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In re: A-00105786 Randall L. Smith, t/d/b/a Smith Bus Company For the beginning of the right to transport, persons in groups and parties of persons, between points in the counties of Armstrong, Indiana and Westmoreland and from points in said counties, to other points in Pennsylvania, Initial hearing.

Verbatim record of hearing held at the Pennsylvania Department of Transportation, Route 286, South, Indiana, Pennsylvania, on Thursday,

May 30, 1985
10:00 a.m.

BEFORE: JOSEPH MATUSCHAK, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

JACK F. ASCHINGER, ESQ.
212 Locust Street
Harrisburg, PA 17108
For -APPLICANT

HERBERT R. NURICK, ESQ.
100 Pine Street
Harrisburgh, PA 17108
For -STEWART

MARIA VERARDI MAYERCHECK, ESQ.
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Pittsburgh, PA 15222
For -BUTLER MOTOR TRANSIT

ADLERMAN REPORTERS
231 Timothy Drive
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412/625-9101 or 1263

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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1 ADMINISTRATIVE LAW JUSTICE MATUSCHAK: This
2 is the time and place set for the hearing on the
3 application of Randall L. Smith, trading and doing
4 business as Smith Lus Company.

5 Are the parties ready to proceed?

6 MR. ASCHINGER: Yes, Your Honor.

7 MS. MAYLROCK: Yes, Your Honor.

8 MR. ASCHINGER: I am Jack Aschinger represent-
9 ing the applicant in this case.

10 At this point we have a restrictive amendment,
11 I think copies were furnished to you and also to the
12 Secretary of the Commission.

13 I have additional copies. Do you want one,
14 Herb?

15 MR. NURICK: Are you going to put it in as an
16 exhibit?

17 MR. ASCHINGER: I hadn't any intention to be-
18 cause it is already a matter of record.

19 MR. NURICK: I think --

20 MR. ASCHINGER: You have copies?

21 MR. NURICK: Yes, in the file.

22 MR. ASCHINGER: Now, as it stands, the appli-
23 cation is reflected to show this amendment and, well,
24 it reads for itself.

25 In addition to that it is possible that we

1 may have a restrictive amendment for the benefit of
2 Butler Motor.

3 Butler Motor is not prepared at this time
4 to state whether or not it is acceptable or not, so
5 in the meantime we can proceed with our case.

6 HEARING EXAMINER: Very well.

7 MR. NURICK: Off the record.

8 (Discussion off the record.)

9 HEARING EXAMINER: Is there any decision on
10 the part of Butler as to whether or not a restrictive
11 amendment is possible?

12 MS. MAYERCHECK: Not at this time, Your Honor.
13 We are going to stay in the case.

14 HEARING EXAMINER: Very well.

15 We will proceed, then, and negotiate later.

16 MR. ASCHINGER: Randall L. Smith, please.

17 Do you want to take the stand?

18 RANDALL L. SMITH, called as a witness, having
19 been duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ASCHINGER:

22 Q Randy, will you please state your name and
23 business address for the record?

24 A Randall L. Smith, R.D. 1, Shelocta, Pennsyl-
25 vania.

1 Q The name, Smith Bus Company, was it regis-
2 tered as an assumed or fictitious name in compliance
3 with the law?

4 A Yes, April 3, 1984.

5 Q Will you describe the general background
6 of Smith Bus Company?

7 A My father purchased the first buses, there
8 was nine of them, in 1965.

9 The contract was for to Elderton Joint High
10 School.

11 In '67, Elderton merged with six other high
12 schools and formed the Armstrong School District.

13 In '74 I became active and we have doubled
14 the size of the Armstrong fleet.

15 In 1979 we received a contract at Elairsville;
16 1980, Homer City; 1982 Derry Area and some smaller
17 vo-tech contracts along the way.

18 I, myself, -- I own 61 school buses ranging
19 in all different sizes.

20 Q These are used for routine school traffic?

21 A Right, routine school bus transportation,
22 school activities, and kindergarden routes.

23 MR. MURICK: If I have this right, in the
24 Armstrong School District, you have the Elderton
25 area?

1 THE WITNESS: Yes.

2 BY MR. ASCHINGER:

3 Q And in Indiana County you have the Blairs-
4 ville School District, that's Blairsville, Saltsburg
5 School District?

6 A We have the Blairsville.

7 Q And that consists of what?

8 A Center Township, Blacklick Township, Blairs-
9 ville Borough.

10 Q And the Homer Center School District; what
11 is that?

12 A Center Township, Homer City Borough, you
13 mean.

14 Q Derry Area School District?

15 A Derry Township, Derry Borough.

16 Q And that's one of the areas you eliminated
17 under the restrictive amendment?

18 A Yes.

19 Q Have you prepared an exhibit or a map listing
20 the territory which covers the general area of your
21 school bus operation?

22 A Yes, I have.

23 MR. ASCHINGER: If Your Honor pleases, I would
24 like to offer for identification the exhibit as
25 Applicant's Exhibit No. 1 a map showing the extent

1 of the school bus operations.

2 I would hand the reporter three copies.

3 BY MR. ASCHINGER:

4 Q Randy, would you just describe the content
5 of the sketch?

6 A The green area is in Armstrong County.
7 That's the Elderton/Kittanning area, Kittanning Town-
8 ship, South Creek Township, Plum Creek Township, and
9 we also have a maintenance facility at that X.

10 The red area is Indiana County, that is, Center
11 Township, Homer City Borough.

12 The blue outlined area there is the Blairsville
13 attended area, consisting of Blacklick, and Blairs-
14 ville.

15 We also have a maintenance facility there.

16 The yellow is Derry Township, Derry Borough,
17 and also East and Westmoreland County Vo-Tech School
18 in that area.

19 Q So that area is eliminated by the restrictive
20 amendment?

21 A Correct.

22 Q Your green area and the red, or blue areas,
23 there is an uncolored area consisting of Young and
24 Connemaugh Townships?

25 Do you know what school bus operator is operating

1 in that territory?

2 A Yes, that's Stewart Bus Lines.

3 Q This exhibit reflects the territory of the
4 company's school operations, correct?

5 A Correct.

6 Q Does it also reflect the territory which
7 the company seeks to serve under this application?

8 A It was amended, but, yes, it's all in this
9 area.

10 Q It eliminates --

11 A Westmoreland County.

12 Q Westmoreland County?

13 A Yes, it does.

14 And the green areas is restricted to Elderton
15 Borough.

16 MR. NURICK: Was this given a number?

17 HEARING EXAMINER: Exhibit 1, Applicant's Ex-
18 hibit 1.

19 MR. ASCHINGER: A-1.

20 MR. NURICK: Applicant's Exhibit No. 1?

21 MR. ASCHINGER: Yes.

22 MR. NURICK: Thank you.

23 BY MR. ASCHINGER:

24 Q I believe you testified as to the areas
25 you would be serving in Indiana County; is that correct?

1 A Yes, that would be --

2 Q Do you want to repeat it?

3 A Center Township, Homer City Borough, Homer
4 City School District, Blairsville Area, Cross Creek
5 Area, Blacklick, and Durrel Township, and Blairsville
6 Borough.

7 Q Thank you.

8 Will you describe the company's terminal and
9 maintenance facilities?

10 A We have two maintenance facilities, being
11 the one is in Elderton.

12 That facility does all the engine rebuilding,
13 transmission rebuilding, body work, payroll, billing,
14 and all the Armstrong buses are maintained there at
15 that facility.

16 The second one is in Blairsville and all the
17 buses for Homer City, Blairsville, and the Vo-Tech
18 schools, the maintenance is there.

19 Both facilities have classrooms for driver
20 training. We have three State certified school bus
21 instructors in that facility.

22 Q How many mechanics?

23 A Eight mechanics with five maintenance trucks.

24 Q Five maintenance trucks?

25 A Correct.

1 Q Would the terminal in these facilities be
2 available in the conduct of your proposed service?

3 A Definitely.

4 Q Would you describe the company's equipment?

5 A We have about 61 pieces of equipment ranging
6 in sizes from 34 passenger, 12. I think there's, like,
7 3 74's, 13 72 passengers, 41 66's; there's two 20
8 passenger, one 16, and a 12.

9 Q How many would you make available in the
10 proposed service?

11 A Immediately, six. The larger units and then
12 add as the demand requires.

13 Q You contemplate the purchase of charter
14 coaches?

15 A Yes, upon the acceptance of this application.

16 Q Can you explain that further, under what
17 circumstances you would do that?

18 A I think from our surveys, and stuff, we
19 show there is a need.

20 MR. NURICK: Objection, Your Honor.

21 HEARING EXAMINER: We will sustain that ob-
22 jection.

23 MR. NURICK: I move that his answer be stricken.

24 JUDGE MATUSCHAK: It will be stricken.

25 MR. ASCHINGER: Could we have the last question

1 read back, please?

2 THE REPORTER: (Reading last question):

3 "Q Can you explain that further, under what
4 circumstances you would do that?"

5 THE WITNESS: We did -- what we would like to
6 do is purchase two used pieces of equipment, rebuild
7 them, put them on the road and expand as the need
8 requires from there.

9 BY MR. ASCHINGER:

10 Q Does the company have a service program?

11 A A service program for the equipment?

12 Q Safety program, I'm sorry.

13 A Safety program. Yes, every school bus driver
14 is required to pass a 20-hour instructional course
15 before they can obtain their license.

16 We do all that. They need a 10-hour refresher
17 course every fourth year.

18 Also Mr. Free there, his primary job is to
19 work with the school bus drivers, he rides with each
20 of them at least five or six times a year.

21 When them buses are out on the road, he also
22 is.

23 We also have CPR people in our organization
24 that runs classes. We also run fire schools periodically
25 for all the employees.

1 We also are very active in our local Armstrong¹²
2 Indiana School Bus Radio Program.

3 And we, for the County of Indiana, with our
4 three instructors, we instruct at least 75 percent
5 of the school bus drivers in the County.

6 Q Do you do anything for Lanich?

7 A Yes, very definitely.

8 MR. NURICK: I'm sorry. I missed -- the
9 question was, doing anything for Lanich and I missed
10 the answer.

11 THE WITNESS: Yes.

12 MR. NURICK: Just yes?

13 MR. ASCHINGER: Yes.

14 BY MR. ASCHINGER:

15 Q What is the company's safety record?

16 A Very respectable.

17 We have had no major fatalities.

18 HEARING EXAMINER: There's only one major
19 fatality.

20 THE WITNESS: Our insurance carrier for two
21 consecutive years has given us an award for over a
22 million and a half miles with only two minor acci-
23 dents.

24 BY MR. ASCHINGER:

25 Q You testified with respect to your school

1 bus operations that you provided extra curricular
2 service.

3 Q Can you describe the nature of those services?

4 A Mostly sporting events, club and field
5 trips for the schools.

6 They go all over the state, Gettysburg, Harris-
7 burg, Pittsburgh; really cover that.

8 Q Any other points that you can recall?

9 A Harrisburg, Gettysburg, Lancaster.

10 Q Is this the type of service that you would
11 propose under your proposed operations --

12 A Yes.

13 Q -- for charter parties?

14 A Yes.

15 Q Have you had any requests for charter
16 service?

17 MR. NURICK: Objection.

18 HEARING EXAMINER: What's the grounds of the
19 objection?

20 MR. NURICK: On hearsay.

21 HEARING EXAMINER: We will overrule the ob-
22 jection.

23 The Commission long ago decided that evi-
24 dence for services is admissible in testimony and
25 relevant.

1 The objection is overruled.

2 THE WITNESS: I have had numerous requests over
3 the years.

4 MR. NURICK: What kind of requests?

5 THE WITNESS: Mostly from civic groups, clubs,
6 organizations, church groups, Boy Scouts; that kind
7 of nature.

8 BY MR. ASCHINGER:

9 Q What type of equipment would be involved
10 in those requests?

11 A Both, a large amount of school bus use,
12 but there seems to be a need also for --

13 MR. NURICK: Objection on the, seems to be a
14 need, Your Honor.

15 MR. ASCHINGER: We are prepared to substantiate
16 that, Your Honor.

17 HEARING EXAMINER: We will strike that.

18 BY MR. ASCHINGER:

19 Q Mr. Smith, you testified as to requests for
20 service.

21 Have you prepared an exhibit, or survey in the
22 form of a questionnaire?

23 A Yes.

24 MR. ASCHINGER: If Your Honor pleases, I would
25 like to have marked for identification as Applicant's

1 Exhibit No. 2, a document entitled Application of
2 Smith Bus Company, A 00105786, Responses to
3 Questionnaires.

4 I hand three copies to the reporter and to
5 you, Your Honor.

6 BY MR. ASCHINGER:

7 Q I show you this document marked as Exhibit
8 No. 2 and ask if you will briefly describe the docu-
9 ment?

10 Do you have it there in front of you?

11 A We sent a letter of questionnaire to the
12 public and, if the applicants were -- thought they
13 needed the service then they returned it.

14 Q The first page, I think, is the form of
15 the transmittal letter?

16 A Correct.

17 Q And then you have the form of the question-
18 naire?

19 A Right.

20 Q And then following that you have a list
21 of the responses which you received?

22 A Correct.

23 Q How many questionnaires were sent out?

24 A Fifty-six.

25 Q And how many were received?

1 A Thirty-two.

2 Q How did you get the names of those indi-
3 viduals?

4 A A lot of them was some questions over the
5 years for services. Living in the community all these
6 years, too, you have a feel for the needs of the
7 community, also.

8 MR. NURICK: Your Honor, I understand that
9 you're ruling on the request and I also understand,
10 may I have a continuing objection because we still
11 take the position that requests are hearsay and not
12 a technical rule of evidence and that the motion for --
13 should be sustained on the basis of hearsay, but
14 could I have a continuing objection so I don't have
15 to say it all the time?

16 HEARING EXAMINER: We agree it is hearsay
17 evidence but we are not strictly bound by the Hearsay
18 Rule, and administrating hearings of the Commission,
19 over the years, has determined that requests for
20 services is relevant and admissible on the nature
21 of these proceedings.

22 MR. NURICK: I am basing mine on the principle
23 in the Cantangus (phonetic) Case, which says, hearsay
24 is not a mere technical rule of evidence.

25 I understand what you are saying, but -- and

1 we still object on the basis that it is hearsay, which 17
2 is not admissible, and I want to know if I can have
3 a continuing objection?

