

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

KJR

1. <u>REPORT DATE:</u>	April 3, 1991	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU:</u>	Transportation	:	APR-91-T-392*
4. <u>SECTION</u>	Technical Review	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>		:	April 25, 1991
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-00109661	:	
10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines)		:	
(b) Short summary of history & facts, documents & briefs		:	
(c) Recommendation		:	

DOCKETED

 JUN 24 1991

(a) Application of Dennis B. Lauder, t/d/b/a Little Chief Lumber, Frenchville, Clearfield County, for the transfer to him of part of the rights authorized under the certificate issued at A-00108119 to Lauder Trucking, Inc., subject to the same limitations and conditions.

(b) The application is unopposed. The applicant is the son of the owner of the transferor. The applicant will purchase part of the operating authority of the transferor for the token sum of \$1.00. No tangible assets are involved. We find the applicant to be fit, willing and able to provide the service, and that a continuing need for service under the authority to be transferred does exist.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the transfer application, and that the certificate issued to the transferor be modified to the extent shown in the supplemental order.

RW:kmb

11. <u>MOTION BY:</u>	Commissioner Chm. Smith	Commissioner Rolka - Yes
		Commissioner Rhodes - Yes
<u>SECONDED:</u>	Commissioner Fischl	Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

**DOCUMENT
FOLDER**



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

KJR

May 1, 1991

IN REPLY PLEASE
REFER TO OUR FILE

A-00109661

Dwight L. Koerber, Jr., Esquire
Kriner, Koerber & Kirk
110 North Second Street
P.O. Box 1320
Clearfield, PA 16830

DOCUMENT
FOLDER

Application of Dennis B. Lauder,
t/d/b/a Chief Lumber

DOCKETED
MAY 08 1991

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.

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 April 25, 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,



Jerry Rich, Secretary

smk
Enclosures
Certified Mail
Receipt Requested
Dennis B. Lauder
SR Box 54
Frenchville, PA 16836

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held April 25, 1991

Commissioners Present:

William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Frank Fischl, Commissioner

David W. Rolka, Commissioner



Application of Dennis B. Lauder, t/d/b/a Little Chief Lumber, for the transfer to him of part of the rights authorized under the certificate issued at A-00108119 to Lauder Trucking, Inc., subject to the same limitations and conditions.

A-00109661

DOCKETE

MAY 08 1991

Kriner, Koerber and Kirk, by Dwight L. Koerber, Jr., for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission by an application filed on February 11, 1991, and published in the Pennsylvania Bulletin of March 9, 1991. There are no protests and the record is now certified to the Commission for its decision without oral hearing.

Dennis B. Lauder operates as an individual under the registered fictitious trade name of Little Chief Lumber (applicant) from facilities located in Frenchville, Clearfield County. He is the son of Denzel H. Lauder, the owner of Lauder Trucking, Inc., the transferor in this proceeding. Other than this relationship, the applicant is not affiliated with other carriers.

The applicant's balance sheet shows that as of December 31, 1990, he had current assets of \$900, total assets of \$84,000, with current liabilities of \$7,500 and total liabilities of \$40,000, leaving proprietor's equity of \$44,000. The assets include motor vehicle equipment valued at \$10,000, and the liabilities include \$1,500 for equipment obligations. The applicant will provide service with one tractor and flatbed trailer unit, and he will lease additional equipment under long-term arrangements with owner-operators if it becomes necessary. During 1990, he was employed by the transferor.

The transferor currently holds two rights under the certificate issued to it on December 7, 1988. One right authorizes the transportation of petroleum and petroleum products for a specifically named shipper. The other authorizes transportation of unfinished wood products from four western Pennsylvania counties to points in Pennsylvania. It is the latter right which is being transferred. The transferor will retain the petroleum and petroleum products right.

Pursuant to the terms of the transfer agreement dated January 25, 1991, the operating right will be purchased for the token sum of \$1.00. No tangible assets are involved. Essentially, the transfer amounts to a gift because of the father/son relationship. Settlement will be made upon receipt of our order approving the application.

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:

To transport, as a Class D carrier, unfinished wood products, from points in the counties of Cambria, Blair, Clearfield and Huntingdon, to points in Pennsylvania;

subject to the following condition:

That no right, power or privilege is granted to transport lumber or lumber products, to points within the borough of Selinsgrove, Snyder County, and points within an airline distance of twenty-five (25) statute miles thereof.

further 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 his 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 \$1.00 consideration paid by applicant for the rights and/or going concern value of the business be capitalized by applicant in Account 1550 - Other Intangible Property or in the alternative be charged off against applicant's ownership equity less any amount recorded under condition 2 above; provided the latter is sufficient in amount to absorb said charge off.


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 upon compliance with the requirements above 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 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 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 upon compliance with this order, part of the rights granted the transferor, Lauder Trucking, Inc., at A-00108119 be cancelled and the record be marked closed.

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: April 25, 1991

ORDER ENTERED: ~~MAY~~ 1 1991



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

May 7, 1991

IN REPLY PLEASE
REFER TO OUR FILE

R-16

Dwight L. Koerber, Jr., Esquire
110 North Second Street
P.O. Box 1320
Clearfield, PA 16830

Re: A-00109661, Dennis B. Lauder, t/d/b/a Little Chief Lumber

Dear Mr. Koerber:

Under date of 5-1-91, the Secretary's office transmitted to you the Commission's compliance order adopted 4-25-91, evidencing approval of the above application which is in effect a transfer of the rights formerly held by Lauder Trucking, Inc. at A-00108119. The letter transmitting the order directs attention to the requirement for the filing of a tariff.

In accordance with the provisions of Pa. Code, Title 52, Section 23.13(c), you should immediately arrange to file adoption supplements with us whereby the tariff of the former operator will become the tariff of the latter, and no change in rates is permitted to cover the transfer of rights. To assist you in meeting this tariff requirement, we are enclosing three copies of the necessary supplement to be properly executed by you, the original and one copy of which must be returned to us for filing and the remaining one to be retained for your records. Upon the proper filing of the adoption supplements, the tariff requirements will be satisfied.

Very truly yours,
Barry L. Ernst, Director
Bureau of Transportation

By: Joseph M. Machulsky, Chief
Financial Document Section

Enclosure (1 set)

cc: Dennis B. Lauder, t/a
Little Chief Lumber
SR Box 54
Frenchville, PA 16836

Contact Person: G.B. Harry
(717) 783-5937

