



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

April 13, 1994

IN REPLY PLEASE
REFER TO OUR FILE

A-00111159

DAVID M OBOYLE ESQUIRE
1450 TWO CHATHAM CENTER
PITTSBURGH PA 15219-3427

Application of Phillips Crane & Equipment Rentals, Inc.,
a corporation of the Commonwealth of Pennsylvania

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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FOLDER

DOCKETED
MAY 10 1994

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 shall conform to 75 Pa. C.S. §§1701-1798 (relating to Motor Vehicle Financial Responsibility Law).
- First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa. C.S. §1171 (relating to required benefits).
- 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.
- Insurance coverage of motor carriers of property shall meet the requirements of 75 Pa. C.S. §1701-1798 (relating to Motor Vehicle Financial Responsibility Law).
- 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 7, 1994 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. William P. Hoshour-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
RETURN RECEIPT REQUESTED

PHILLIPS CRANE & EQUIPMENT RENTAL INC
88 BEAVER GRADE ROAD
MCKEES ROCKS PA 15136

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held April 7, 1994

Commissioners Present:

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

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Application of Phillips Crane & Equipment
Rentals, Inc., a corporation of the
Commonwealth of Pennsylvania, for the
transfer of all of the operating rights
of Jacob Phillips (Deceased), under the
certificate issued at A-00042033, Folders
1 and 2 subject to the same limitations and
conditions.

A-00111159

DOCKETED
MAY 10 1994

David M. O'Boyle for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed October 26, 1993. Public notice of the application was given in the Pennsylvania Bulletin of January 1, 1994. The unopposed application is certified to the Commission for its decision without oral hearing.

The applicant, Phillips Crane & Equipment Rentals, Inc., is a Pennsylvania corporation formed in November of 1991. Its officers and stockholders are Harry G. Phillips, president and treasurer, Jacob L. Phillips, Jr., its vice president and Nancy Coulter, its secretary. The stockholders and officers are children of Jacob Phillips who is deceased. The Estate of Jacob Phillips seeks to transfer to the corporation all of the Decedent's remaining intrastate authority.

The officers and stockholders of the applicant are familiar with the authority to transfer and operation of the business due to their relationship with the transferor. The corporation has a number of years experience conducting private carriage operations and is familiar with the requirements of operating commercial motor vehicles.

As evidence of its financial capacity to render the proposed service, the applicant provided a balance sheet dated June 30, 1993 reporting assets of \$418,152 with liabilities of \$25,124.

The total consideration for the rights is \$1,000. No tangible assets are involved. The sales agreement requires the consideration to be paid as follows: The total purchase amount of \$1,000 will be paid upon approval of the transfer application by the Commission.

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 Superior 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 a certificate be issued granting the following rights:

1. To transport, as a Class D carrier, household goods in use between points in the county of Allegheny which are west of the city of Pittsburgh.
2. To transport, as a Class D carrier, household goods in use from points in the county of Allegheny west of the city of Pittsburgh to points within sixty (60) miles by the usually traveled highways of the limits of the said area, and vice versa.
3. To transport, as a Class D carrier, by motor vehicle, floor covering, fresh vegetables and fruit, brick, lime, cement, sand, lumber and roofing materials, between points in the city of Pittsburgh, Allegheny County, and within twenty-five (25) miles of the usually traveled highways of the limits of said city provided that no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of destination;

right 3 subject to the following conditions:

- a. Provided that no right, power or privilege is granted to transport building materials and supplies, excavated materials and road and building construction materials, and other materials usually transported in dump trucks, between points in the county of Allegheny; provided that no haul shall exceed a distance of twenty-five (25) miles from point of origin to point of construction or disposal.
- b. Provided that no right, power or privilege is granted to provide service between points in the borough of Coraopolis and the townships of Crescent, Moon, Neville and that portion of the township of Robinson which is within three (3) miles of 912 Fourth Avenue in said borough, all in the county of Allegheny; and from points in said area to points within thirty-five (35) miles by the usually traveled highways of the limits of the said area;
- c. Provided that no right, power or privilege is granted to transport builders' supplies from points in the borough of Coraopolis, Allegheny County, and within five (5) miles by usually traveled highways of the limits of said borough to other points within twenty-five (25) miles by the usually traveled highways of the limits of said borough, and vice versa.
- d. Provided that no right, power or privilege is granted to provide service between points in the township of Neville, Allegheny County, and from points in said township to points in Pennsylvania within fifty (50) miles by the usually traveled highways of the limits of said township, and vice versa.
- e. Provided that no right, power or privilege is granted to provide service for the Pittsburgh Forgings Company from its plant in the borough of Coraopolis, Allegheny County, to points in the county of Allegheny;
- f. Provided that no right, power or privilege is granted to provide service for the Standard Steel Company from its plant in the borough of Coraopolis, Allegheny County, to points in the county of Allegheny and the city of Butler, Butler County;
- g. Provided that no right, power or privilege is granted to provide service for Pittsburgh Coke & Chemical Company, from the plant of said company in Neville Township, Allegheny County, to the warehouses of said company in Stowe Township, Allegheny County, and vice versa.

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 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.
2. That the applicant record in its Utility Account 1321 - Franchises, the actual cost of such rights recorded by the original holder thereof.
3. 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 condition(s) 2 above.
4. 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.
5. 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. Form E evidence of Bodily Injury and Property Damage liability insurance.
2. Form H as evidence of cargo liability insurance.
3. a tariff establishing just and reasonable rates.
4. 1993 annual report of the transferor.

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 upon compliance with this order, the rights granted the transferor, Jacob Phillips (Deceased), at A-00042033, Folders 1 and 2 be cancelled and the record be marked closed.

BY THE COMMISSION,



John G. Alford
Secretary

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(SEAL)

ORDER ADOPTED: April 7, 1994

ORDER ENTERED: APR 13 1994



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

April 29, 1994

IN REPLY PLEASE
REFER TO OUR FILE
R-16

RECEIVED
MAY -5 AM 10:40
PA. P. U. C.
INFO. CONTRCL DIV.

David M. O'Boyle, Esquire
1450 Two Chatham Center
Pittsburgh, PA 15219-3427

Re: A-00111159
Phillips Crane & Equipment
Rentals, Inc.

Dear Mr. O'Boyle:

Under date of April 13, 1994, the Secretary's office transmitted to you the Commission's compliance order adopted April 7, 1994, evidencing approval of the above carrier's application which is in effect a transfer of the rights formerly held by Jacob Phillips (Deceased), at A-00042033, F. 1 and F.2. The letter transmitting the order directs attention to the requirement for the filing of a tariff.

Pa. Code, Title 52, Section 23.13(c) provides that in the case of case of change in ownership, etc., if feasible to do so, the tariffs of the former operator shall be adopted by the new operator, and no change in rates is permitted to cover the transfer of rights.

In this instance it is not possible to meet the tariff requirements by the adoption of the former tariff for the reason that the present tariff's description of operating authority does not conform with the approval of this application.


It will be necessary, therefore, to file a new tariff which should be designated Freight Pa. P.U.C. No. 1. The tariff should name the same rates, rules and regulations as were filed by the former operator and may be issued to become effective on one day's notice under authority of Pa. Code, Title 52, Section 23.42.

We notice that rates for a part of the authorized service being transferred are provided in tariffs published by Pennsylvania Motor Truck Association, Inc., Agent (Harrisburg Chapter).

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Should you elect to participate in the agency publication(s), two copies of a suitable power of attorney should be included with the filing. If you do not elect to participate in the agency publication(s), a new tariff or tariffs should be filed containing the same rates, rules and regulations published by the agency for a minimum of 30 days.

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


By: Joseph M. Machulsky, Chief
Financial Document Section

cc: Pennsylvania Motor Truck Association, Inc.
Harrisburg Chapter
P.O. Box 276
Camp Hill, PA 17011

New power of attorney to be designated:
Pa. F.1 No. 1 cancels 1 (series of transferor)

Phillips Crane & Equipment Rentals, Inc.
88 Beaver Grade Road
McKees Rocks, PA 15136

Contact Person: G.L. Baker
(717) 783-5936