4 HEARING EXAMINER: You can have a continuing
5 objection but I don't like to give you a continuing
6 objection..

7 I'll give you -- overrule the objection and
8 let you have a continuing objection as to that
9 particular thing, but as to any objections you might
10 have to this exhibit, I think you should specifically
11 make your objections so we can have them.

12 MR. NURICK: I objected to his response to the
13 last question.

14 It was said, how did you get this list, or
15 something, and he said, we had requests, or something,
16 and I objected to that.

17 HEARING EXAMINER: Well, we'll overrule that
18 objection.

19 MR. ASCHINGER: If Your Honor please, we have
20 prepared a memorandum on this point and -- including
21 your opinion in the application of Gladys Joines.

22 If it would be any benefit to Mr. Nurick, we
23 would be glad to make it an exhibit.

24 HEARING EXAMINER: I think Mr. Nurick is con-
25 versant with the rule of decision made in the past on

1 these kind of cases.

2 MR. ASCHINGER: Thank you.

3 HEARING EXAMINER: You may argue your point
4 if you wish, on briefs, if it comes to that.

5 MR. ASCHINGER: Thank you very much.

6 BY MR. ASCHINGER:

7 Q Are these responses fairly representative
8 of the territory that you propose to serve?

9 A Yes.

10 Q And is the applicant financially fit --

11 MR. NURICK: I have an objection to that, too.

12 HEARING EXAMINER: Read the last question back
13 along with the answer.

14 THE REPORTER: (Reading last question)

15 "Q And is the applicant financially fit --"

16 MR. ASCHINGER: I will withdraw it; speaks
17 for itself.

18 HEARING EXAMINER: Very well.

19 We will consider that question and answer as
20 withdrawn.

21 BY MR. ASCHINGER:

22 Q Is there a question on the record that is
23 whether the applicant is financially fit to provide
24 the proposed service?

25 A Yes.

1 MR. NURICK: I object to that, Your Honor.
2 That is a legal conclusion.

3 HEARING EXAMINER: What is the question, again?

4 MR. ASCHINGER: If Your Honor please, I would
5 like to have marked for identification as to the
6 financial fitness --

7 HEARING EXAMINER: There is an objection to
8 your last question.

9 Read the last question.

10 MR. ASCHINGER: Is the applicant financially
11 fit to provide the proposed service?

12 HEARING EXAMINER: We will overrule the ob-
13 jection subject to further proof of that.

14 MR. ASCHINGER: I would like to have marked
15 for identification as Applicant Exhibit 3 the financial
16 statements of Randy Smith and it is for the year end-
17 ing December 31, 1983.

18 It was part of the application.

19 BY MR. ASCHINGER:

20 Q You have financial data for the year 1974?

21 A '84.

22 Q '84?

23 A No, I don't.

24 Q Why not?

25 A We had a change in accountants and it can

1 become obtainable.

2 I just don't have it on hand.

3 Q Now, your present accountant, have they
4 prepared a statement of income for the period January
5 1, 1985 (sic) through March 31, 1985 --

6 A Yes, they have.

7 Q -- to reflect your present operation?

8 A Yes.

9 MR. ASCHINGER: If Your Honor please, I would
10 like to have this document marked for identification
11 as Applicant Exhibit No. 4, and I have three copies
12 for the reporter.

13 HEARING EXAMINER: They may be so marked.

14 BY MR. ASCHINGER:

15 Q Has there been any material change in your
16 financial data since December 31, 1983?

17 A Yes, I feel we're financially a lot better
18 shape right now than the summer of '82, the fall of
19 '82, the Derry Area School District has added, and
20 that required 28 pieces of equipment, and that showed
21 a very hard burden on that '83 financial statement.

22 We have had three years of service in there
23 with Derry, so a lot of the pieces of equipment are
24 paid off now.

25 Q Mr. Smith, do you know of any other carriers

1 in the area covered by this application that are
2 available to provide the transportation that you are
3 seeking here?

4 A Butler Motor for Elderton Borough that I
5 know of, and Lanich for the rest of it, and I think
6 they also have rights for Elderton.

7 Q You consider these local carriers?

8 A I don't consider them local, no.

9 Q Why not?

10 A Butler Motors has to be 45 miles away from
11 Elderton, and Lanich is 15.

12 MR. ASCHINGER: That's all I have, Your Honor.

13 HEARING EXAMINER: You may cross examine.

14 MR. NURICK: Your Honor, before we do I have
15 not had an opportunity to look through this Exhibit
16 A-2.

17 I got it when you got it.

18 HEARING EXAMINER: Do you want to take a short
19 recess?

20 MR. NURICK: I would like to see what it con-
21 tains.

22 HEARING EXAMINER: We will take a few minutes
23 and have a chance to --

24 MR. ASCHINGER: I have no objection to taking
25 the time but the witnesses were the witnesses that I

1 furnished Mr. Nurick, if that means anything.

2 HEARING EXAMINER: Take a few minutes; he can
3 look at it.

4 (Recess taken.)

5 HEARING EXAMINER: We are on the record.

6 MR. NURICK: We understand, Your Honor, that
7 the applicant has completed the direct examination
8 of its operating witness, and that he desires to put
9 on public witnesses at this time to accommodate wit-
10 nesses that are here in the hearing room, and that
11 we will be given the chance to cross examine him
12 following these public witnesses, but I have a motion,
13 Your Honor, consistent with the recent handling of
14 these cases that the witnesses who are not testifying
15 be sequestered and that's been done in cases of group
16 and party cases, and it is done for a variety of
17 reasons.

18 I can cite you on some examples where it was
19 done recently. I may not have to, but, if you want
20 reasons and support --

21 HEARING EXAMINER: Are you talking about public
22 witnesses or other witnesses?

23 MS. MAYERCHECK: Your Honor, Protestant Butler
24 would like to join in the motion.

25 HEARING EXAMINER: You have any objections?

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1 MR. ASCHINGER: This is new to me, Your Honor;
2 I do.

3 I don't see the necessity of it but I leave it
4 to your discretion.

5 MR. NURICK: May I point out in the case of
6 Carolina Coach Company, trading and doing business as
7 Carolina Trailways, the Judge was Honorable Herbert
8 Cohen, and in that case one of the attorneys for the
9 Protestant, Mr. Squires, indicated, if Your Honor
10 please, I would like to make a motion at this point
11 in time that the public witnesses be sequestered so
12 that the testimony does not become cumulative and
13 repetitive.

14 The Judge responded, if counsel has no ob-
15 jection, even if he has an objection, I will so rule
16 in favor of the motion. You could put your objection
17 on the record.

18 More recently, in the case of Josephine --
19 I'm sorry, the Carolina Coach Docket Number was
20 A 106932, Folder 1, Amendment A, and, more recently,
21 in the case of JoJo Travelers at A-104550, March 11,
22 1985, Mr. Smith, of our firm, represented a protestant
23 and said, in group and party cases in recent years
24 that has become relatively standard procedure in order
25 to give a certain amount of spontaneity to the testimony.

1 And then he was asking that the witnesses be
2 sequestered.

3 Mr. Fullerton indicated he had no objection
4 to that general procedure.

5 Mr. Fullerton said that he did not object.
6 He said Mr. Smith is exactly right, that this has
7 been the policy in the past and he had no right to
8 object to it, and the Judge granted the objection.

9 I think it is important in these group and
10 party cases that the witnesses not testifying not be
11 in the hearing room when other witnesses are testify-
12 ing.

13 HEARING EXAMINER: I disagree with your con-
14 clusion of being no agreement.

15 We consider public witnesses who come here to
16 express their individual or representative needs in
17 these matters, and we don't think the testimony of
18 any other witness should -- would have a tendency to
19 effect that testimony.

20 We will overrule or deny the motion.

21 MR. ASCHINGER: May we continue, Your Honor?

22 HEARING EXAMINER: You may step down.

23 MR. ASCHINGER: We call Dr. Clawson.

24 DR. GERALD CLAWSON, called as a witness, having
25 been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

1
2 BY MR. ASCHINGER:

3 Q Would you state your name for the record,
4 please?

5 A Dr. Gerald Clawson.

6 Q You stated your full name and will you state
7 your business address in the record?

8 A I'm the superintendent of the Blairsville
9 School District. Our address is 195 North Walnut
10 Street, Blairsville, Pennsylvania.

11 Q What group --

12 A The Blairsville/Saltsburg School District.

13 Q School bus transportation and related
14 extra curricular activities are exempt from the
15 jurisdiction of the Pennsylvania Public Utility
16 Commission.

17 Now, can you tell me to what extent, if any,
18 the schools or the school district have of a need
19 for charter carriers?

20 A First of all, if we're going to -- there
21 has been requests in the past to haul spectator buses
22 to athletic events, school-related activities.

23 It is my understanding that you --

24 MR. NURICK: I'm going to object to that, Your
25 Honor, and request that people being spectators, that's

1 hearsay. That's not coming from the applicant.

2 This is from a public witness.

3 HEARING EXAMINER: This is the superintendent
4 of schools.

5 When he refers to spectators, you mean people
6 who are parents, and the like, of the school children?

7 THE WITNESS: That is correct because we're
8 restricted in the school business in the number of
9 adult chaperones we can have on the bus.

10 HEARING EXAMINER: We will overrule the ob-
11 jection.

12 THE WITNESS: We have had a difficult time.

13 In fact, haven't for some time gotten spectator
14 buses.

15 Another area we are concerned, the school
16 district is the largest supporter of the recreation
17 boards in our school district and we have four re-
18 creation boards in our school district.

19 They operate, basically, summer programs.

20 During the summer months, if they want to
21 take a field trip with students, or whatever, with
22 the children that participate in the program, we
23 haven't been able to use the present contractor
24 that we have in both ends of our school district.

25 We have had to rely on someone with a PUC

1 license.

2 This has been expensive and eats into the
3 small budgets that they have.

4 MR. NURICK: I have an objection on that on
5 the basis of expense.

6 There is nothing in the record on expenses
7 or costs.

8 HEARING EXAMINER: We think the testimony is
9 relevant.

10 This man is superintendent of schools and he
11 knows what problems they have in securing in the
12 matter of expense.

13 That is a matter that, naturally, the school
14 district should be concerned with.

15 We will overrule the objection.

16 You can cross examine him as to the nature of
17 the expense problem that he has, if you wish.

18 BY MR. ASCHINGER:

19 Q Actually, can these expenses -be paid through
20 district funds for the type of services you described?

21 A What we do, sir, is on our recreation
22 boards, as we allocate money to the different rec
23 boards, and as I stated, we have four different rec
24 boards in the community of our school district, and
25 they operate out of those funds.

1 In fact, I happen to serve on one of those
2 rec boards.

3 I'm a member of one of the rec boards in our
4 school district and, therefore, know what the allo-
5 cations are of the district and what the expenses
6 are for the various rec boards in our area.

7 They also have to --

8 HEARING EXAMINER: These rec boards are sort
9 of an addendum of the school district?

10 THE WITNESS: Yes, sir. We are the largest
11 contributor of funds for these rec boards.

12 In addition, the municipality also contributes
13 and that's, basically --

14 HEARING EXAMINER: All public money?

15 THE WITNESS: Yes.

16 BY MR. ASCHINGER:

17 Q As I understand it you have to look for
18 public transportation carriers with authority to
19 provide this type of transportation; is that correct?

20 A That's correct.

21 Q Have you had any experience with other
22 carriers in this area?

23 A Well, to my knowledge, there is only one
24 carrier in this area.

25 Q And what carrier is that?

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1 A That is the Lanich Bus Lines.

2 Q What has been your experience with Lanich?

3 A Sort of been a negative experience I have
4 had with the Lanich Bus Lines.

5 MR. NURICK: Your Honor, I'm going to object
6 to this on two grounds.

7 Number one, we have requested pursuant to
8 Section 333-C of the Public Utility Code, a list of
9 the names of persons who would testify and the organi-
10 zations they would represent, and, a summary of what
11 their testimony might be including any specifics with
12 regard to Lanich.

13 Not only was this person's name not on here,
14 we saw that name as the first witness at 11:00 o'clock.

15 Not only was his name not on the list that was
16 returned to us, but, obviously, no mention of our
17 client to check out ahead of time.

18 The whole purpose of that section is to be
19 somewhat prepared with witnesses, and we would object
20 to his testifying and, further, to his testifying on
21 anything about Lanich because, as far as we knew, there
22 were no specifics at all on that.

23 MR. ASCHINGER: If Your Honor please, I mentioned
24 to Mr. Nurick this morning that this list of the
25 witnesses to be available today was given to me last

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night.

It was just impossible to inform Mr. Nurick beforehand and I think here, again, this request for public witnesses is not too realistic because you never know exactly what public witnesses are going to appear.

It is difficult, in the first place, to get witnesses, and at times you never know the public witnesses that will appear until the date of the hearing.

HEARING EXAMINER: We are inclined to be liberal as far as the admissibility of that evidence by public witnesses.

We think the public witnesses are here to express a public expression and we're not going to deny any public witness whether on any list or not on any list.

If they want to come here and testify, they can come here and testify. That has always been our custom and we're not going to deviate from it.

So, the objection is overruled. The request in this kind of case, it is the safe-guarding and accommodation of the public interest.

We think the expression from public witnesses are a relevant portion of such proceedings.

Whether counsel feels they wish to call them or

1 not, we will permit them to testify at their request.

2 MR. ASCHINGER: Thank you, Your Honor.

3 BY MR. ASCHINGER:

4 Q Dr. Clawson, how long have you been a
5 resident of this area?

6 A I have been in the Blairsville/Saltsburg
7 School District for the past 21 years.

8 Q And in that period of time would you say
9 you are familiar with the general transportation
10 needs of this area, that is, public transportation?

11 A I have had two experiences which I was
12 directly involved with transportation prior to taking
13 superintendent.

14 In 1968, '69, I directed the Headstart Program
15 from the school district which required me to get
16 bids for transportation at that time.

17 Also in 1975 I became the assistant superin-
18 tendent in the school district and one of my direct
19 responsibilities was transportation for the district.

20 Q Do you feel that this area needs a local
21 carrier?

22 MR. NURICK: Objection. That is a conclusion
23 and it should be developed --

24 HEARING EXAMINER: Well, yes, but it is a
25 leading question.

1 BY MR. ASCHINGER:

2 Q Are you --

3 HEARING EXAMINER: I will sustain the objection.

4 BY MR. ASCHINGER:

5 Q Are you familiar with the operations of the
6 Smith Bus Company?

7 A Yes, sir; I am.

8 Q What kind of service do they provide?

9 A Smith became the carrier in the Blairsville/
10 Saltsburg School District for the Blairsville end
11 of our school district six years ago and it has been
12 excellent.

