

CALDWELL & KEARNS

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

3631 NORTH FRONT STREET
HARRISBURG, PENNSYLVANIA 17110-1533

OF COUNSEL
THOMAS D. CALDWELL, JR.

RICHARD L. KEARNS
CARL G. WASS
JAMES R. CLIPPINGER
CHARLES J. DEHART, III
JAMES D. CAMPBELL, JR.
JAMES L. GOLDSMITH
TIMOTHY I. MARK
MICHAEL SEDOR
DEBORAH A. CAVACINI
KEVIN D. ELLIOTT
STANLEY J. A. LASKOWSKI

July 29, 1997

717-232-7661

FAX: 717-232-2766

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AUG 04 1997

James J. McNulty, Acting Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

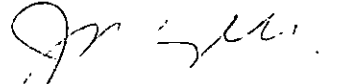
BUREAU OF
TRANSPORTATION & SAFETY

RE: Application of Professional Transportation, Inc.,
t/d/b/a Professional Carriers
No. A-00113003, F.1, Am-A

Dear Mr. McNulty:

Please find enclosed herewith the original and three copies of a Protest filed by LoMa, Inc., t/d/b/a A.B.E. Limousine Service, in the above captioned matter. A copy has been provided to Applicant's counsel as indicated below.

Very truly yours,



James D. Campbell, Jr.
CALDWELL & KEARNS

JDCJr:lf

cc: David M. O'Boyle, Esquire
Louis Marano, President (LoMa, Inc.)

90667-1
97-270

PA/PUC
PROTHONOTARY'S OFFICE

97 JUL 29 PM 3:34

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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97 JUL 29 PM 3:34
PAPPUCCI
PROTHONOTARY'S OFFICE

In Re:

Application of : Docket No. A-00113003
Professional Transportation, : F.1, Am-A
Inc., t/d/b/a Professional :
Carriers :

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AUG 04 1997

PROTEST

BUREAU OF
TRANSPORTATION & SAFETY

1. AND NOW, comes LoMa, Inc., t/d/b/a A.B.E. Limousine Service, 1829 East Livingston Street, Allentown, Pennsylvania, 18103, (610) 821-9303, and protests the above Application.

2. The service and facilities of the Protestant and other authorized carriers are ample to meet all the requirements of the travelling public in the territory involved in this Application.

3. The approval of the Application would be prejudicial to your Protestant and other authorized carriers in this territory in that it will authorize additional competition with the potential resulting loss in revenue and less satisfactory service of the public.

4. Approval of the Application would be contrary to the public interest.

5. Your Protestant holds operating authority docketed to A-00104134. A copy of said authority is attached hereto as Exhibit "A", and made a part hereof.

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DOCKETED
APPLICATION DOCKETED
AUG 06 1997
ENTRY No. *[Signature]*

6. Protestant's interest in this matter would be eliminated if the Application were amended to exclude Lehigh and Northampton Counties.

7. Pursuant to Section 333(c) of the Public Utility Law, Protestant requests Applicant or its attorney to furnish the undersigned with a list of the names and addresses of all witnesses whom it intends to call, and the names and addresses of the supporting organizations they will represent, at least ten (10) days prior to the commencement of evidentiary hearings in this case.

WHEREFORE, LoMa, Inc., t/d/b/a A.B.E. Limousine Service, respectfully prays that the above Application be dismissed.

LoMa, Inc., t/d/b/a
A.B.E. Limousine Service

By: 

James D. Campbell, Jr., Esquire
CALDWELL & KEARNS
3631 North Front Street
Harrisburg, PA 17110

Dated: July 29, 1997

LoMa, Inc. holds authority to transport persons in limousine service between points in the Counties of Lehigh and Northampton and from points in said territory to points in Pennsylvania and vice versa, and also holds authority to provide group and party service from Lehigh and Northampton Counties to points in Pennsylvania and return.

EXHIBIT A



PILLAR · MULROY & FERBER 97 AUG -4 AM 10:51

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PROTHONOTARY'S OFFICE

August 1, 1997

Re: Professional Transportation, Inc.,
t/d/b/a Professional Carriers
Docket No. A-00113003, F.1, Am-A

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AUG 05 1997

Hon. James J. McNulty, Acting Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

BUREAU OF
TRANSPORTATION & SAFETY

Dear Mr. McNulty:

Enclosed is a protest filed on behalf of the following to the above-captioned application:

D & T Limousine Service, Inc.

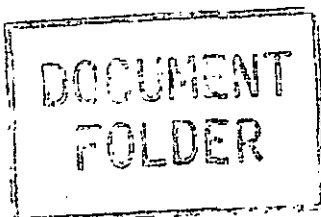
A copy of this protest has been served on applicant's representative named below in accordance with the Commission's Rules of Practice.

