sand and gravel, in dump vehicles, between points in the borough of Tionesta, Forest County, and from points in the said borough to points within seventy-five (75) miles of the limits of said borough.
4. To transport, as a Class D carrier, limestone, in dump vehicles, from points in the townships of Perry and Richland, Clarion County, the townships of Hovey and East Franklin, Armstrong County, and the township of Mercer, Butler County, to points within an airline distance of seventy-five (75) statute miles of the point of origin, excluding steel mills and foundries as destination points.
5. To transport, as a Class D carrier, sand, gravel, deicing materials, excluding salt and calcium chloride, in dump vehicles, from points in the townships of Perry and Richland, Clarion County, the townships of Hovey and East Franklin, Armstrong County, and the township of Mercer, Butler County, to points within an airline distance of seventy-five (75) statute miles of the point of origin, excluding points in the counties of Allegheny and Beaver.
6. To transport, as a Class D carrier, coal from mines and stripping operations and tipples in the counties of Clarion, Armstrong and Jefferson to points in Pennsylvania, no haul to exceed an airline distance of one hundred twenty (120) statute miles from point of origin to point of destination.
7. To transport, as a Class D carrier, coal from the facilities of the Lucas Coal Company in the counties of Mercer and Butler, to points in Pennsylvania, no haul to exceed an airline distance of one hundred twenty (120) statute miles from point of origin to point of destination;

with Right No. 7 subject to the following condition:

That no right, power or privilege is granted to render service to points in the counties

of Allegheny, Clearfield or Indiana, or points east of U.S. Highway Route 219.

8. To transport, as a Class D carrier, sand, gravel, deicing materials, defrosting materials and anti-skid materials, excluding salt and calcium chloride, in dump vehicles, from points in the counties of Forest, Warren, Crawford and Venango to points within an airline distance of fifty (50) statute miles of the point of origin, excluding service to points in the city of Erie, Erie County, or points in the counties of Allegheny or Beaver.
9. To transport, as a Class D carrier, cinders, in dump vehicles, from points in the counties of Armstrong, Allegheny and Indiana, to points in the counties of Armstrong, Butler, Clarion, Clearfield, Crawford, Elk, Forest, Indiana, Jefferson, Venango and Warren.
10. To transport, as a Class D carrier, coal for C & K Coal Company, W.P. Stahlman Coal Company, Cambria Coal Company, Shannon Coal Company, Vantage Coal Company, GRC Mining Company and GRC Coal Company;
 - (a) From the facilities of the above-named shippers in the counties of Butler, Mercer and Venango to points in Clarion County;
 - (b) From Reade, White, Chest, Dean, Clearfield, Eldred Township, Cambria County to Fallentimber, Cambria County.
11. To transport, as a Class D carrier, coal for Manor Coal Company; S.B.P. Coal Company; C & K Coal Company; Reichard Contracting, Inc.; Colt Resources, Inc.; and T.D.K. Coal Sales, Inc., from their mines, stripping operations and tipples in the counties of Clarion, Armstrong and Jefferson, to points in Pennsylvania east of U.S. Highway Route 15;

with Right No. 11 subject to the following conditions:

- (a) That no right, power or privilege is granted to provide transportation between points in the city of Pittsburgh, Allegheny County, and within fifty (50) miles of the limits of the said city, and from points in the said territory, to points in Pennsylvania.

(b) That no right, power or privilege is granted to provide service for C & K Coal Company from its facilities in the county of Jefferson.

12. To transport, as a Class D carrier, bottles, containers, caps, broken glass, cullet, supplies and materials for the Owens-Illinois Glass Company from its place of business in the borough of Clarion, Clarion County, to points in Pennsylvania, and vice versa.
13. To transport, as a Class D carrier, prefabricated homes and components, furnishings and fixtures of prefabricated homes for Imperial Homes, Inc., from points in the county of Clarion to points in Pennsylvania, and the return of refused, rejected and damaged shipments of prefabricated homes.
14. To transport, as a Class D carrier, raw materials used or useful in the construction and manufacture of prefabricated homes for Imperial Homes, Inc., from points in Pennsylvania to points in the county of Clarion.
15. To transport, as a Class D carrier, corrugated fibreboard and pulpboard boxes, containers, sheets and partitions; and supplies and materials used in the manufacturing and distribution of fibreboard and pulpboard boxes and containers from the city of Bradford, McKean County, and points within one (1) mile of the limits of said borough to points in Pennsylvania (except Elk, Potter and Cameron Counties), and vice versa.
16. To transport, as a Class D carrier, milk from farms in the township of Annin, Liberty, Keating and Eldred to milk plants in the borough of Port Allegany, McKean County.
17. To transport, as a Class B carrier, livestock, farm products and supplies between points in the townships of Annin, Liberty, Keating and Eldred, McKean County.
18. To transport, as a Class D carrier, livestock and farm products and supplies from points in the township of Annin, Liberty, Keating and Eldred, McKean County, to points in the borough of Port Allegany, McKean County, and vice versa.