13 In fact, the Board decided this year not to put
14 it out on bid because they were satisfied with the
15 services we received from the Smith Bus Line.

16 MR. ASCHINGER: Thank you very much, Dr. Clawson.
17 That is all we have.

18 HEARING EXAMINER: You may cross examine.

19 CROSS EXAMINATION

20 BY MR. NURICK:

21 Q Dr. Clawson, were you authorized by the
22 Blairsville/Saltsburg School District to testify here
23 today?

24 A I am the chief school officer and I have
25 that authorization.

1 Q And are you the person that's responsible
2 for arranging for transportation for the school dis-
3 trict?

4 A I am the chief school officer and as chief
5 school officer it is my direct responsibility for
6 transportation.

7 Q Have you ever used the applicant, Smith
8 Bus Company, for transportation other than on a school
9 related school bus trip?

10 A We are not allowed to use the Smith Bus
11 Company other than for school related activities.

12 Q My question is, though, did you ever do it?

13 A No.

14 Q On the spectator trips that you have testi-
15 fied about, did Smith supply that service for you?

16 A Those trips were just for students only.

17 I was referring to adult spectators who had
18 requested buses and we told them that we were not
19 allowed to use the Smith Bus Line for spectator
20 buses for adults.

21 Q Getting back to this Linach Bus Lines, you
22 said you had a negative experience and that's --
23 when was that negative experience?

24 A It started back, probably, in 1968, '69
25 when I was the director of the Headstart Program

1 because I worked directly with Mary Lanich in getting
2 the transportation.

3 At that time I think she was also the trans-
4 portation carrier for the Blairsville end of our
5 school district.

6 Q That's the negative experience you are
7 talking about?

8 A Just a total lack of cooperation.

9 Q Back in 1966 or '69?

10 A I'm talking about my experience when I was
11 in charge of the Headstart Program and assistant
12 superintendent and encouraged the Board at that time
13 because of the lack of cooperation to put it out on
14 bid.

15 Q What year was that?

16 A I'm going to say -- I don't have any notes
17 in front of me -- I'm going to say approximately
18 1976 or '77.

19 Q Now, isn't it true that Lanich handles
20 trips for your school district in Interstate Commerce?

21 A If they do that they contracted through
22 groups or organizations.

23 For example, the Band Boosters, but, not
24 directly through the school district.

25 Q Are you aware whether the Band Boosters

1 uses Lanich on Interstate trips.

2 A They have in the past.

3 Q Are you aware of a trip coming up on June
4 10 just this next month in which people involved
5 with your school district will be using Lanich to
6 Quebec on a Canadian trip?

7 A It is not a school --

8 MR. ASCHINGER: If Your Honor pleases, I'll
9 object to the reference of ICC trips as not being
10 relevant.

11 HEARING EXAMINER: We will overrule the exami-
12 nation if he gives proper cross examination.

13 BY MR. NURICK:

14 Q Are you familiar with anybody that has a
15 child going to your school, is related to the school
16 in any way, is going to use Lanich to Quebec on June
17 10?

18 A The only thing I can say, sir, is it is
19 not a school related activity and, to my knowledge,
20 no, I'm not aware of it.

21 Q Not aware of any trip?

22 A No, I am not.

23 Q With regard to the summer program that
24 you were involved with, would you give me what that
25 organization is, please?

1 A I'm a member of the SLC rec board in the
2 Saltsburg area which --

3 Q You are not authorized to speak on behalf
4 of that organization, are you?

5 A Only as a member.

6 Q You are a member but you are not authorized
7 to come here and represent the group, is that correct?

8 A I represent no groups.
9 I speak from my personal experiences.

10 Q That's what I'm trying to get at, sir.
11 This is your personal experience. You are

12 not authorized to testify here on behalf of the
13 group, is that correct?

14 A No one told me I needed authorization.

15 HEARING EXAMINER: The question is whether
16 you are representing yourself in that connection or
17 representing the group itself?

18 THE WITNESS: I represent not the SLC rec
19 board, no, sir.

20 BY MR. NURICK:

21 Q You are here just as an individual on that
22 basis?

23 A As an individual on that basis, that's
24 correct.

25 MR. NURICK: I have no further questions.

1 Thank you.

2 HEARING EXAMINER: Any further questions?

3 MS. MAYERCHECK: Yes, Your Honor.

4 BY MS. MAYERCHECK:

5 Q Dr. Clawson, you mentioned adults needing
6 spectator buses.

7 How are the adults going to the events now?

8 A By their personal vehicles.

9 Q How often, in your opinion, are buses needed
10 for adult spectators?

11 A There are many times.

12 For example, I know that requests have come
13 during football season which is always a busy time.

14 The Blairsville football end has been involved
15 in the play-off games which is usually held either
16 in Johnstown or Windber, and have been involved in
17 the championship games probably for out of the last
18 seven years, and we have had numerous requests from
19 spectators as to why we can't get a bus.

20 HEARING EXAMINER: When you refer to spectators,
21 you are talking about --

22 THE WITNESS: Adults.

23 HEARING EXAMINER: Non-school people?

24 THE WITNESS: That's right.

25 BY MS. MAYERCHECK:

1 Q How are you aware of these requests?

2 A I have had many requests from Band Booster
3 parents, requests from football boosters, I have had
4 requests from private individuals even to the point
5 where they want to know -- they don't understand the
6 logic behind that you have to have a PUC license in
7 order to haul adults on buses.

8 We cannot do it in a school setting.

9 Q Are these requests received in your school
10 office?

11 A Yes, I have had personal calls; I have had
12 personal requests.

13 Q Are any records kept of requests for this
14 service?

15 A Not to my knowledge.

16 Q Have you ever personally traveled on Smith's
17 buses?

18 A I'm not sure of the question.
19 Have I ever ridden on their buses?

20 Q Yes.

21 A No, I haven't.

22 Q How many chaperones does the school district
23 put on the buses?

24 A Depends on the situation, the number of
25 students going.

1 For example, when we send our kindergarten
 2 students for a field trip, or such, we have to have -
 3 we have to have what we feel one chaperone for every
 4 five or six students, and normally we have to take
 5 teachers, or teacher aides, or those who are employed
 6 within the school district.

7 Q So, for a group of kindergarten students,
 8 approximately how many chaperones would that be?

9 HEARING EXAMINER: I think he said four or
 10 five.

11 THE WITNESS: Normally, as I said, we try to
 12 have one for every five or six students that are
 13 attending.

14 BY MS. MAYERCHECK:

15 Q How many students are there?

16 A If there's 50 students attending, we try
 17 to take nine or ten chaperones.

18 Q Would they go on one bus?

19 A Normally they would.

20 Q So, normally you would have nine or ten
 21 chaperones on one bus for a kindergarten trip?

22 A That is what we try to do.

23 HEARING EXAMINER: Why is that relevant in
 24 this proceeding?

25 That's exempted transportation.

1 MS. MAYERCHECK: Only when the chaperones do
2 not number more than five.

3 HEARING EXAMINER: I say that kind of trans-
4 portation is exempted.

5 MS. MAYERCHECK: When the chaperones --

6 HEARING EXAMINER: This is a school function
7 with school people chaperoning.

8 I don't think that effects the jurisdiction
9 of the Commission at all.

10 MS. MAYERCHECK: The Pennsylvania Code requires
11 no more than five chaperones.

12 HEARING EXAMINER: That may be in the school
13 code but you are talking about kindergarten children
14 and you can argue the point, but you have asked the
15 question, you are cross examining, but we have long
16 views on the ability of the school district to deviate
17 in extenuating circumstances, assuring that kinder-
18 garten students are properly cared for.

19 We think that's paramount to the number of
20 chaperones.

21 That's not a question in this proceeding.
22 You have asked a question and can argue the point.

23 MS. MAYERCHECK: This is found in the Pennsylvania
24 Utility Law, Section 102.

25 HEARING EXAMINER: This matter is not a matter

1 between the parties in the school district.

2 This is a matter between the applicant and,
3 you can take issue with the school district if you
4 wish.

5 That's the proper place for that. We don't
6 think it is relevant in this proceeding as such.

7 It may be relevant as evidenced in some other
8 proceeding.

9 If you wish to file a complaint with the
10 Commission against the school district, that's your
11 privilege.

12 BY MS. MAYERCHECK:

13 Q Dr. Clawson, has Smith given you any prices
14 for his service if he were granted authority to do
15 so, for example, providing spectator buses?

16 A We have never had the opportunity to seek
17 a price because we were aware that he was not a
18 carrier and was not allowed to carry spectators.

19 MS. MAYERCHECK: That is all, Your Honor.

20 HEARING EXAMINER: Any redirect?

21 MR. ASCHINGER: No, sir.

22 HEARING EXAMINER: Thank you, sir.

23 MR. ASCHINGER: We have one other public wit-
24 ness that I know of, Your Honor, Mr. Boone.

25 RICHARD BOONE, called as a witness, having been

1 previously duly sworn, was examined and testified
2 as follows:

3 HEARING EXAMINER: Your first name?

4 THE WITNESS: Richard Boone.

5 DIRECT EXAMINATION

6 BY MR. ASCHINGER:

7 Q Mr. Boone, would you state your name and
8 address for the record?

9 A I gave my name.

10 I did not give my address.

11 192 North Avenue, Blairsville.

12 Q What is your occupation?

13 A Farmer.

14 Q How long have you lived in this area?

15 A Come into Blairsville right after the '36
16 flood.

17 You'll have to do the arithmetic.

18 Q What group or groups are you representing
19 at this proceeding?

20 A One group, the Blairsville Kiwanis Club.

21 Q Do you hold any office in that club?

22 A Past president, youth committee, trans-
23 portation.

24 Q Are you authorized to appear and testify
25 in support of this application?

1 A On behalf of the president I am.

2 Q How large is your membership?

3 A Paid-up current members, 32.

4 Q Does your group have a need for charter
5 buses for trips to various points in Pennsylvania?

6 A We have and we do.

7 Q Can you describe the general nature of these
8 trips, purpose, and where they're going, et cetera?

9 A We would like to be competitive with the
10 Indiana Club in the farm show trips.

11 We would like to -- we also are involved in
12 the Playhouse circuits.

13 Q Where's that?

14 A Greensburg, Delmont, Ligonier, and that is
15 our limits right now.

16 Q Do you have any preference as between school
17 bus-type vehicles and charter coaches?

18 A Not on the -- I wouldn't think on the
19 Playhouse groupings it would make a difference.

20 I do think that, possibly, the farm show
21 trip might make a difference. I would think that
22 it should.

23 Q In what respect?

24 A The facilities, both in spacing and lounges,
25 rest rooms, whatever.

1 Q Where would your preferences go?

2 A Right now we're still waiting for a bid
3 for last year.

4 I mean, we would go with a coach if possible.

5 Q Charter coach?

6 A If we could get a competitive bid.

7 Q Have you had experience with other carriers
8 in chartering trips to these other points?

9 A I tried to state earlier that I was
10 actively interested in last year's bid.

11 That's the January bid.

12 Q To whom did you submit the bid?

13 A I don't want to get caught in that one
14 again.

15 I'll say the local carrier.

16 Q What do you mean by, local carrier?

17 A Am I allowed to use the word; is that the
18 question? Can I use the word or can't I?

19 I don't mean to interrupt you, but can I use
20 the word?

21 HEARING EXAMINER: You can ask me.

22 THE WITNESS: We would like to have used
23 Lanich last year. We would use anybody competitive.

24 BY MR. ASCHINGER:

25 Q What carriers have you used in the past?

1 A We can't get -- well, we have traveled out
2 of town to board our bus; I'll say that.

3 We left the Indiana County area to get on a
4 bus, and I'm not going to say beyond that.

5 HEARING EXAMINER: The question is, what carrier
6 have you used in the past?

7 THE WITNESS: Coach carriers.

8 Don't hang me.

9 BY MR. ASCHINGER:

10 Q Mr. Boone, let me ask you this question.

11 Would you like a situation where you would
12 have available to you another carrier --

13 A I sure would.

14 Q -- to bid on the trips?

15 A On behalf of the club, I know we would.

16 Q If this application were approved would
17 you use the services of Smith Bus Lines?

18 A Yes.

19 Q Are you familiar with Smith Bus Lines?

20 A Yes, I am.

21 Q Are they capable transportation carriers?

22 A From what I have seen, yes.

23 That is personal, from what I have seen.

24 I'll correct that, too.

25 Q Am I correct in stating that your organization

1 is supporting this application?

2 A Yes, on behalf of the organization, Blairs-
3 ville Kiwanis Club, that's why I'm here.

4 MR. ASCHINGER: Thank you very much, Mr. Boone.

5 HEARING EXAMINER: You may cross examine.

6 CROSS EXAMINATION

7 BY MR. NURICK:

8 Q You say you are authorized on behalf of the
9 president of the Blairsville Kiwanis Club.

10 Who is the president?

11 A Mr. Red Adams.

12 His term is coming to an end very shortly and
13 it will be McDermott.

14 Q When will it be McDermott?

15 A The election was at the last meeting. It
16 was confirmed then, and he will take office, I'm going
17 to say, end of July.

18 Q Now, who told you to come to this hearing,
19 or who requested that you come?

20 A Man sitting right here, Mr. Smith --

21 Q Mr. Smith?

22 A -- asked me because he wanted to know what
23 our feelings were.

24 He asked us what our feelings were.

25 The man was trying to -- I'm sure trying to

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1 get this but he asked and I said, as part of the
2 club, why we were very receptive to this.

3 Q You are going beyond my question.

4 A All right.

5 Q Did Mr. Smith come to you or did you go
6 to Mr. Smith?

7 A That can go either way. That's a mutual
8 agreement meeting.

9 Q Do you know Mr. Smith?

10 A Yes.

11 Q How do you know Mr. Smith?

12 A How did I know him?

13 Q Yes.

14 A He purchases materials through our shop.

15 Q Who is, our shop; do you own a shop?

16 A I'm retired from the shop but it is still
17 purchased through my son.

18 Q Your son?

19 A Yes.

20 Q So, what kind of a shop is it?

21 A Boone Alignment, from my father to myself
22 and my son.

23 Q Mr. Smith has been a customer of yours
24 over the years, correct?

25 A Yes. Nothing wrong with that, I don't think,

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1 being a customer.