Please acknowledge receipt of the enclosures on the duplicate of this letter of transmittal and return it in the stamped, self-addressed envelope provided.

Very truly yours,


JOHN A. PILLAR

SW
Enclosure
cc: David M. O'Boyle, Esq. (w/encl.)



PROFESSIONAL CORPORATION · ATTORNEYS
1106 FRICK BUILDING · PITTSBURGH, PA 15219
(412) 471-3300 - FAX: (412) 471-6068

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00022a
Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

97 AUG -4 AM 10: 51

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In re: APPLICATION OF)
PROFESSIONAL TRANSPORTATION)
INC., t/d/b/a PROFESSIONAL)
CARRIERS)

Docket No. A-00113003
Folder 1, Am-A

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AUG 05 1997

PROTEST

In accordance with the Rules of Practice of the Pennsylvania Public Utility Commission, the carrier named herein desires to protest the above application and, in support thereof, states as follows:

1. A copy of the application as published in the Pennsylvania Bulletin is attached hereto as Appendix "A".
2. The name and address of the protestant is set forth in Appendix "B" hereto.
3. The name, address and telephone number of protestant's attorney:

PILLAR · MULROY & FERBER, P.C.
1106 Frick Building
Pittsburgh, PA 15219
(412) 471-3300

4. Protestant holds authority as summarized in Appendix "B" attached hereto.

5. Protestant is presently transporting train crews and rail carrier employees in the application area for certain railroads and

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APPLICATION DOCKET
AUG 06 1997
ENTRY No. *09*

PROTEST
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has pending before this Commission an application, at Folder 3, Am-C, seeking authority to provide such service for Norfolk Southern Corporation between all points in Pennsylvania. This protest is, therefore, based in part on a competitive application. There is no need or demand for applicant's service at present, since the Norfolk Southern is not operating in Pennsylvania and the proposed service is not necessary or proper for the service, accommodation, convenience or safety of the public. If any need for service in the future should arise, protestant is, and will be, ready and able to provide this service and is in a far superior position to do so since protestant has equipment and facilities to serve the railroads in Pennsylvania. Moreover, protestant avers that it will be awarded a contract by Norfolk Southern Corporation to provide service in Pennsylvania if Norfolk Southern's effort to acquire all or a portion of Consolidated Rail Corp. is approved since protestant is currently providing service for Conrail.

6. Protestant hereby requests that the application be set for oral hearing. If an oral hearing is held, protestant represents that it will appear and present evidence pertinent to the application.

7. Pursuant to Section 333(c) of the Public Utility Code (66 Pa. C.S.A. Sec. 333(c)), protestant hereby requests a list of the witnesses expected to testify in the above entitled proceeding, together with the subject matter of their anticipated testimony

and, in particular, any complaints or any evidence pertaining to the service of the protestant.

Respectfully submitted,

PILLAR . MULROY & FERBER, P.C.

By: 

JOHN A. PILLAR
Attorney for Protestant
D & T LIMOUSINE SERVICE, INC.

Due Date: August 18, 1997

A-00113003, F. 1, Am-A. Professional Transportation, Inc., t/d/b/a Professional Carriers (1700 Theater Drive, Evansville, IN 47715), a corporation of the State of Indiana—railroad crews, in paratransit service, for CSX Transportation, Inc., between points in Pennsylvania: so as to permit the transportation of rail carrier employes and their equipment and baggage, in paratransit service, for Norfolk Southern Corporation, between points in Pennsylvania. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219.

PENNSYLVANIA BULLETIN

July 26, 1997

APPENDIX "A"

APPENDIX "B"

**Re: PROFESSIONAL TRANSPORTATION
INC., t/d/b/a PROFESSIONAL
CARRIERS
Docket A-00113003,
F.1, Am-A**

The foregoing protest to the above application is filed on behalf of:

D & T LIMOUSINE SERVICE, INC.
P. O. Box 790
Columbia Station, OH 44028

D & T Limousine Service, Inc. holds authority from this Commission at Docket No. A-00109546, which includes authority at Folder 3, to transport employees, their baggage and equipment for CSX Transportation, Inc.; and Consolidated Rail Corporation, between points in Pennsylvania. See attached.

In addition, **D & T Limousine** has pending before the Commission an application, at Folder 3, Am-C, seeking authority identical to that sought by applicant herein.

