

A-00109648, F-2

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held October 13, 1994

Commissioners Present:

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

DOCUMENT
FOLDER

Application of Valley Lines, Inc., for the transfer of all of the operating rights of Marianne Industries, Inc., under the certificate issued at A-00109648, F. 2, subject to the same limitations and conditions.

A-00104027
F. 5
Am-B

Applicant pro se.

DOCKETED
OCT 28 1994

ORDER

BY THE COMMISSION:

This matter comes before the Commission on an application filed June 2, 1994. Public notice of the application was given in the Pennsylvania Bulletin of August 20, 1994. The unopposed application is certified to the Commission for its decision without oral hearing.

Valley Lines, Inc., (transferee, applicant or Valley Lines), seeks to acquire the operating authority held by Marianne Industries, Inc. through the instant transfer proceeding. Transferor wishes to withdraw from the trucking business in order to pursue other interests and transferee desires to engage in the transportation of property within Pennsylvania. Applicant currently holds authority at Folder 5 to transport property between points generally in western Pennsylvania. The principals of the applicant have been involved in transportation matters for a number of years and have experience currently in connection with the operation of school buses for group and party service in Pennsylvania under the authority issued by the Commission. They have administrative and operational experience in the transportation industry and will have no difficulty expanding the current operations to include the transportation of various types of property. Applicant will commence operations utilizing numerous tri-axle trucks. Applicant is knowledgeable concerning safety regulations in

45

Pennsylvania due to its currently held common carrier authority. It employs three mechanics responsible for vehicle maintenance and one employee is responsible for driver training.

The financial statement submitted by the applicant which is a combined balance sheet shows total current assets of \$219,301 and other assets totalling \$1,480,203 with total assets being \$1,738,471. Total current liabilities are \$504,127 and stockholders' deficit totals \$(191,820).

The total consideration for the rights, both PUC and ICC, and other assets, including real estate and equipment is \$79,500. PUC rights have been assigned a value of \$38,500, \$1,000 for the interstate operating rights and \$40,000 for the equipment.

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 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 transfer application be and is hereby approved and that the certificate issued on July 28, 1993, as amended, be further amended to include the following rights:

To transport, as a Class B carrier:

- (1) livestock, farm products and supplies between points in the townships of Annin, Liberty, Keating and Eldred, McKean County;
- (2) property between points in the borough of Port Allegany, McKean County.

To transport, as a Class D carrier:

- (3) 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;
- (4) 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;
- (5) 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;
- (6) 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;
- (7) 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;
- (8) 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;
- (9) coal from the facilities of 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. 9 subject to the following condition:

That no right, power or privilege is granted to render service to points in the counties of Allegheny, Clearfield, Indiana, or points east of U.S. Highway Route 219;

- (10) 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 to the point of origin, excluding service to points in the city of Erie, Erie County, or points in the counties of Allegheny or Beaver;
- (11) 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;
- (12) 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; and,
- (b) From Reade, White, Chest, Dean, Clearfield, Eldred Township, Cambria County to Fallentimber, Cambria County;
- (13) 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. 13 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;
- (14) 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;

- (15) 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;
- (16) 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;
- (17) 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;
- (18) milk from farms in the township of Annin, Liberty, Keating and Eldred to milk plants in the borough of Port Allegany, McKean County;
- (19) 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;
- (20) 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;
- (21) 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;
- (22) acetate from the village of Coneville, Potter County, to other points in Pennsylvania, and vice versa;
- (23) 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;
- (24) 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) 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:

- (a) 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) 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) 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) 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) 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) 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) 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) 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) 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;

(34) glass for recycling and cullet, in bulk, in dump vehicles, between points in Pennsylvania;

subject to the following condition:

That no right, power or privilege is granted to provide service from points in the counties of Allegheny, Beaver, Butler, Lawrence, Washington and Westmoreland;

subject to the following general conditions:

1. That the operating authority granted herein, or now held, or subsequently granted to the applicant to the extent that it is duplicative, shall not be construed as conferring more than one operating right.
2. 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 property and/or 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.
3. That the applicant record in its Utility Account 1321 - Franchises, the actual cost of such rights recorded by the original holder thereof.
4. That the utility accounts of the transferee shall reflect the same book values for all utility property acquired as shown in the records of the transferor at the effective date of the transfer, any previously recorded depreciation having been deleted therefrom.

5. That the applicant charge to Account 1341 - Other Intangible Property, any amount of the consideration paid for the rights and going concern value attributable thereto in excess of the amounts recorded under conditions No. 2 and 3 above.
6. 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 other entity, without the prior filing of an application and approval thereof by the Commission under Section 1102(a)(3) of Title 66, PA C.S.A.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

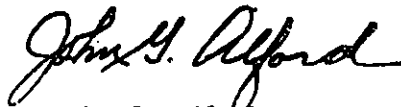
1. A tariff establishing just and reasonable rates.

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.

IT IS FURTHER ORDERED: That a copy of this order at A-00104027, F. 5, Am-B be forwarded to James D. Weakland, Hazardous Materials, Room 1014, Transportation and Safety Building, Harrisburg, Pennsylvania.

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor, Marianne Industries, Inc. at A-00109648, F. 2 be and is hereby cancelled.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: October 13, 1994

ORDER ENTERED: **OCT 21 1994**