2 I'm asking you questions, is it wrong to be
3 a customer?

4 HEARING EXAMINER: Let him wait for your
5 question.

6 BY MR. NURICK:

7 Q And then when Mr. Smith discussed this
8 application with you did you talk to the president?

9 A This has been going on. We have had problems
10 for years, a number of years.

11 MR. NURICK: Your Honor, I submit that be
12 stricken.

13 HEARING EXAMINER: Answer and then if you
14 want to explain --

15 THE WITNESS: No.

16 MR. NURICK: I move the other answer be stricken
17 as not responsive.

18 HEARING EXAMINER: We will strike it.

19 BY MR. NURICK:

20 Q You did not go to Mr. Adams?

21 A You are trying to put two sentences in my
22 mouth at the same time.

23 One sentence, say it, and I will answer.

24 Q That's what I have been trying to do and
25 I think, if I am not doing it, I think the Judge or

1 Mr. Aschinger will let me know.

2 Did Mr. Adams ask you to come to this hearing?

3 A Yes.

4 Q Now, do you know if Mr. Adams -- if you
5 know -- was authorized to assign someone to support
6 this application?

7 A Yes.

8 Q Who authorized Mr. Adams?

9 A Board of Directors.

10 Q When was that?

11 A Sixty days ago.

12 Q And was that at a regular meeting of the
13 organization?

14 A Directors, if you want the word; directors
15 which control the club.

16 Q Now, when did you retire from your alignment
17 business?

18 A Three years ago.

19 Q Have you remained active on a part time
20 basis since you retired?

21 A At what, the business?

22 Q Yes.

23 A Yes, it is my son's business.

24 I mean --

25 Q I understand, but have you remained active

1 with your son on a part time basis?

2 A Being in the shop, you mean?

3 Q Yes.

4 A At his request, yes.

5 I mean, when he needs help, I'm gonna be there.

6 That's my son.

7 Q Now, what's the Indiana Club, you mentioned;

8 Indiana Club?

9 Is that the Indiana --

10 A Kiwanis.

11 Q Now, has the club, in fact, your club, the
12 Blairsville club, Kiwanis club, has that gone to the
13 farm show?

14 A Yes.

15 Q When did it go to the farm show?

16 A A few of us went this year.

17 Q How many?

18 A Station wagon load. That's all we could
19 have available --

20 Q All that were available?

21 A No, all that could go in one station wagon,
22 van-type station wagon.

23 Q So, was it a van or was it a station wagon?

24 A Van.

25 Q And how many people does a van hold?

1 A They can have a capacity, the large one,
2 I would say, would be 18.

3 Q Was it an 18-capacity van that you used
4 to go to the farm show?

5 A I would say, yes.

6 Q Were you on the trip?

7 A Yes, I was there.

8 Q And it was 18?

9 How many people were on the trip?

10 A They say 16.

11 Q Sixteen?

12 Did you make the arrangements for that trip?

13 A No, I did not make the arrangements.

14 Q Then you are not the person in your organi-
15 zation that makes arrangements for the trips?

16 A No, that's not correct.

17 You put that word in my mouth.

18 I did not go out and rent that van.

19 Q Did you call the van company?

20 A I got a couple bids, yes, but I didn't go
21 make the arrangement to rent, if that's what you're
22 saying.

23 Q Is one of your jobs for the --

24 HEARING EXAMINER: For clarification, did he
25 engage to make the transportation or whether the club

1 just rented the van --

2 MR. NURICK: Let me ask it this way.

3 BY MR. NURICK:

4 Q In general, are you the person who makes
5 the arrangements for transportation for the Blairsville
6 Kiwanis Club?

7 A Yes.

8 I stated that first.

9 Q Now, whose van was used for this trip?

10 A It was not a Smith bus.

11 It was not Stewart bus.

12 It was not Indiana bus.

13 It was not a bus van.

14 Q I understand that.

15 Whose van was used?

16 A What -- there's something -- you go up the
17 road and rent the van from the van man.

18 HEARING EXAMINER: Do you know where the rental
19 van was from?

20 THE WITNESS: I'll make a point to get the
21 answer for you.

22 I think I know.

23 Tonight is club night and I can get that.

24 HEARING EXAMINER: Was it a transportation
25 company, bus company, or, was it a firm that rents

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1 vehicles?

2 BY MR. NURICK:

3 Q Is it a rent-of-van?

4 A Right, but I can't give you that name.

5 If you need it, believe me, for these records,
6 I'll get it tonight at the meeting.

7 Q When did that trip to the farm show take
8 place?

9 A January, what -- this year was the 12th,
10 I believe.

11 Q January, '85?

12 A '85, correct.

13 Q Did the group go to the farm show in '84?

14 A No, not as a club.

15 There was a few members, but not as a club.

16 Q You are here testifying only for the club,
17 correct?

18 A Correct.

19 Q You are here for the Blairsville Kiwanis
20 Club?

21 A Correct.

22 Q And that is your purpose for being here
23 today?

24 A Yes.

25 Q Did they go in '83 as a club?

1 A Yes.

2 Q When they went in '83, by what vehicle did
3 they go?

4 A I can't answer that because I don't know.
5 I know they went as a club but I don't know
6 what they went in.

7 I did not go that year.

8 Q Did you arrange for that trip?

9 A Not the '83, no.

10 Q So you don't know how they went, correct?

11 A In '83, yes.

12 Q Now, the Playhouse circuit in Greensburg,
13 am I correct, that it is in Greensburg?

14 A Yes. At the college up there, St. --
15 HEARING EXAMINER: Seton Hill?

16 THE WITNESS: No, it is up at the college up
17 above Greensburg, and it is the Ligonier Playhouse
18 is one, but the one that's at the college --

19 BY MR. NURICK:

20 Q It's at Greensburg, Pennsylvania?

21 A Yes, Greensburg, Pennsylvania.

22 Q When was the last time the Blairsville
23 Kiwanis Club went as a group to that place?

24 A Went there -- this is '85; it would be '84.

25 Q 1984?

1 A Yes, last year.

2 Q Did it use a bus company to go?

3 A No.

4 Q How did it get there?

5 A By car only. That's the only way we
6 could get there.

7 Q You say that's the only way you could get
8 there?

9 A Yes.

10 Q Did you attempt to use the bus company?

11 A Yes.

12 Q You did?

13 A Yes.

14 Q And what bus company did you attempt to
15 use?

16 A The competitor, the other company, Lanich.
17 I have not got a phone call back yet.

18 Q Is that the phone call you were talking
19 about --

20 A No.

21 Q -- for the bid?

22 A I was talking about, when I asked the bid,
23 I was talking about the farm show for '85.

24 Q Now, who did you talk to? Who did you
25 call from Lanich when you went to get this information?

1 A I called the number that's in the book and
2 I don't know who I get. I don't write down names
3 like that; whoever answers the phone.

4 Q Was it a man or a woman?

5 A Man.

6 Q You're --

7 A You're talking about the -- '84 first?

8 Q In '84, was that a man or a woman?

9 A I can't pull that one.

10 The '85 is what I can pull.

11 Q When did you make the '85 call?

12 A It would be about the second of January,
13 third of January; twelfth was the farm show.

14 Q And you don't know who you talked to?

15 A No, a male answered the phone.

16 Q What did you ask?

17 A I asked for bidding for a trip to Harris-
18 burg, a way of getting a group to Harrisburg, and
19 since it was a male, I was to have a return phone call.

20 Q What did the man say to you?

21 A I was to get a return phone call. They
22 would get back to me, period.

23 Q Where was he to get back to you, at your
24 house?

25 A I'm not positive of this.

1 I think I left both numbers, my home and my
2 son's business.

3 Q You are not positive about that?

4 A No, but I can -- I normally leave two
5 numbers, sometimes three.

6 Q You are not sure that you did it this time?
7 Be precise.

8 A To be precise, one number or the other
9 number. That's habit with me.

10 Q I am asking if you left both numbers on
11 these occasions?

12 A That's my best recollection.

13 I normally leave two numbers, sometimes three.

14 Q How many people went on the trip to Greens-
15 burg in the club?

16 A That would be the 80 percent of the member-
17 ship and their wives, only because I didn't take a
18 roll call, but, I would say, 80 percent of them go
19 on our trips when we go out.

20 Q Well, it would be about 20 members and about
21 20 wives, you say?

22 A Yes.

23 Q And they use their cars for that?

24 A Right.

25 Q Now, Delmont --

1 A That's the Playhouse in Delmont.

2 I guess it's Apple Playhouse.

3 Q I don't know.

4 Delmont, I assume, is in --

5 A In Pennsylvania.

6 Q Okay.

7 When was the last time that the group went
8 to Delmont?

9 A Five years ago, that's way back, but I
10 would say five years.

11 Q Do you remember how many people went?

12 A Membership stays pretty much uniform and,
13 since you're getting the figures that I can't come
14 up, I'll go with the same figure I went last time.

15 Q Either you know or you don't know.

16 A It doesn't change that much.

17 Q But they don't all go on the trip?

18 A I said, 80 percent, so, if someone is absent,
19 someone usually fills their place, doesn't he?

20 Q That was five years ago?

21 A Right.

22 Q That was the last time you went to Delmont?

23 A Right.

24 Q Ligonier was the other place?

25 A Yes.

1 Q When was the last time the group went to
2 Ligonier?

3 A It would be the '84 season.

4 Q And how many people went on that trip?

5 A 85 percent; I don't know, do you want a
6 number?

7 Q I only want what's correct.

8 A There was more for Ligonier. Eighty-five
9 percent.

10 I'll give you 85 percent.

11 Q How did you go on that trip?

12 A Same way, by car.

13 Q Do you remember what month you went to the
14 Ligonier --

15 A I can't remember now.

16 Q Now, I take it that your group, the origin
17 point would be the Borough of Blairsville?

18 A Yes.

19 Q And that's where the people would like to
20 be picked up, is that correct?

21 A Yes.

22 Q And I further take it that the group would
23 be satisfied with the use of school bus-type equipment
24 in Blairsville?

25 A You said that; I didn't say that.

1 MR. ASCHINGER: That's not his testimony, Your
2 Honor.

3 BY MR. NURICK:

4 Q I remember now. I catch why I am stopping.

5 You said, if I recall from looking at my notes,
6 or refreshing my recollection from looking at my notes,
7 that a school bus would be okay for Greensburg, Delmont,
8 and Ligonier, but not the farm show; is that correct?

9 A That could be considered.

10 We might like to take a coach, but that
11 doesn't say we would be limited.

12 Q But you may want to take a coach to Delmont,
13 Ligonier, and Greensburg, also; is that correct, a
14 deluxe coach at times?

15 A At times it could be.

16 Q And you definitely want to take a coach,
17 a deluxe coach to the farm show in Harrisburg, correct?

18 A Right.

19 Q Now, would it be more convenient to deal
20 with the company that can supply you with both school
21 bus-type equipment and deluxe coaches as opposed to
22 a company that can only supply you with school bus-
23 type of equipment?

24 Would you like to deal with a company that
25 would supply either type of equipment; is that what

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1 you are testifying to here today?

2 A I think our club would really like to have
3 a bid that we could choose from regardless of whether
4 we have a school bus or deluxe coach.

5 It might be advantageous that we could, at
6 least, choose.

7 Q Part of that choice would be with regard
8 to deluxe equipment, also; correct?

9 A Yes, that would be, also.

10 Q Have you ever used the services of Smith
11 Bus Company for any transportation at all?

12 A No.

13 Q Are you familiar with the carrier in Blairs-
14 ville named Mountainville Trailways?

15 A Yes.

16 That isn't a Blairsville Company, isn't it?

17 Q I'm sorry, are you familiar with whether
18 that serves Blairsville from Latrobe?

19 A I can't say I haven't.

20 I never saw them in town picking up anybody.
21 They may be.

22 Hey, you may be correct. They may be there,
23 but I never saw them.

24 Q And you never called them to find out,
25 correct?

1 A No.

2 Q That's not correct or it is correct?

3 We have a double negative that's why I asked
4 you that.

5 A Have I called Trailways?

6 Q Yes.

7 A No, I have not.

8 Q Do you have anything with you that would
9 allow you to be more specific with the times you
10 called Lanich for buses?

11 A No.

12 MR. ASCHINGER: Your Honor, we have gone
13 around and around that question.

14 HEARING EXAMINER: We will proceed.

15 We will overrule the objection if it is an
16 objection.

17 THE WITNESS: When I make a phone call --

18 BY MR. NURICK:

19 Q Now --

20 A You asked the question of me.

21 I would call you up, I don't write down the
22 time, hour, or what I said to you.

23 It's a phone call to you.

24 I'm trying to be receptive to this man and to
25 you, but I don't record -- I'm not that type of a

1 businessman, if that's what you're trying to find out
2 of me.

3 Q How long ago did you become aware that you
4 were going to come and testify in this case?

5 A 5 -- 3 to 5 months, and I can't get any
6 closer than that.

7 Q That's fine, and you didn't submit a written
8 statement for this case, did you?

9 A No, I did not.

10 THE WITNESS: Sir, can I have a drink of water?

11 HEARING EXAMINER: Let us take a ten-minute
12 recess.

13 (Recess taken.)

14 HEARING EXAMINER: You may proceed.

15 BY MR. NURICK:

16 Q You indicated you didn't remember the name
17 of the company that supplied the van to you; is that
18 what you said?

19 A Right.

20 A company that's renting vans, that can be
21 almost any car dealer.

22 Q Are you certain, sitting there, that it
23 wasn't Smith, the applicant?

24 A Yes, I'm positive of that.

25 I think I stated that, or something to that

1 effect.

2 HEARING EXAMINER: Proceed.

3 MR. NURICK: I have no further questions.

4 BY MS. MAYERCHECK:

5 Q Mr. Boone, have you ever heard of Butler
6 Motor Transit Inc. or Mr. Kaylor?

7 A I have heard of Butler Motor Transit.

8 Q Are you aware that they would be able to
9 provide service to your club?

10 A I am learning a lot today.

11 HEARING EXAMINER: Just answer the question,
12 first.

13 THE WITNESS: No, I did not know that Butler
14 could come clear into Blairsville.

15 BY MS. MAYERCHECK:

16 Q Would you be willing to use their service?

17 A It seems awful far, but I would say we would
18 consider.

19 Q I mean if they could come close to where
20 you wanted to be picked up?

21 A I won't turn anyone down; our club wouldn't.

22 Q Have you ever investigated what bus companies
23 could provide service to your club?

24 A I think the local people are the most likely
25 people that can provide you a service, when you ask,

1 Harrisburg Motor Coach Company, supposedly, to come
2 to Blairsville, that's impractical.

3 Q We're talking about companies that could
4 pick you up closer to where you would like?

5 A No, I know I can rent from Greyhound.
6 Greyhound would do it, but I can't afford them.

7 Q Has Smith ever quoted any price to you?

8 A No.

9 Q Have you ever ridden on any of Smith's
10 buses?

11 A You mean Smith's bus or a school bus?
12 Now I'm asking you.

13 Q Smith Company's buses?

14 Have you ever ridden on any of their buses?

15 A No, we have had them in our shop to work
16 on them, if that answers your question.

17 Q Is that how you have any knowledge of Smith's
18 bus?

19 A Yes, we have done maintenance in our shop.
20 You have -- you want a record of what main-
21 tenance we have?

22 Q That's not necessary.

23 A Okay.

24 MS. MAYERCHECK: I have no further questions.

25 HEARING EXAMINER: Any further cross examination

1 of this witness?