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

Application of D & T Limousine Service, Inc.,
a corporation of the State of Ohio, for the
right to begin to transport, as a contract
carrier, by motor vehicle, employees, and
their baggage and equipment for;
CSX Transportation, Inc.; and Consolidated
Rail Corporation between points in
Pennsylvania; WHICH IS TO BE IN LIEU OF the
present common carrier authority filed at
A-00109546, F. 2 which reads as follows:
railroad train crews and other railroad
employees of the Chessie System Railroad
(a) between points in the counties of
Bedford, Fayette, Washington, Beaver,
Lawrence and Greene; (b) from points in
the county of Lawrence to points in the
counties of Butler and Somerset, and vice
versa; and (c) from points in Allegheny
County to points in the counties of
Bedford, Fayette, Washington, Beaver,
Lawrence and Greene, and vice versa.

A-00109546
F. 3

Elizabeth A. Crosby for the applicant.
Schubert, Bellwoar, Mallon & Walheim by Richard T. Mulcahey for the protestant,
LoMa, Inc., t/d/b/a A.B.E. Limo & Bus Service, t/d/b/a Aero Chauffeured
Limousine & Minibus Lvc.
Pillar and Mulroy by John A. Pillar for protestants, Larry J. Wills and
Veteran's Cab Company, Inc.

EXHIBIT "C"

O R D E R

BY THE COMMISSION:

The instant application comes before the Commission on an application filed September 20, 1993. A temporary authority application, smaller in scope, was filed concurrently. The applications were published in the Pennsylvania Bulletin of October 23, 1993. Three (3) protests were filed to the permanent application. Applicant currently operates pursuant to a grant of emergency temporary authority by order adopted October 21, 1993. As we are processing the permanent authority application, the temporary authority application will be dismissed as moot.

The now unprotested permanent application is certified to the Commission for its decision without oral hearing. The record consists of verified statements of the applicant and the two (2) supporting shippers, CSX Transportation, Inc. and Consolidated Rail Corporation.

D & T Limousine Service, Inc. (applicant or D & T) is a corporation of the State of Ohio qualifying to do business in the Commonwealth of Pennsylvania. Thomas J. Padgett, Jr., senior vice-president for applicant is presenting the verified statement on behalf of applicant. Applicant presently operates as a contract carrier for both CSX and Conrail, as well as other rail carrier companies located in approximately 16 states. In Pennsylvania, D & T recently obtained authority to operate as a common carrier. Applicant has ten (10) employees who operate vans located in Pennsylvania, but does not have any terminal facilities located in Pennsylvania. Applicant operates three (3) Dodge vans with seating capacity not exceeding eight (8) persons. The vans are leased from various sources, none of which are affiliated with the applicant. Applicant is not presently affiliated with any other carrier. D & T has a company-wide safety program and a comprehensive maintenance program in effect. All vans are equipped with two-way dedicated radios that keep the driver in constant communication with the yardmaster at various railroad yards where applicant transports the train crews. Applicant's drivers are in constant contact with applicant's dispatchers.

The unaudited balance sheet of the applicant for the period ended December 31, 1992, shows current assets of \$624,532.81, total fixed assets of \$212,290.87, total assets of \$836,823.68, total current liabilities of \$427,054.04 and total equity of \$409,769.64. The statement of income for combined operations for the same period of time reveals total revenues of \$5,955,400.00, less operating expenses of \$8,459,076.00 resulting in a net income (loss) of (\$2,503,676.00).

CSX Transportation, Inc. (supporting shipper or CSX) desires to engage the applicant for the purposes of transporting its railroad employees, train crews, baggage, and equipment. David H. Bush, manager of operating practices, taxi and lodging for applicant has the authority to act on behalf of CSX and requests that the P.U.C. grant D & T Limousine Service, Inc.'s application for permission to transport passengers as a contract carrier in the Commonwealth of Pennsylvania. Applicant will be requested to provide

transportation to CSX employees and train crews relative to this application from points and places in Fayette County to points and places in Somerset County. At the present time, the supporting shipper employs approximately 317 employees in Pennsylvania. The I.C.C. regulations limit crews to 12-hour shift. As a result, CSX must replace its crews every 12 hours in order to ensure continued service. Regular and dependable transportation of crews is essential to the supporting shipper's proper operations. Applicant transports these relief crews in vans which it supplies on a 24-hour basis. The unique and specialized services required by applicant are essential to the supporting shipper's operation. The entire CSX system relies upon the regular, dependable and immediate transportation of its railroad employees and relief crews.

Consolidated Rail Corporation (supporting shipper or Conrail) desires to engage the applicant for the purposes of transporting Conrail's railroad employees, train crews, baggage and equipment. Mike Gallagher is the senior buyer for Conrail and has the authority to act on behalf of Conrail to request the P.U.C. to grant D & T Limousine Service, Inc.'s application for permission to transport passengers as a contract carrier in the Commonwealth of Pennsylvania. Applicant will be requested to transport Conrail employees and train crews relative to the application from points and places in and throughout the State of Pennsylvania with particular attention to transportation from points and places in the cities of Philadelphia, Harrisburg, and Pittsburgh, to points and places in the Commonwealth and vice versa. At the present time, the I.C.C. regulations limit crews to 12-hour shift. As a result, Conrail must replace its crews every 12 hours in order to ensure continued service. The entire Conrail system relies upon the regular, dependable and immediate transportation of its railroad employees and relief crews. If there is not a carrier available for the service, there is no possible transportation for the Conrail employees and train relief crews. If this occurs, Conrail cannot continue operations and this would directly affect the transportation of Conrail.