19. To transport, as a Class D carrier, methanol from chemical plants in Barnes, Warren County, Crosby and Coryville, McKean County, Coneville and Genesee, Potter County, Morris, Tioga County, and Port Allegany, McKean County, to the borough of Smethport, McKean County.
20. To transport, as a Class D carrier, anti-freeze from the borough of Smethport, McKean County, to the city of Bradford, McKean County, and the boroughs of Coudersport, Potter County, Kane and Mount Jewitt, McKean County, and Warren, Warren County.
21. To transport, as a Class D carrier, acetate from the village of Coneville, Potter County, to other points in Pennsylvania, and vice versa.
22. To transport, as a Class D carrier, building materials, such as are usually transported in dump trucks, between points in the counties of Potter and McKean, provided no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination.
23. To transport, as a Class B carrier, property between points in the borough of Port Allegany, McKean County.
24. To transport, as a Class D carrier, property from points in the borough of Port Allegany, McKean County, to points within twenty (20) miles by the usually traveled highways of the limits of said borough, and vice versa.
25. To transport, as a Class D carrier, household goods, furniture, manufactured wood products, toys, dolls, glass bottles, glass block, glass insulation material and glass products of all kinds, and raw materials used in the manufacture thereof, tanning extracts, solvents and other materials used in processing and tanning of leather between points in the borough of Port Allegany, McKean County, and within twenty (20) miles by the usually traveled highways of the limits of said borough and from points in said area to points in Pennsylvania, and vice versa;

with Right No. 25 subject to the following condition:

That no right, power or privilege is granted to transport liquid in bulk in tank trucks from points in the borough of Port Allegany,

McKean County, and within twenty (20) miles of the limits of said borough to points in Pennsylvania, and vice versa.

26. To transport, as a Class D carrier, glass containers, caps, covers, disks and tops therefor, fibreboard boxes and wooden containers, between points in the township of Paint, Clarion County, and from points in the said township of Paint to points in Pennsylvania, and vice versa; excluding the right to render any service to or from the facilities of Knox Glass, Inc., in the boroughs of Knox, Clarion County, Kane, McKean County, and Parker, Armstrong County, and the villages of Marienville, Jenks Township, Forest County, and villages of Marienville, Jenks Township, Forest County, and Sheffield, Sheffield Township, Warren County.
27. To transport, as a Class D carrier, insulating material and materials and supplies used in the manufacture, distribution and installation of insulating material (except commodities in bulk in tank vehicles) between points in the borough of Port Allegany, McKean County and within twenty (20) miles by the usually traveled highways of the limits of said borough and from points in the said borough and territory to points in Pennsylvania, and vice versa.
28. To transport, as a Class D carrier, fibreboard cans and metal ends therefore, and materials and supplies used in the manufacture or distribution of fibreboard cans and metal ends therefore, from the plant site and warehouse facilities of Boise Cascade Corporation located in Oil City, Venango County and within ten (10) statute miles of the limits of said city, to points in Pennsylvania and vice versa;

with Right No. 28 subject to the following condition:

That no right, power or privilege is granted to transport commodities in bulk in tank or hopper-type vehicles.

29. To transport, as a Class D carrier, fiberboard and pulpboard boxes, sheets and containers, from the facilities of Owens-Illinois, Inc., located in the township of Bristol, Bucks County, to points in Pennsylvania on and west of U.S. Highway Route 220.

30. To transport, as a Class D carrier, glass containers and closures therefor and fibreboard boxes, from the facilities of Glass Containers Corporation located in the borough of Knox, Clarion County; the borough of Marienville, Forest County; and the borough of Parker, Armstrong County, to points in Pennsylvania on and west of U.S. Highway Route 15, and vice versa.
31. To transport, as a Class D carrier, property between the facilities of Owens-Illinois, Inc., and from those facilities to points in Pennsylvania and vice versa;

with Right No. 31 subject to the following condition:

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

32. To transport, as a Class D carrier, property, for Boise Cascade Corporation, between points in Pennsylvania;

with Right No. 32 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport commodities in bulk.
- (b) That no right, power or privilege is granted to transport household goods.
- (c) That no right, power or privilege is granted to transport property, which because of its size or weight, requires the use of special equipment, such as low-bed, drop-frame trailers and winch trucks.
- (d) That no right, power or privilege is granted to provide service between points in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia.
33. To transport, as a Class D carrier, property for Rosie Banner Amsler and Sheila A. Brocious, t/d/b/a Marianne Industries and Marianne Industries, Inc., from their facilities located in the county of Clarion, to points in Pennsylvania, and vice versa;

with Right No. 33 subject to the following conditions:

- (a) That no right, power or privilege is granted to transport household goods and office furniture in use.
- (b) That no right, power or privilege is granted to transport petroleum, and petroleum products in bulk, or dry litharge in bulk.

with all of the above subject to the following general conditions:

- 1. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
- 2. That applicant shall not record in its utility accounts any amount representing the rights herein granted in excess of the actual cost of such rights to the original holder thereof.
- 3. That the applicant charge to Account 1550, Other Intangible Property, \$30,000, being the amount of the consideration payable by it for the rights and going concern value attributable thereto; less any amount recorded under condition 2 above.
- 4. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any entity, without the prior filing of an application and approval thereof by the Commission under 66 Pa. C.S.A. §1102(3).

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

IT IS FURTHER ORDERED: That issuance of the certificate be withheld pending receipt of the 1991 Assessment of the transferor.

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

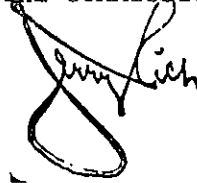
IT IS FURTHER ORDERED: That in the event the applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

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.

IT IS FURTHER ORDERED: That the Order to Show Cause docketed at A-00108377C901 and entered on August 31, 1990 be and is hereby dismissed.

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor, Rosie Banner Amsler and Sheila A. Brocious, Copartners, t/d/b/a Marianne Industries, at A-00108377 be cancelled and the record be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over a large, stylized, looped flourish.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: August 1, 1991

ORDER ENTERED: AUG 9 - 1991