2 MR. NURICK: No, Your Honor.

3 MR. ASCHINGER: I have no questions.

4 HEARING EXAMINER: Let me ask you, has Butler
5 Motor Transit ever contacted you or your club?

6 THE WITNESS: No, no.

7 MR. ASCHINGER: I have one question.

8 Mr. Boone, if this application were approved,
9 would you be more likely to take charter trips?

10 MR. NURICK: Objection, beyond the scope of
11 direct.

12 HEARING EXAMINER: We will sustain the objection.
13 If nothing further, thank you.

14 THE WITNESS: I could have waited that long if
15 I had known it would be that quick.

16 MR. ASCHINGER: Dr. Baldassare.

17 DR. LOUIS BALDASSARE, called as a witness,
18 having been duly sworn, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. ASCHINGER:

22 Q Do you want to state your name for the
23 record and your business address?

24 A Louis Baldassare, Homer Center School
25 District, Homer City, PA.

1 Q And what position do you have at the Homer
2 Center School District?

3 A Superintendent.

4 Q Doctor, do what extent, if any, does the
5 school, or the school district, have need for charter
6 service?

7 HEARING EXAMINER: You might ask him whether
8 he has any needs, first.

9 BY MR. ASCHINGER:

10 Q Do you have any need for charter service,
11 that is, service by carriers certificated by the Public
12 Utility Commission?

13 A Yes, we do.

14 Q Could you explain the situation?

15 A Well, two needs, two specific needs.

16 We run many, many trips outside of the school
17 day. Various clubs and organizations take these trips,
18 some are school sponsored trips, some are organizational
19 sponsored trips, and organizations affiliated with the
20 school district, such as Booster Clubs, and they need
21 the charter service.

22 MR. NURICK: I object. He is either here
23 talking about the school district or not.

24 He is talking about affiliated groups.

25 I don't think he's authorized to talk about

1 affiliated groups or any other groups other than the
2 school district.

3 MR. ASCHINGER: He's talking of the trans-
4 portation needs --

5 HEARING EXAMINER: These are scheduled, jurisdic-
6 tional transportation requirements affiliated with
7 the school district.

8 Whether it is, per se, school transportation,
9 or not, the witness has indicated it is affiliated
10 with the school district.

11 We're not going to conform to such niceties
12 as to whether they are school transportation trips
13 per se.

14 They're connected with the school administration,
15 school district, as the witness has indicated.

16 We will overrule the objection.

17 THE WITNESS: Can I clarify that?

18 BY MR. ASCHINGER:

19 Q Yes.

20 A All the trips I'm talking about either
21 concern our students or our parent organizations.

22 I'm not talking about any other trips outside
23 of that. I'm talking about our students and parent
24 organizations.

25 HEARING EXAMINER: You talked about trips then

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1 that involve your school students and adults as well
2 who, otherwise, would not be permitted to ride in school
3 bus transportation?

4 THE WITNESS: Correct.

5 BY MR. ASCHINGER:

6 Q Do you want to continue, Doctor?

7 Have you finished with that?

8 A Yes, I have finished.

9 Q Have you used any certificated carriers
10 for this kind of service?

11 A Yes.

12 Q What carriers have you used?

13 A Lanich.

14 Q Has the service been satisfactory?

15 A To the best of my knowledge, yes. It's been
16 satisfactory.

17 The problem we have is it is the only one we
18 can use. We can't get any other prices.

19 We have at times called Butler but that has
20 proven --you know, that's to the extreme as far as
21 travel distance goes, so the main concern about ours
22 is the competition.

23 Q In other words, you would want to put the
24 selection of the carrier on a competitive basis?

25 MR. NURICK: Objection; leading question.

1 HEARING EXAMINER: Yes, in that form we will
2 sustain the objection.

3 MR. ASCHINGER: Was the objection sustained,
4 Your Honor?

5 HEARING EXAMINER: We will sustain the objection
6 in the form the question was asked.

7 You may rephrase your question if you wish.
8 BY MR. ASCHINGER:

9 Q Doctor, is this application were approved,
10 would you use the service?

11 A You mean Smith?

12 Q Smith, yes.

13 A Absolutely.

14 MR. ASCHINGER: I have no further questions.

15 THE WITNESS: I might just expound then on that.
16 This is unsolicited, but I'll just explain why.

17 Number one, they have proven to us that they're
18 very good. They go out of their way to help us.

19 Number two, the students are familiar with the
20 drivers, the drivers with our kids.

21 A lot of times we would like to pick up kids
22 in areas outside of the school, they're familiar with
23 our area.

24 The third reason is the competitiveness.

25 MR. NURICK: The what?

1 THE WITNESS: Competitiveness is lacking.
2 We can't --

3 HEARING EXAMINER: Doctor, when you are
4 speaking of transportation, are you speaking of school
5 bus type transportation, or city bus type of trans-
6 portation?

7 THE WITNESS: Both.

8 There are times when we would like to take
9 a coach, but we have no alternative.

10 BY MR. ASCHINGER:

11 Q At this time as I understand it, you are
12 restricted to one carrier?

13 A For the most part, yes.

14 MR. ASCHINGER: I have no further questions,
15 Your Honor.

16 HEARING EXAMINER: You may cross examine.

17 CROSS EXAMINATION

18 BY MR. NURICK:

19 Q You say, Mr. Baldassare, that you are re-
20 stricted to one carrier for the most part.

21 What's the other part?

22 A We could, obviously -- we have contacted
23 Butler, but they're, you know, like I say, an extreme
24 distance away and their prices haven't been competitive
25 either.

1 Q Have you been authorized by the school
2 district to come and testify at this hearing today?

3 A Yes.

4 Q You have been and who gives you that kind
5 of authorization, sir?

6 A I run the school district.

7 Q Are you also --

8 A I'm empowered to run the school district.

9 I'm a commissioned officer of the school dis-
10 trict by the board.

11 Q Are you also the person that contacts the
12 transportation services?

13 A At times.

14 Q Have you ever used Smith to transport any
15 of, what you call, parent organizations?

16 A I would, to the best of my recollection.
17 We haven't directly.

18 The parents -- I can't. There were times, I
19 think, that the school district may have paid for
20 those. I'm not quite sure.

21 Parent organizations, see, I don't know what
22 you mean.

23 Actual parent or booster organizations that,
24 like, say a Band Booster group. We can send out a
25 parent organization that is transporting our students,

1 yes.

2 Q Who pays for that transportation? The school
3 district directly or the Band Boosters?

4 A Normally, the school district has been paying
5 the bill.

6 Q But has the Band boosters paid for some of
7 them?

8 A I'm going to be vague on that. I may be
9 vague on that.

10 HEARING EXAMINER: Let me get one thing clear.

11 Is that where the boosters club, Band Booster
12 Club, transported the band itself, or other boosters?

13 THE WITNESS: Any time the band is transported--
14 let me give you a better example.

15 To the best of my recollection, no. We don't
16 transport any parents.

17 Band, yes. That would always be ours.

18 Sometimes the band may take a trip to Kennywood,
19 or something like that. Like our choral groups just
20 took a trip to Kennywood. I can't remember who they
21 used.

22 I think they maybe used Lanich. I'm not sure.
23 I can't recall the different organizations, but at any
24 time we send students, and then we would pay for it,
25 but if the organization, it's up to them to go for

1 public transportation.

2 Q Are you aware of any time that the organi-
3 zation has used Smith for a trip within Pennsylvania
4 as opposed to the school district?

5 A The organization?

6 Q I am using your terms, sir.

7 A Aware of it, no.

8 Could it have happened, it could have.

9 Q You are not aware of it?

10 A No.

11 Q How about outside of Pennsylvania?

12 A Outside of Pennsylvania; I can't think of
13 the last time we went outside of Pennsylvania.

14 Q Now, other than organizations, are you aware
15 of any time that the organizations that you mentioned,
16 such as the Band Boosters, or something like that, are
17 you aware of any time that Smith Bus Lines was utilized
18 by a group where the school district didn't pay?

19 MR. ASCHINGER: He just answered that.

20 MR. NURICK: I'm going beyond that.

21 BY MR. NURICK:

22 Q I mean, going, in general?

23 A I'm not aware of it.

24 As I said, could it have happened?

25 It could have happened. I'm not aware of it.

1 Q Has Smith Bus Line given you a quote for
2 the price it would charge you if it received authority
3 by the Pennsylvania Public Utility Commission?

4 A I assume it would be basically what we pay
5 for field trips.

6 Q But you don't know that for a fact, do you?

7 A No.

8 Q The answer to my question is, it has not
9 given you quotes; is that correct?

10 A We have -- we've talked about it in general
11 terms, and the prices that we are charged for field
12 trips, if that were translated into a public trans-
13 portation, would be considerably lower.

14 Does that answer your question?

15 He has never said, if I had this I would
16 charge you this.

17 Q That's what I'm asking you.

18 A I said, in general terms, we have always
19 jostled about the formula that we use for our field
20 trips which would translate into an outside organi-
21 zation, or anything like that.

22 Q Right, but you are not saying that. You
23 are basing it on the price he charges as a school
24 bus company?

25 A As a school bus company but these are all

1 trips that are not contracted.

2 These are all extra trips with our students.

3 Q Who makes those trips for you? Who handles
4 that?

5 A We do, the school.

6 These are trips like the kids going down to
7 Kennywood.

8 Not Kennywood, that's not a good example.
9 The Shriner's Circus.

10 Q That's a school sponsored activity?

11 A Right.

12 Q You are using that price to answer my
13 question, is that correct?

14 A Yes, and the reason I'm doing that is be-
15 cause that's the figures we have banded around, you
16 know, the same types of figures would be applied to
17 extra outside trips.

18 Q Is that based on a school bus?

19 A That's based on a school bus, correct.

20 Q But you haven't seen -- strike that -- the
21 applicant, Smith Bus, hasn't given you a figure of
22 what he would charge if he got authority by the
23 Pennsylvania Public Utility Commission; that's my
24 question.

25 A No, not exactly.

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Q When you use Lanich Bus Lines, you use their deluxe coaches sometimes, isn't that correct?

A I don't know.

I personally have never made arrangements with Lanich Bus Lines.

It is always an outside organization that does that.

Q I thought you said the school district has used Lanich?

A Well, that is for these affiliated groups I'm talking about.

We have called them.

See, we're so closely intermingled, like a PTA Group, for example, I'll give you the primary example.

We send sixth grade classes to McKeever. That's about a two and a half hour trip.

The PTA Group, it is using our kids, it is our educational idea.

They're paying for it, so that the principal there talks about the most feasible way of sending these kids, send them through the school, but sometimes the parents want to use a -- not sometimes, most of the time -- they want to use a coach.

They want to send the kids first-class.

1 We have no alternative but for that.

2 It's kind of hard to separate the two.

3 When I say, we, like I say, there are the
4 students.

5 If we would send them we would have to send
6 them on a school bus because we don't have it in our
7 budget that we can pay the prices of deluxe coach.

8 Q No matter who would have the authority,
9 isn't that correct?

10 A I don't know what you mean.

11 Q You don't have it in your budget even if
12 Smith would have a deluxe coach, isn't that correct?

13 A We never put it in our budget, because we
14 don't have the alternative.

15 The school district, per se, cannot -- has not
16 rented a coach for any type of special transportation.
17 It's just always rented school buses.

18 We don't have any alternative at this time.
19 We can't ask our carrier, you know, give us a deluxe
20 coach.

21 MR. NURICK: I beg your indulgence for a second,
22 Your Honor.

23 HEARING EXAMINER: Certainly.

24 MR. NURICK: Mr. Aschinger and I would like to
25 talk to you a second.

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HEARING EXAMINER: Very well.

(Discussion off the record.)

MR. NURICK: We find ourselves in a bind here because this particular witness is one that submitted an exhibit, or has testimony as part -- strike that. This witness is included within the exhibit A-2, to which we object.

HEARING EXAMINER: Tell me what page that's on.

MR. NURICK: On page 73, Your Honor.

We're caught at this moment because, while we wanted to accommodate the applicant, let him put the public witnesses on, we're stuck with what we should get into, what's on Page 73, 74, and 75, of the exhibit.

Now, the idea was, and I was supposed to have an opportunity to review this exhibit, and the full memorandum that was submitted by Mr. Aschinger, over the lunch period, I believe, and I have not had a chance to review all this, but I can state preliminarily that, number one, I don't consider this to be a valid survey.

Number two, it gives an underlying basis for the survey which may or may not be true. It is part of the letter that went out to the people itself.

HEARING EXAMINER: We will permit you to question this witness concerning the questionnaire

1 on the pages, concerning the responses on pages 73,
2 74, and 75, of Exhibit Applicant 2, with the permission
3 to move to strike that testimony in the event that we
4 disallow, reject that exhibit into evidence in this
5 proceeding.

6 We're not going to have this witness wait, the
7 superintendent of schools that has, obviously, been
8 waiting. We are not going to delay this matter.

9 We'll accommodate this witness as much as we
10 can.

11 BY MR. NURICK:

12 Q Mr. Baldassare, do you remember submitting
13 some answers to questions in connection with this case?

14 A (Inaudible response.)

15 Q Do you remember when you submitted --

16 HEARING EXAMINER: Just a moment.

17 What is your answer?

18 THE WITNESS: Yes.

19 BY MR. NURICK:

20 Q And you did this in September of 1964?

21 A I can't recall when we did it. We do so
22 many. We fill out so many forms, I can't recall
23 actually when.

24 Q Now, you indicate here that you are rep-
25 resenting the Homer City Center School District, isn't

1 that correct?