DISCUSSION AND FINDINGS

Applicant seeks to have a contract carrier permit issued in lieu of its common carrier certificate. The application was opposed by three (3) carriers which withdrew upon restrictive amendment excluding service from certain areas in Pennsylvania.

As a contract carrier, it is necessary that the applicant submit a bilateral contract (one for each shipper) as required by 66 Pa. C.S. §2506 and in accordance with the Commission's regulations at 52 Pa. Code §31.45. The contract(s) must place specific obligations upon the shipper and carrier, and must state a specified number of shipments during a stated period of time. The contract(s) must state the authority granted by the instant order. Said contract(s) must be submitted to this Commission for its review before service may be initiated under the contract carrier authority granted.

We find that the applicant is fit, willing and able to perform the service as a contract carrier and that approval of the application, as amended, is in the public interest and will not interfere with the safety and regulation of common carriers; THEREFORE,

IT IS ORDERED: That the application be and is hereby approved, as amended, granting the following right:

To transport, as a contract carrier by motor vehicle, employees, their baggage and equipment for CSX Transportation, Inc.; and Consolidated Rail Corporation, between points in Pennsylvania;

subject to the following conditions:

- (a) Provided that no right, power or privilege is granted to provide service for Consolidated Rail Corporation, from or between points in the borough of Latrobe, Westmoreland County.
- (b) Provided that no right, power or privilege is granted to provide service for CSX Transportation, Inc. and Consolidated Rail Corporation, from or between points in the borough of Somerset, Somerset County, and within an airline distance of ten (10) statute miles of the limits of said borough.
- (c) Provided, that no right, power or privilege is granted to applicant to originate transportation in the counties of Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton and Philadelphia.

IT IS FURTHER ORDERED: That the temporary authority application be dismissed as moot.

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 schedule of minimum rates.
2. Bilateral contracts, one for each shipper, in compliance with 52 Pa. Code §31.45.

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

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 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 to D & T Limousine Service, Inc. at A-00109546, F. 2 be cancelled and the record be marked closed.

BY THE COMMISSION,



John G. Alford
Secretary

(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

IN REPLY PLEASE
REFER TO OUR FILE

October 7, 1997

In Re: **A-00113003F0001, Am-A**

(See attached list)

Application of Professional Transportation, Inc. t/d/b/a Professional Carriers

For amendment to its common carrier certificate SO AS TO PERMIT the transportation of rail carrier employees and their equipment and baggage, in paratransit service, for Norfolk Southern Corporation, between points in Pennsylvania.

Hearing Notice

This is to inform you that a hearing on the above-captioned case will be held as follows:

Type: **Initial Hearing**
Date: **Tuesday, December 2, 1997**
Time: **10:00 a.m.**
Location: **11th floor hearing room
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania**
Presiding Officer: **Administrative Law Judge Fred R. Nene
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550**

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PROTHONOTARY'S OFFICE

Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised.

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OCT 10 1997

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

Except for those individuals representing themselves, the Commission's rules require that all parties have an attorney; therefore, you should have an attorney of your choice file an entry of appearance before the scheduled hearing.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call Norma Lewis at the Public Utility Commission:

- Scheduling Office: 717-787-1399
- AT&T Relay Service number for persons who are deaf or hearing impaired:
1-800-654-5988.

pc: Judge Nene
Norma Lewis
Judy E. Weaver, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

Application of Professional Transportation, Inc. t/d/b/a Professional Carriers

For amendment to its common carrier certificate SO AS TO PERMIT the transportation of rail carrier employees and their equipment and baggage, in paratransit service, for Norfolk Southern Corporation, between points in Pennsylvania.

PROFESSIONAL TRANSPORTATION INC
T/A PROFESSIONAL CARRIERS
PO BOX 5205
EVANSVILLE PA 47715
(812) 471-2440

DAVID M O BOYLE ESQUIRE
WICK STREIFF MEYER METZ & O BOYLE
1450 TWO CHATHAM CENTER
PITTSBURGH PA 15219
(412) 765-1600
Fax Number: (412) 261-3783

JAMES D CAMPBELL JR ESQUIRE
CALDWELL & KEARNS
3631 NORTH FRONT STREET
HARRISBURG PA 17110-1533
(717) 232-7661
Fax Number: (717) 232-2766

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