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COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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Application of Jeffrey R. Larson. For the right :  
to transport, as a common carrier, parcels, :  
packages and items of property, no single :  
parcel, package or item of property to exceed : Docket No.  
one hundred (100) pounds in weight, between : A-00111241  
points in the county of Allegheny. :

Prehearing Conference

Pages 1 through 11

Hearing Room 2  
State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

Thursday July 14, 1994

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

ROBERT P. MEEHAN, Administrative Law Judge

APPEARANCES:

GLENN BARTIFAY, Esquire  
1408 Fifth Avenue  
Pittsburgh, Pennsylvania 15219  
(For the Applicant)

WILLIAM A. GRAY, Esquire  
2310 Grant Building  
Pittsburgh, PA 15219  
(For the Protestants)

JERI A. SIMON, Esquire  
312 Boulevard of the Allies  
Suite 700  
Pittsburgh, PA 15222  
(For the Protestants)

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C O N T E N T S

WITNESSES

DIRECT CROSS REDIRECT RECROSS

For the Applicant:

(None.)

For the Protestants:

(None.)

E X H I B I T S

NUMBERS

FOR IDENTIFICATION IN EVIDENCE

For the Applicant:

(None.)

For the Protestants:

(None.)

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P R O C E E D I N G S

10:00 a.m.

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3 ADMINISTRATIVE LAW JUDGE ROBERT P. MEEHAN: This is the  
4 date set by the Pennsylvania Public Utility Commission for  
5 hearing on the application of Jeffrey R. Larson at Docket  
6 Number A-00111241. I am Robert Meehan, the Administrative  
7 Law Judge assigned by the Commission to preside at the  
8 hearing and render an initial decision on the application.

9 Are there any preliminary matters that need to be  
10 addressed before we commence with the hearing?

11 (No response.)

12 Hearing none, is the applicant ready to present its  
13 case?

14 MR. BARTIFAY: Yes, Your Honor.

15 JUDGE MEEHAN: Okay.

16 MR. GRAY: Your Honor, I believe this is a preliminary  
17 hearing.

18 JUDGE MEEHAN: So it is a prehearing conference.

19 MR. GRAY: Right, a prehearing conference.

20 MR. BARTIFAY: Yes.

21 JUDGE MEEHAN: I misread the notice. I thought this  
22 was going to be a hearing.

23 MR. GRAY: We may not mind them having to go forward  
24 unprepared at this time.

25 MR. BARTIFAY: No, no.

1 JUDGE MEEHAN: Noting that correction, what matters  
2 need to be addressed by any of the parties?

3 MR. BARTIFAY: Well, we were hoping to enter into a  
4 restricted covenant which would allow for the withdrawal of  
5 the protests.

6 JUDGE MEEHAN: Okay. Have you had any discussions on  
7 that so far?

8 MR. BARTIFAY: No, there hasn't been.

9 MR. GRAY: I'm not sure, Your Honor, what the  
10 restrictive covenant is. We did receive a letter, or I did  
11 receive a letter, from counsel for the applicant which had  
12 very vague parameters for an amendment which perhaps we could  
13 discuss in more detail.

14 JUDGE MEEHAN: All right.

15 MR. GRAY: I have two other preliminary matters, if I  
16 could, Your Honor.

17 JUDGE MEEHAN: Go ahead.

18 MR. GRAY: Hopefully, we can reach some agreement, but  
19 just so I don't forget them.

20 JUDGE MEEHAN: All right.

21 MR. GRAY: First, Your Honor, I am representing the  
22 clients that I filed protests for in this proceeding, and I  
23 am also entering an appearance for Courier Unlimited, Inc.,  
24 at the request of its attorney, Raymond A. Thistle.

25 Secondly, I had filed interrogatories in this case and

1 sent them on April 14, and I have not received answers to  
2 them. I would request that Your Honor fix a date when  
3 answers are due to those, perhaps ten days from today. The  
4 answers are long overdue, and I wouldn't want to get too far  
5 down the road without having those answers so that I can  
6 better prepare my case.

7 MR. BARTIFAY: Your Honor, if I could respond?

8 JUDGE MEEHAN: Sure.

9 MR. BARTIFAY: We weren't served with a copy of the  
10 protests for all the parties you're representing but for, I  
11 think, Courier Unlimited, and I asked for a copy of the  
12 protests for ten days from receiving that, to send a response  
13 to the interrogatories. I haven't received it. I don't  
14 think that's an unreasonable request.

15 MR. GRAY: I don't know that it's not unreasonable, but  
16 I sent the protests by certified mail and have a certified  
17 mail receipt that I sent the protests to them, so I'm not  
18 buying this statement that...

19 MR. BARTIFAY: From Mr. Larson or from our law firm?

20 MR. GRAY: I sent, by certified mail and have a  
21 certified mail receipt as required by the Rules of Practice  
22 of this Commission, to Mr. Hertzberg at the address set forth  
23 on the notice.

24 MR. BARTIFAY: Did someone sign for it from our firm?

25 MR. GRAY: I assume they did.

1 MR. BARTIFAY: It's not in our file. If it was signed  
2 for, it was misfiled.

3 JUDGE MEEHAN: The letter transmittal for the protests  
4 is April 14th, and it does show copies were sent to counsel  
5 for the applicant by certified mail. My understanding is  
6 that the interrogatories were sent by regular mail on the  
7 21st of June.