2 A Yes.

3 Q And would that still be correct?

4 A Yes.

5 Q With regards to the answers you have here,
6 you say you go to various points in Pennsylvania and
7 other states for educational field trips and school
8 band trips, and I thought I asked you about inter-
9 state trips.

10 Do you, in fact, have trips that go out of
11 state?

12 A Well, the band has never taken a trip out
13 of state while I have been there.

14 They had taken a trip before I was there.

15 They have a group going to Washington, D.C.
16 next week.

17 They won a contest on a national competition.

18 Things like that, and then we have -- yeah,
19 okay.

20 I have -- I do stand corrected.

21 I think two or three years ago the senior class
22 went to Washington, D.C. on a field trip for their
23 senior trip.

24 Q What bus company are they using for the
25 interstate trips, the recent ones?

1 A The one to Washington, D.C., I don't know.

2 Q The more recent ones?

3 A The one to Washington, D.C., the one where
4 the senior class took a field trip, I don't know. I
5 can't say; I can't recall.

6 The one coming up in June, we were just going
7 to rent a van. It only involves five or six students.

8 Q So, a van could accommodate some of these
9 trips, is that correct?

10 A Yeah; oh, yes. A van could accommodate some
11 of them.

12 Q And a number of these trips you have, like
13 you say, five, six, maybe seven students; is that
14 correct?

15 A (Inaudible response.)

16 Q You have to say, yes, or, no, because it has
17 to be down on paper.

18 Your answer was, yes?

19 A Correct.

20 On the other hand, like the senior trip, that
21 took 130 students.

22 We were sending our band to Florida -- well,
23 we aren't; boosters are.

24 I should rephrase that.

25 The boosters are taking the band to Florida next

1 fall. That will involve more.

2 Q Whose vans are going to be used for that?

3 A Van?

4 There'll be some type of public transportation.

5 Q When the van was used, what company supplied
6 the van?

7 A We have rented them from a car dealer.

8 Q And is that true for intra-state trips
9 from time to time, also?

10 A Yes.

11 Q Do you have with you a list of the points
12 where these different trips went to this year?

13 A Which trips are you talking about?

14 We have so many trips, I don't know. We have
15 the ones that the school actually sponsors, and then we
16 have those that are sponsored by -- I mean, say it
17 again, school affiliated groups, but they're sending
18 our kids, so I don't have a list any way.

19 I can mention some of them.

20 Q The transportation of athletic teams, isn't
21 that performed under the school bus contract?

22 A Yes.

23 Q The transportation of the school band, is
24 that performed under the school bus contract?

25 A Right.

1 Q And the educational field trips for your
2 students, isn't that performed under the school bus
3 contract?

4 A Yes.

5 Q Except to the extent I should preface that,
6 you want to use a van or something like that?

7 HEARING EXAMINER: Let the witness respond.

8 MR. HUNICK: I'm sorry.

9 THE WITNESS: There's a very fine line in there.

10 Like I say, we send our students on an environ-
11 mental education trip for three days. It's a school
12 trip but the parent will pay for it.

13 HEARING EXAMINER: In other words, sometimes
14 the parents initiate the desire for a certain activity
15 or certain trip?

16 THE WITNESS: Right.

17 HEARING EXAMINER: And they're willing to pay
18 for it if the school board authorizes the student to
19 go?

20 A Right.

21 I will give you an example.

22 We sent -- my memory is terrible on these
23 things.

24 We had a Mt. Union -- we played a football
25 game away and there was talk about -- it was a two-hour

1 trip.

2 They wanted a coach to send the football team
3 since it was such a far distance, and that had to be
4 paid outside of school funds.

5 BY MR. NURICK:

6 Q What coach was used?

7 A To the best of my recollection, it was
8 Lanich.

9 Q Some of these educational field trips would
10 be groups of about nine people, would that be true?

11 Some of them would be less than ten?

12 A Right, a lot of times we use private cars
13 if you're not going a great distance.

14 I mean, we go to the Power Plant, the nursery,
15 hospitals. We use private cars.

16 Q And that fulfills that purpose for maybe
17 small numbers, is that correct?

18 A Yes, that's the only time we use those.

19 Q Now, how long a term is your contract with
20 Smith Bus Lines going to run?

21 A I think this is the first year of the three
22 year contract.

23 Time goes so fast, but I think it's the first
24 year of a three year contract.

25 We just completed the first year.

1 I should say we also have had them in the past
2 for -- past four years.

3 Q Is it put out for bid at the end of every
4 term?

5 A No. We don't put it out for bid.

6 Q In other words, you select whoever you want
7 whatever the price is?

8 A No, it's a service.
9 We don't have to bid a service.

10 HEARING EXAMINER: It could be done either way?

11 THE WITNESS: We really had no reason to put
12 it out for bid because our service we felt was very
13 satisfactory with Smith Bus Lines.

14 I mean, we felt the -- we checked and the prices
15 were very, very competitive.

16 BY MR. NURICK:

17 Q For the school bus contract?

18 A Yes.

19 MR. NURICK: I have no other questions.

20 MS. MAYERCHECK: I have no questions.

21 HEARING EXAMINER: No questions?

22 MS. MAYERCHECK: No questions.

23 HEARING EXAMINER: Any redirect?

24 MR. ASCHINGER: No, Your Honor.

25 HEARING EXAMINER: Thank you, Doctor.

1 I think this would be a good time for a recess.

2 Let's go off the record.

3 (Discussion off the record.)

4 (Luncheon recess taken at 12:40 p.m.)

5 (Hearing reconvened at 1:45 p.m.)

6 HEARING EXAMINER: Are we ready to proceed?

7 MR. NURICK: The applicant, I suppose, is on

8 the stand.

9 MR. ASCHINGER: Mr. Nurick, do you know how

10 long you will be with the applicant?

11 I mean, what I am thinking of, we will be

12 having public witnesses coming in.

13 MR. NURICK: I would guess we'll be a while

14 with the applicant.

15 HEARING EXAMINER: Off the record.

16 (Discussion off the record.)

17 RANDALL L. SMITH, being recalled as a witness,

18 having been previously duly sworn, was re-examined and

19 testified as follows:

20 CROSS EXAMINATION

21 BY MR. NURICK:

22 Q Mr. Smith, in connection with this question-

23 naire --

24 HEARING EXAMINER: Refer to it as an exhibit.

25 BY MR. NURICK:

1 Q As Exhibit A-2.

2 Do you have any experience in conducting surveys;
3 are you trained in that way in anyway?

4 A No, I'm not.

5 MR. ASCHINGER: If Your Honor please, I'll have
6 to object to the term, survey.

7 I don't know exactly what Mr.Nurick has in
8 mind. It is apparent here that this is purely a
9 questionnaire that was distributed.

10 HEARING EXAMINER: Well, the question by itself,
11 he asked the question and he's answered it, and we
12 can go from there.

13 BY MR. NURICK:

14 Q And you are not familiar with conducting
15 questionnaires of this type, is that correct?

16 A That's correct.

17 Q Now, you might have said, and I didn't get
18 it, you sent 65 questionnaires; is that correct?

19 A Correct.

20 Q And there are 32 responses in there?

21 A Right.

22 Q And did you have any contemplated way through
23 any aid of how this type of questionnaire should be
24 conducted?

25 A You mean as far as drafting the letter or

1 the survey?

2 Q The survey, yes.

3 A I had some help with Mr. Aschinger with that.

4 Q But, as far as conducting it and what
5 techniques in how to do it, you haven't had any assist-
6 ance in that?

7 A Correct.

8 Q That's correct or not correct?

9 A I haven't had any assistance; correct.

10 MR. NURICK: Now, Your Honor, do you want to
11 get to this survey at this point or should I conduct
12 my cross examination further?

13 MR. ASCHINGER: May we have a ruling, is that
14 your point?

15 MR. NURICK: I'm asking what his Honor's pleasure
16 is on that.

17 HEARING EXAMINER: If you are finished with
18 your cross examination as to the Exhibit 2, we'll rule
19 on it.

20 MR. NURICK: What I'm wondering is, do you
21 want us to hit that at this point?

22 HEARING EXAMINER: I suggest you do that be-
23 cause some of the public witnesses here may be in-
24 cluded in the Exhibit 2 here and, why don't you con-
25 clude your cross examination as it relates to Exhibit

1 2 and we can rule on any motions you have, or objections²⁰
2 you have.

3 MR. ASCHINGER: As I understand, you are
4 through with your questions on Exhibit 2; am I correct?

5 MR. NURICK: I am at this point; right.

6 MR. ASCHINGER: Yes, I was wondering under
7 the circumstances whether we could have a ruling?

8 MS. MAYERCHECK: I have a question.

9 HEARING EXAMINER: She has some objections.

10 Do you have any questions on Exhibit 2?

11 MS. MAYERCHECK: Yes, I do.

12 HEARING EXAMINER: Very well.

13 BY MS. MAYERCHECK:

14 Q The persons who responded to this question-
15 naire, are they the same as the public witnesses who
16 are going to testify on your behalf at this hearing?

17 A Some have responded with the survey and
18 some haven't.

19 Q Do you know how many are not going to
20 testify?

21 A The percentage, no, I don't. It is on that
22 sheet there.

23 MR. ASCHINGER: I furnished Mr. Nurick with
24 the list of the public witnesses that would appear
25 here today.

1 Could he make that available to you?

2 MS. MAYERCHECK: If we went down this list and
3 you can tell me which witnesses will appear and which
4 won't, that will be satisfactory.

5 MR. ASCHINGER: Okay.

6 Did you do that, Mr. Smith?

7 BY MS. MAYERCHECK:

8 Q Do you have the questionnaire in front of
9 you?

10 A Okay.

11 The number eleven there, the American Legion
12 Post, Mr. Nicewater (phonetic) will not represent
13 them today but they will be represented here.

14 Is that the kind of information you wanted
15 here?

16 Q Yes, I wanted to know which of these wit-
17 nesses are not going to testify.

18 A Going to testify?

19 Oh, Okay.

20 Well, there's 32 and there's only going to be
21 11 to testify.

22 Q Not today, but who you intend to call over
23 the course of these hearings?

24 A I'm confused.

25 MR. ASCHINGER: I'm not sure I understand you.

1 These are the witnesses that are available today.

2 MS.MAYERCHECK: And you are not going to ask
3 for any further days of hearings to present further
4 witnesses?

5 MR. ASCHINGER: Correct.

6 Hopefully, we would like to close the appli-
7 cant's case today.

8 MS. MAYERCHECK: If I understand you, whatever
9 witnesses you are presenting today are the only ones
10 you're going to present in support of the application?

11 MR. ASCHINGER: That's right.

12 MS. MAYERCHECK: No one further?

13 MR. ASCHINGER: Unless the complexion of this
14 case changes.

15 MS. MAYERCHECK: Fine.

16 BY MS. MAYERCHECK:

17 Q Now that we understand each other, which
18 of these witnesses will not be appearing today?

19 A Do you want me to go down?

20 Q Just tell me by number which ones will not
21 be appearing today?

22 A One, two, --

23 HEARING EXAMINER: Wait a minute. Which ones
24 will not be?

25 MS. MAYERCHECK: Will not be.

1 THE WITNESS: I was going through the first
2 time to tell her which ones will be --

3 HEARING EXAMINER: It will be easier to tell
4 the ones that will.

5 BY MS. MAYERCHECK:

6 Q The Judge prefers the ones that will be, so
7 we'll go with that.

8 A Do you want me to go through this survey --

9 Q And tell me who is going to testify today.

10 A Elderton American Legion, No. 11.
11 No. 12 there, Plum Creek Church of the Brethren.
12 No. 16 there, Louis R. Izzi (phonetic); he's
13 underneath the Indiana Area County Vo-Tech School.

14 No. 19, Christ Lutheran Church. Mr. Bartoski
15 won't be here, but the minister will be here for the two
16 churches, Lutheran churches, representing them.

17 No. 21, Mr. Ruppert will not be here but there
18 will be a representative for the Elderton Firemen.

19 No. 23, Mr. Oliver will be here with reference
20 to the Blairsville Elementary, and also the PTA group.

21 Mr. Boyland.

22 No. 24, Mr. Lumel (phonetic) won't be here but
23 there will be a representative here for the Elderton
24 Lyons Club.

25 Mr. Baldassare already testified, No. 25 there.

1 No. 32 there, Reverend Taylor representing
2 Mt. Union and Christ Lutheran Church.

3 That was with reference to that number 19 up
4 there, too.

5 Q Thank you.

6 I may have missed your testimony earlier but
7 how did you choose where you would send the question-
8 naires?

9 A Being in the business for as many years as
10 we have been in the community, to groups and Boy Scout
11 groups who asked for services over the years, it's
12 primarily how we compiled that list.

13 MS. MAYERCHELCK: I have no further questions.

14 MR. NURICK: Your Honor, I would move that
15 Exhibit A-2 not be admitted into evidence and, in the
16 first place, it is based on some assumptions which may
17 or may not be true depending on what happens with
18 this case.

19 For example, the letter, and may I have the
20 date of that letter, Mr. Smith?

21 THE WITNESS: I don't have an exact date.

22 We were working on this in early October,
23 November, of '34.

24 BY MR. NURICK:

25 Q And that's after you already filed the

1 application, correct?

2 A Right, at the -- right in the same time
3 period.

4 Q You filed the application around August
5 27 of '84, isn't that correct?

6 A Correct.

7 MR. NURICK: In the forwarding letter, Your
8 Honor, it talks about utilization of currently existing
9 fleet of vehicles as well as over-the-road coaches
10 ultimately expected to be purchased upon approval of
11 this application.

12 Number one, there's no explanation of over-the-
13 road coaches. I don't know what the witness -- not
14 the witness, but the people responding to this are
15 thinking what over-the-road coaches were, when they
16 would be purchased.

17 It says, upon approval of the application.

18 I'm not sure whether they know what over-the-
19 road coaches means.

20 It says, we intend to give the residents a
21 choice when seeking bus transportation in providing
22 a wide range of vehicles each carrying different
23 rates.

24 There's not any proof about different rates
25 at this point in time and that's an assumption that

1 may or may not be true, and it also may or may not be
2 true whether there would be such a choice as stated
3 in here. So, we think the underlying basis of the
4 letter itself creates a flaw in the exhibit.

5 Number two, I'm looking at page 6 of a memo-
6 randum of opinion which Mr. Aschinger gave me this
7 morning and it is your memorandum of opinion, Your
8 Honor, in the application of Gladys B. Joines as
9 A-92018 dated March 29, 1979.

10 On page 6 it says, consideration must be given
11 to the persons who conducted the survey.

12 Well, we're not even talking about a survey
13 here.

14 We're talking about some questionnaires sent
15 to a limited number of persons.

16 It's not a representative group. It wasn't
17 picked at random.

18 It has no meaning and now we're told, or at
19 least I'm told, it's not a survey at this point which
20 bears out the fact that it was a questionnaire sent
21 to a limited number of specific persons, not a random
22 sample.

23 Then, consideration must be given to the
24 persons who conducted the surveys.

25 We know that was Mr. Smith, a relation to the

1 applicant. Well, he is the applicant.

2 I think that has some definite bearing on this.

3 The qualification of the interviewers, there
4 was no qualification which I just clarified on cross
5 examination.

6 The methodology of the survey, there is no
7 methodology.

8 It was sent, apparently, to people who made
9 a call at one time or another.

10 Scientific analysis of results, if applicable,
11 I think there has to be some scientific way, or meaning,
12 if you will, a way to analyze this.

13 That's not present on the record.

14 HEARING EXAMINER: The scientific analysis
15 would not be done by this applicant.

16 It will be done by the commission, by us in
17 the first instance.

18 MR. NURICK: It is submitted as an attempt to
19 analyze what the market would show.

20 HEARING EXAMINER: It is not submitted for the
21 market.

22 It is submitted in response to letters that
23 were sent out.

24 The effect of those responses and the analyzation
25 and the determination of what they mean will be

1 so determined by us, in the first instance, and by the
2 commission in the ultimate.

3 MR. NURICK: I believe in the Joines case,
4 there was an independent contractor used.

5 Again, I mention it is a limited class of
6 people.

7 There's no way you can cross examine the people
8 that submitted these unless they are going to be those
9 that are going to be here.

10 HEARING EXAMINER: There was no personal inter-
11 view as I understand it.

12 The only contact with these people was by
13 letter and those are the responses returned.

14 MR. NURICK: And there is no way to test the
15 validity of the responses and we don't even know,
16 Your Honor, whether the persons signing them are, in-
17 deed, the persons who submitted the responses.

18 The signatures are not ascertainable and cannot
19 be validated.

20 HEARING EXAMINER: We thoroughly discussed
21 that in Amendment 928, Folder 2, and indicated that
22 the available of cross examination will not necessarily
23 be the full test.

24 As we understand it, a number, at least 11
25 of these 32 people who signed this are going to be

1 present and testify orally here, and if they don't
2 give you a reasonable test of validity of the responses,
3 I don't know what else would.

4 MR. NURICK: Further, Your Honor, you can't
5 tell the relevancy of a lot of this material. You
6 can't tell the materiality.

7 HEARING EXAMINER: That's a matter of argument
8 Relevancy of it and the effect of it and the
9 significance of it is a matter of argument to us and
10 to the commission.

11 MR. NURICK: And finally, we submit, Your
12 Honor, it is unduly repetitious and cumulative, and
13 again, purely hearsay, and we would move that it not
14 be admitted into evidence.

15 HEARING EXAMINER: We think we have covered
16 all those points in our Memorandum of Opinion at A92010
17 in the Joines case and I think we went to great lengths
18 to show the distinctions and the various ramifications
19 of the admissibility of this kind of testimony.

20 MS. MAYERCHECK: Your Honor, we would like to
21 join in the motion because the survey is not unbiased.

22 HEARING EXAMINER: Survey -- what?

23 MS. MAYERCHECK: Is not unbiased.

24 It was not conducted by an impartial third
25 party, and Mr. Aschinger's memo, he cites General

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1 Motors Corporation versus Clark Marine, and in this
2 case the court stated that the value of the survey
3 depends upon the manner in which it was conducted
4 whether the techniques used were slanted or fair.

5 HEARING EXAMINER: The bias has nothing to do
6 with the -- it is not an attempt here to show what
7 proportion of the population is in favor, or what
8 proportion isn't.

9 The intention, as I get it, is to determine
10 whether there is a need, a request, and a need for
11 the public accommodations of such service that the
12 applicant proposes to serve.

13 Whether the letters were sent out by the appli-
14 cant, his counsel, or by a firm that's employed, we
15 don't think that has any material effect.

16 If it was an attempt here to show because these
17 32 people responded in a certain way that that would
18 indicate that 32 persons, or 50 persons, or whatever
19 percentage of the population in this area is in favor
20 of that, that would be a different matter.

21 But, we don't understand the purpose of the
22 submission to be -- naturally, the applicant sent
23 these letters to people who he thought would be
24 interested in it and who he thought might be in need
25 of such service, and I don't see anything wrong with

1 that.

2 We will overrule the objection.

3 Is there a motion to admit any of these ex-
4 hibits?

5 MR. ASCHINGER: I move for the admission of
6 Applicant's Exhibit No. 2.

7 MR. NURICK: Can we wait until the end of the
8 cross examination of the witnesses before we move the
9 admission of any of these?

10 The Applicant's cross examination hasn't been
11 completed yet.

12 MR. ASCHINGER: You put the motion before --

13 MR. NURICK: You are saying just for Exhibit
14 A-2?

15 MR. ASCHINGER: A-2.

16 MR. NURICK: Obviously, we will --

17 HEARING EXAMINER: We will overrule the ob-
18 jections and admit Applicant's Exhibit 2 into evidence
19 with the understanding that a number of these people
20 who appear who are listed in the exhibit will appear
21 personally and testify.

22 With that understanding, we will admit it.

23 MR. ASCHINGER: We feel that we will have a
24 fairly representative group.

25 HEARING EXAMINER: Would that be with that

1 understanding?

2 MR. ASCHINGER: Yes.

3 HEARING EXAMINER: Very well.

4 Now, it may be advisable, since we got that
5 exhibit out of the way, that we give these public wit-
6 nesses a chance to testify out of turn and let them
7 go to their respective duties --

8 MR. ASCHINGER: I have no objection.

9 HEARING EXAMINER: -- rather than hurry you
10 with this witness.

11 Very well, we'll excuse the witness and give
12 you an opportunity to call some of your other public
13 witnesses.

14 Do you have a superintendent of schools or
15 somebody here to testify?

16 MR. ASCHINGER: Yes.

17 We have some building principals.

18 Mr. Fouse represents the Elderton Elementary
19 School.

20 GERALD A. FOUSE, called as a witness, having
21 been duly sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. ASCHINGER:

24 Q Mr. Fouse, do you want to state your name
25 and address for the record, please?

1 A Yes.

2 My name is Gerald A. Fouse.

3 My address is 103 Edgewood Drive, Sarver,
4 Pennsylvania; Zip is 16055.

5 Q By whom are you employed?

6 A By the Armstrong School District as an
7 elementary school principal.

8 Q Are you representing that school, the
9 elementary school, and the school district?

10 MR. NURICK: That was two questions.

11 Was it the district or the --

12 THE WITNESS: The school.

13 MR. NURICK: I didn't get the name of the school.

14 THE WITNESS: Elderton Elementary School.

15 BY MR. ASCHINGER:

16 Q I take it you understand that school trans-
17 portation and extra curricular activities connected
18 with the school are exempt from regulations by the
19 Commission?

20 A Yes.

21 Q However, to what extent does the elementary
22 school depend upon certificated carriers, or to what
23 extent did you have a problem under this exemption?

24 A My only concern at this point is with
25 increasing concern toward the welfare of our children.

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Our school board is mandating that we follow Section 1343 of the Vehicle Code which says we may not have more than five chaperones present on any of our field trips.

This is a concern to us particularly with the cases that we're all aware of in this area.

We would like to provide more chaperones on our field trips and that is my only concern in this matter.

Q How have you resolved the problems, if any?

A This year we have had parents follow the bus. It is very difficult to do in the City of Pittsburgh where our primary concern is.

Most of our trips are to the Pittsburgh area. It is difficult to keep cars and buses together, and it is difficult to find parents during the day who can drive.

Most husbands are employed during the day.

Q Would this problem be resolved by having available a certificated carrier to handle the -- well, I mean, either the students or the chaperones?

MR. NURICK: Objection. It is a leading question.

HEARING EXAMINER: Well, it --

MR. NURICK: And it is a conclusion.

HEARING EXAMINER: In the form it is stated,

1 we will sustain the objection.

2 You may rephrase your question.

3 BY MR. ASCHINGER:

4 Q You have any idea how this problem could be
5 resolved?

6 A I have been told by the person in charge
7 of transportation for our district that if we had a
8 licensed carrier the section, and I quote, would not
9 apply and would indeed resolve the problem for us.

10 Q In other words, you could use a licensed
11 carrier in this situation?

12 A Yes.

13 Q Have you used any licensed carriers for
14 this purpose?

15 A No, I have not.

16 Q Have you inquired as to the use of any
17 licensed carrier for this purpose?

18 A Not recently, sir.

19 Q If this application were approved, would
20 you be able to use Smith Bus Company?

21 A Yes.

22 Q Are you familiar with Smith Bus Company?

23 A Yes, they're one of our two carriers for
24 our school.

25 Q Has their service been satisfactory?

1 A Yes, they have been.

2 Q And how long have you been under contract
3 with the school bus company?

4 A I would have been there 11 years this
5 August.

6 Q And for that period of time you have had
7 Smith Bus Company?

8 A Yes, as one of the two carriers.

9 MR. ASCHINGER: No further questions.

10 CROSS EXAMINATION

11 BY MR. NURICK:

12 Q Who is the other carrier?

13 A Shriver Bus Company.

14 Q And where you authorized by anyone in your
15 capacity to authorize you to come here and testify
16 in behalf of the Elderton Elementary School?

17 A Yes, I submitted a 1255 which is a voucher
18 to the school district as to my whereabouts this after-
19 noon and it has been approved.

20 Q Does the voucher say you are to be out of
21 school for this amount of time, or states --

22 A States where I'm at and what I'm doing,
23 sir.

24 Q The purpose of the voucher, is that to
25 allow you to be away from school for a certain amount

1 of time?

2 A It is for both purposes, for me to be away
3 from school and also for the purpose which I am away
4 from school.

5 Q Who is that voucher submitted to?

6 A The assistant superintendent's office,
7 Ernest O. Buncher, the assistant superintendent.

8 Q Does Mr. Buncher, do you know for a fact
9 whether he has authority to authorize you to appear
10 in behalf of the Elderton Elementary School?

11 A My guess is he does.

12 Q Not a guess. I want to know if you know
13 or not.

14 A It is district policy that he does that;
15 let me phrase it that way.

16 HEARING EXAMINER: What position do you hold
17 with the Elderton School System?

18 THE WITNESS: Elementary principal.

19 BY MR. NURICK:

20 Q Are you the person that arranges for trans-
21 portation when transportation is to be arranged for?

22 A Yes.

23 Q Now, when you had trips pursuant to the
24 contract the school district with Smith, and you have
25 had more than five chaperones, has Smith made any of

1 those trips for you?

2 A Yes.

3 Q And up to how many chaperones has Smith
4 taken on one bus for you?

5 A I would say no more than eight not including
6 the teachers.

7 We're not counting teachers. I'm counting
8 adults other than teachers.

9 Q How many teachers would be involved in this
10 over and above the eight?

11 A Usually no more than two.

12 Q So, would it be fair to say that an average
13 trip would include ten adults including eight chaperones
14 and two teachers, to use that terminology?

15 A It would be fair to assume that up until
16 this school year; yes, sir.

17 Q Up until this school year?

18 A Yes.

19 Q And how many years were you operating that
20 way?

21 A Well, I stated I have been there 11 years,
22 so we have been operating that way although the number
23 of trips have increased over the years.

24 We haven't always taken as many trips as we
25 do now.

1 Q When you had eight teachers, chaperones, and
2 two teachers, would they make at least ten trips up
3 until this year?

4 A Yes.

5 Q What changed that that you're not doing it
6 this year?

7 A The school board has insisted that we follow
8 the Code.

9 It was brought to their attention that that
10 section of the Code existed and they mandated that we
11 add here to this policy this year and we have. We
12 have not had more than the required number of chaperones
13 on a bus.

14 Q And in those cases, have parents followed
15 the bus in a car?

16 A Yes.

17 Q In each case?

18 A There were -- not in each case; in most
19 cases.

20 There were a couple cases where the nature
21 of the trip was such where the students simply left
22 the bus, went in one place, came back out and got
23 back on the bus, where we felt the five were sufficient,
24 but the majority, we sent the extra car.

25 It depended on the nature of the trip.

1 Q This year, I assume you are talking calendar, 11
2 January 1, 1985?

3 A No, sir; school year.

4 Q What is the beginning of this year when you
5 stopped that policy?

6 A It would have been August, '84 through the
7 present time.

8 Q Now, the parents, if this application is
9 approved, will be utilizing another school bus of the
10 applicant to go with the group; is that correct?

11 A Unless the seating capacity will allow us.
12 Again, it varies by grade, to haul them all in the same
13 bus.

14 Q But it would be a school bus, in any event;
15 correct?

16 A Yes.

17 Q Is your school, Mr. Fouse, located directly
18 in the Borough of Elderton?

19 A Yes, it is.

20 Q Within the corporate limits?

21 A The school itself is, yes.

22 Q Did you submit a response to a questionnaire --

23 A No, I did not.

24 MR. NURICK: I have no further questions; thank
25 you.

1 MS. MAREYCHECK: I have just one question.

2 BY MS. MAREYCHECK:

3 Q Has Mr. Smith ever discussed with you the
4 Code regulations concerning chaperones?

5 A No, I brought the matter to his attention
6 after the board had addressed their concern to us.

7 MS. MAREYCHECK: Thank you.

8 MR. ASCHINGER: I have a question.

9 REDIRECT EXAMINATION

10 BY MR. ASCHINGER:

11 Q Mr. Fouse, you testified concerning the use
12 of Smith Bus facilities for certain transportation,
13 I think the transportation of chaperones.

14 Were they Smith buses or were they the buses
15 of Ester L. Smith?

16 Do you know?

17 A You mean for the field trips themselves?

18 Q No, for this transportation in connection
19 with the chaperones?

20 A The chaperones were in cars, sir.

21 They were not on buses.

22 HEARING EXAMINER: No, the cases where --

23 THE WITNESS: Oh, you mean previously other
24 years when chaperones can ride on the bus, I would
25 estimate it was Ester L. Smith; yes.