8 MR. BARTIFAY: Yes, we received the interrogatories.

9 MR. GRAY: No, the interrogatories were sent on April  
10 14th, Your Honor.

11 JUDGE MEEHAN: Did you send a second set? A copy of  
12 the letter I have from your office is dated June 21st.

13 MR. GRAY: May I see that, Your Honor?

14 (Judge handing document to counsel.)

15 JUDGE MEEHAN: April 14th is the letter I have from  
16 your office transmitting the protest to the Commission.

17 MR. GRAY: Okay. That may be what it is. My notes are  
18 confusing. This may very well be right in that the  
19 interrogatories were sent on June 21st. In any event,  
20 answers are due. And, by the way...

21 MR. BARTIFAY: Can you send me...

22 MR. GRAY: Well, I did. I did do that, too. The  
23 letter went out to you on July the 12th. That went directly  
24 to you.

25 MR. BARTIFAY: With a copy of the protests?

1 MR. GRAY: Yes.

2 MR. BARTIFAY: Okay. Thank you.

3 MR. GRAY: And, I indicated that we wanted the answers  
4 to the interrogatories as soon as possible but in no event  
5 later than ten days from the date of this letter.

6 All I am requesting is that the Judge establish that as  
7 a requirement, that the answers be filed.

8 MR. BARTIFAY: I can stipulate to that, that we will  
9 file answers ten days after the receipt of the -- file ten  
10 days after, I guess, the mailing date of the protests, which  
11 you said was the 12th, correct?

12 MR. GRAY: I would be satisfied with ten days from  
13 today.

14 MR. BARTIFAY: Okay.

15 JUDGE MEEHAN: Anything further?

16 MR. BARTIFAY: Can we discuss restrictive covenants  
17 here at this meeting, or do you suggest that we do that  
18 outside of the meeting?

19 JUDGE MEEHAN: If counsel for the protestants is  
20 willing to take some time to discuss that possibility, you  
21 can do that off the record and I will leave the room.

22 I don't participate in those discussions, and under the  
23 Commission's regulations, that would generally be viewed as  
24 the possibility of settling the case, and those matters are  
25 off the record and are not put on the record.

1           If counsel for protestants is willing to take some time  
2 to discuss that, that's a possibility, but my experience is  
3 that it usually takes more than just a discussion. We can  
4 certainly go off the record for a while and let you explain  
5 further your position and find out what their positions are  
6 if you would like to do that.

7           MR. BARTIFAY: Yes, we would like to do that if counsel  
8 for the protestants agrees.

9           MR. GRAY: Sure.

10          MS. SIMON: That's fine with me.

11          JUDGE MEEHAN: Let's go off the record. We will take a  
12 recess and then come back and see if there's any possibility  
13 of reaching that, and we can take that into consideration  
14 when deciding when the hearing for the application would be  
15 scheduled and try to give the parties enough time to finalize  
16 it. Off the record.

17                   (Discussion off the record.)

18          JUDGE MEEHAN: We are back on the record. The parties  
19 have been discussing the possibility of achieving a  
20 restrictive amendment, and at the moment it appears that that  
21 might be a possibility.

22           In light of that, I am going to request the case be  
23 scheduled for hearing some time in September. Hopefully,  
24 that will provide enough time that the parties can conclude  
25 their discussions. Otherwise, it would be later than that



1 before the matter could be scheduled for a hearing.

2 My information, so far today, is that the parties will  
3 continue their discussion on the possible restrictive  
4 amendment and the applicant will answer the protestants'  
5 interrogatories within ten days of today's date.

6 Was there anything else that needed to be addressed at  
7 this particular point in time?

8 MR. GRAY: The only other request I would have, Your  
9 Honor, is, and perhaps we could get an agreement on this,  
10 that for any witnesses that the applicant intends to call at  
11 the initial hearing, their names, addresses and the  
12 companies they represent be provided to us no later than 15  
13 days prior to the hearing.

14 I believe it's in my interrogatories, and of course  
15 they are continuing in nature anyway, but just so that we are  
16 clear on the record, if we might. The Rules provide that you  
17 give advance notice of witnesses who will be testifying, so I  
18 would request that that be provided, if we can't resolve  
19 this, within 15 days prior to the scheduled hearing.

20 MR. BARTIFAY: Yes, that's fine.

21 JUDGE MEEHAN: All right. Is there anything further  
22 that we have to address this morning?

23 MR. BARTIFAY: No, Your Honor.

24 MR. GRAY: Nothing.

25 MS. SIMON: No.

1 JUDGE MEEHAN: We will adjourn the prehearing  
2 conference, and everyone will receive a notice from the  
3 Commission when the matter is set for the hearing, and that  
4 will let everybody know how much time they have to try and  
5 resolve the restricted amendment possibilities.

6 (Whereupon, at 10:50 a.m., the hearing was adjourned.)  
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C E R T I F I C A T E

I hereby certify, as the stenographic reporter,  
that the foregoing proceedings were reported by me and  
thereafter reduced to typewriting by me or under my  
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My Commission Expires March 25, 1996  
Member, Pennsylvania Association of Notaries

BY: Barbara Scrimizzi Spin  
Barbara Scrimizzi Spin

My Commission expires March 25, 1996.