1 BY MR. ASCHINER:

2 Q Was any compensation paid for that?

3 A You mean the cost of the trip?

4 Q Yes.

5 A Yes.

6 Q To Ester L. Smith?

7 A Yes.

8 MR. ASCHINGER: That's all I have.

9 RE-CROSS EXAMINATION

10 BY MR. NURICK:

11 Q Mr. Fouse, based on that, who is Ester L.
12 Smith?

13 A To the best of my knowledge it is Randy
14 Smith's mother.

15 Q Randy Smith's mother?

16 A Yes.

17 Q Does she have a school contract with your
18 school district?

19 A Yes, she does.

20 Q She does, and is Randy Smith, to your
21 knowledge, involved in setting up any arrangements
22 with his mother's operations, also?

23 Does he help her in that regard?

24 A Yes.

25 Q So, he's really involved in both operations

1 as himself and he's applying here in his own name as
2 Randall L. Smith trading and doing business as Smith
3 Company, and also helps his mother in her operation;
4 is that correct?

5 A Yes.

6 Q In fact, is he one of the persons who helps
7 operate his mother's business?

8 Is that correct?

9 A Yes, one of several.

10 Q And there were times when Ester L. Smith
11 didn't take the chaperones of eight or more; that
12 Randall Smith, the applicant here, took them, correct?

13 A Not as long as I've been there; no, sir.

14 As long as I have been there we have taken
15 chaperones in excess of five up until this -- up until
16 this school year.

17 Q I understand that, but that wasn't my
18 question.

19 The times that Ester Smith didn't do it, then
20 Randall L. Smith took the chaperones; isn't that
21 correct?

22 A You're confusing me.

23 The chaperones never went by themselves.
24 They were always with the students.

25 Q I'm not making myself clear and I apologize.

1 You were asked by Mr. Aschinger if on occasions
2 another bus company took the students plus the eight
3 chaperones on the bus, and you indicated, yes, Ester
4 L. Smith; is that correct?

5 A Yes.

6 Q And then on other occasions over those ten
7 or eleven years, Randall L. Smith, the applicant in
8 this case, also did the same thing; isn't that correct?

9 MR. ASCHINGER: He didn't say that.

10 MR. NURICK: I am asking him.

11 THE WITNESS: I have no knowledge of that. I
12 don't know which buses belong to which person.

13 BY MR. NURICK:

14 Q You don't know which bus belongs to what
15 person?

16 A No.

17 Q You can't tell me it was Ester L. Smith,
18 right?

19 A No, they carried the initials and the name
20 of the bus company.

21 Q They did say Smith Bus Company, is that
22 correct?

23 A If you are asking me if I can truthfully
24 say, over a period of 11 years, that they all carried
25 that, I cannot.

1 Q Some did?

2 A Yes, sir.

3 Q And are you telling me as the person in
4 charge of arranging transportation, you don't know
5 whether the bus is that of Randall L. Smith or that
6 of Ester L. Smith?

7 A No, I don't.

8 There is also a supervisor of transportation
9 who handles the regular school runs.

10 Q Well, who handles the special school runs?

11 A The building principal handles that.

12 Q But yet you don't know --

13 A The bill has come from Ester L. Smith.

14 Q Oh, the bill?

15 A Yes.

16 Q So then you have never used Randall L.
17 Smith on one of these special runs, is that correct?

18 A Not that I'm aware of.

19 Q But you knew you could have, if you wanted
20 to?

21 HEARING EXAMINER: That's not a fair question.

22 MR. ASCHINGER: We are going to run in circles
23 on this.

24 HEARING EXAMINER: Revise the question.

25 BY MR. NURICK:

1 Q The times you used Ester L. Smith, it was
2 pursuant to the school contract, right?

3 A The school contract is separate from the
4 activity that the principals set up.

5 The school contract does not include the other
6 activities. They only carry the regular school runs
7 plus the kindergarten runs, also.

8 HEARING EXAMINER: What he means, if I can
9 abbreviate this thing, what you mean is that there is
10 a contract made with the bus company to provide the
11 usual school children's transportation, and then there
12 is also an understanding that any other transportation
13 performed, any other school bus transportation per-
14 formed, not including transportation of children to
15 and from school, are separately treated?

16 THE WITNESS: That's correct.

17 BY MR. NURICK:

18 Q So that's not done, then, pursuant to the
19 school contract; is that correct?

20 A Well, there is a fee schedule that is
21 approved as part of all the contractors scheduled for
22 activities.

23 MR. ASCHINGER: Your Honor, he --

24 HEARING EXAMINER: Let me see if I am right.

25 I think what happens in these cases is the

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1 contract provides so much per day for a bus for the
2 regular school purposes and if something additional
3 comes along it is still a school bus but it is not
4 hauling children to or from school.

5 It is still school purposes but not hauling
6 children to or from school.

7 MR. ASCHINGER: I think that is correct.

8 I think you mentioned that before but Mr.
9 Nurick won't let that rest.

10 I think the Judge made it clear. This is the
11 third or fourth time we have been around it.

12 BY MR. NURICK:

13 Q For the trips that aren't part of the
14 regular school run, who pays for that?

15 A In most cases, parent groups pay for that.

16 Q So the school district doesn't pay for that?

17 A Not now. They did previously but not now.

18 Q When was previously, up until this year?

19 A No, it's been longer than that. I couldn't
20 give you an exact date.

21 There was a time when the school district
22 allotted so much per pupil for field trip expenses.

23 That's not been board policy for quite a few
24 years.

25 HEARING EXAMINER: How is that payment made?

1 Is that payment made to reimburse the school
2 district or made to pay the bus company?

3 THE WITNESS: That's paid to the bus company.

4 BY MR. NURICK:

5 Q When the school district doesn't pay, who
6 does pay?

7 A I stated, the parent group does, sir.

8 Q The parent group.

9 A Yes, sir.

10 Q To get it straight, Ester L. Smith, we know,
11 has a contract with the school district.

12 Randall L. Smith, the applicant, has a contract
13 with the school district?

14 A Yes, as far as I know.

15 Again, I am not the one who negotiates those
16 contracts.

17 You have to understand there is a supervisor
18 of transportation who handles the regular school
19 district contracts.

20 Q You have answered my question.

21 You are not the person that gets involved in
22 that?

23 A The regular school bus contracts, no, sir,
24 I'm not.

25 Q You get involved in other runs where the

1 parent groups pay, is that correct?

2 A Or in the past when the district paid for
3 them, the district was also free to schedule those
4 trips.

5 Q When did the district stop paying for them;
6 that's what I'm trying to determine.

7 A It would only be a guess.
8 I would guess six to seven years ago.

9 Q So then, for the parent group trips, that was
10 handled in other than a school bus exemption basis,

11 A The trips have to be approved by the school
12 board even though they're not, in essence, paying for
13 them.

14 Every trip is approved and sanctioned by our
15 school board or they don't go.

16 Q But those weren't rendered pursuant to the
17 school bus contract?

18 A That's true.

19 Q And you are not sure whether it was Ester
20 L. Smith or Randall L. Smith that rendered those?

21 A The special trips, to the best of my
22 recollection, the bills have always come from Ester
23 L. Smith.

24 Q And you are saying that's without exception,
25 or you are not sure?

1 MR. ASCHINGER: Your Honor, this is grossly
2 repetitious.

3 HEARING EXAMINER: We will overrule the ob-
4 jection.

5 THE WITNESS: To the best of my knowledge it
6 has been every time.

7 MR. NURICK: I have no further questions.
8 Thank you.

9 MS. MAYERCHECK: I have one more.

10 BY MS. MAYERCHECK:

11 Q Has these parent groups ever used any other
12 licensed carrier for any of these other special trips?

13 A Licensed PUC carrier, no.

14 Q You are involved in arranging the special
15 trips?

16 A Yes.

17 Q Have you ever considered using any licensed
18 carriers which, in any case, you could use as many
19 chaperones that you would need?

20 A My understanding, the parent groups looked
21 into that this year.

22 They did not mention any names to me. However,
23 they didn't pursue it and I can't tell you why.

24 I have no idea why.

25 They preferred for me to make the normal

1 arrangements and for me to work out, as best we could,
2 the extra chaperones.

3 Q Who did you deal with when you were arranging
4 these parent sponsored trips?

5 A Randy.

6 Q Randall Smith?

7 A Yes.

8 Q You have to forgive me if I misunderstood
9 your formal testimony, but you testified that you have
10 gone to Randy Smith to make arrangements for these
11 special trips?

12 A Yes.

13 Q Has Randy Smith conducted these trips?

14 Has Randy Smith used his buses for these trips?

15 A His own buses, again, as I testified, I
16 don't necessarily know which, at this point, are his
17 and which are his mother's.

18 Q What you are telling us, you have always
19 gone to Randy Smith?

20 A Yes.

21 Q And, beyond that, you cannot say for certain
22 which buses were used?

23 A No, I cannot.

24 MS.MAYERCHECK: That is all I have.

25 MR. ASCHINGER: I have no questions.

1 HEARING EXAMINER: Thank you, sir.

2 JOHN C. BOYLAND, called as a witness, having
3 been duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. ASCHINGER:

6 Q Would you state your name and address for
7 the record, please?

8 A My name is John C. Boyland, B-O-Y-L-A-N-D;
9 address is 167 Oak Street, Indiana.

10 Q And by whom are you employed?

11 A By the Elairsville/Saltsburg School District.

12 Q And what is your position?

13 A Elementary principal, in the Elairsville
14 end of the district, which comprises the Third Ward
15 in the Borough Elementary School.

16 Q And what groups are you representing in
17 this proceeding?

18 A In this proceeding I would be representing
19 an organization we call BEST, which is an acronym for
20 many things, depends on which trip we take.

21 It could be a skating trip.

22 We went to the zoo. It is an organization of
23 teachers and parents who are trying to provide extra
24 activities for the children.

25 Q You might call it a parent/teacher's

1 association?

2 A I think yes.

3 It is an outgrowth of that.

4 Q Were you testifying for any group, for the
5 elementary school?

6 A Yes, all of this is on behalf of the ele-
7 mentary school.

8 Q With respect to the parent/teacher's
9 association, how many members are in that association?

10 A I would say our membership is probably in
11 excess of 150 in each building.

12 Our regular attendance probably averages 30 to
13 40 at each meeting which is monthly.

14 Q Does that group have a need for charter
15 trips to points in Pennsylvania?

16 A At times, yes.

17 Q To what points and places have you taken
18 these trips?

19 A The Third Ward Elementary School has taken
20 trips to Pittsburgh, to the Buhl Science Center, to
21 the Zoo, to the Carnegie Museum, the Pittsburgh Theater,
22 Junior Theater, Playhouse, Fort Ligonier; those types
23 of field trips.

24 A And between school bus-type trips and
25 charter coaches, is there any preference?

1 A We would prefer school bus.

2 Q A school bus.

3 What school buses? I mean, what companies
4 have you used for the purpose of those trips?

5 A Exclusively the Smith Bus Lines.

6 Q Now, with respect to the Blairsville
7 Elementary Schools, to what extent, if any, do you
8 need licensed carriers for that kind of transportation?

9 A When we take our trips, here, today, I was
10 unaware of the chaperone law, so that obviously is
11 going to create a problem for us to take these trips.

12 If that's not the answer, please rephrase it.

13 Q Would you have any use for licensed carriers
14 in respect to your activities?

15 A Yes.

16 Q In the elementary schools?

17 A Yes.

18 Q Can you explain in what respect?

19 A Currently, whenever we take a trip, I make
20 the arrangements and then the district is billed, and
21 then I have to go back to the group to get a payment
22 and then reimburse the district.

23 That involves, I feel, unnecessary paperwork.

24 If Smith were to receive their license, the
25 PTA's could deal directly through them and save us that

1 extra work.

2 Q With respect to these trips for the PTA,
3 how would -- how were these trips paid for?

4 A The PTA has paid for them through fund-
5 raising activities.

6 MR. NURICK: I missed that.

7 THE WITNESS: The PTA's have fund-raisers
8 throughout the school year and then they pay for the
9 bus transportation.

10 BY MR. ASCHINGER:

11 Q Is that through the school district or the
12 PTA?

13 A It's approved by the school district.

14 Q Both the PTA and the Blairsville Elementary
15 School, would you use the applicant's service if this
16 application were approved?

17 A Yes.

18 Q Are you familiar with the services?

19 A Yes.

20 Q Does he provide school transportation to you
21 now?

22 A They provide our regular transportation
23 through a separate contract with the district plus all
24 trips that we have taken have been with them.

25 Q For how many years have they been under

1 contract?

2 A This is my second year. I'll be finishing
3 my second year so I can only speak to those two.

4 I feel -- I don't know how many years it has
5 been prior to that.

6 MR. ASCHINGER: Thank you, Mr. Boyland.

7 CROSS EXAMINATION

8 BY MR. NURICK:

9 Q Mr. Boyland, you say you are here testifying,
10 number one, on behalf of what's called BEST?

11 A Yes.

12 Q Can you give us what those initials mean?

13 A Each trip we take it represents something
14 different.

15 The Blairsville Elementary skating trip, or --
16 Blairsville Elementary super trip.

17 It depends where we are going.

18 Q You just call the whole thing, BEST?

19 HEARING EXAMINER: What does BEST stand for?

20 THE WITNESS: The BEST is an acronym which,
21 I guess, narrowing it down to one thing, it would be
22 Blairsville Elementary Super Trip.

23 We change the S to whatever it might mean.

24 We call it Blairsville Elementary because we
25 always involve both schools.

1 Q Didn't you go skating on Saturday and Sunday 128
2 nights?

3 A No.

4 Q You didn't?

5 A No.

6 Q With regard to BLST, are you authorized by
7 anyone to come here and represent that group?

8 A No.

9 Q So you are here, really, as far as BEST
10 goes, talking as an individual as opposed to being
11 a representative of the group?

12 A I'm here speaking for the Blairsville
13 Elementary School and BEST is the soul that blossoms
14 out of the elementary school.

15 Q Are you also authorized to testify for
16 the Blairsville Elementary School?

17 A Our superintendent, Dr. Gerald Clawson.

18 Q BEST is a separate organization, you
19 testified, and my question is with regard to that,
20 have you been authorized by the BEST group to testify
21 on behalf of them?

22 A No.

23 Q So, again, as far as BEST goes, you are
24 testifying as an individual as opposed to a represent-
25 ative of the group?

1 A That would be true, yes.

2 Q Now, the schools again that you are testifying
3 on behalf of, is it schools or a school?

4 A Two schools, Third Ward in the Borough of
5 Blairsville and the Burrel Elementary School in Burrel
6 Township.

7 Q Are you principal of both of them?

8 A Yes.

9 Q Now, do I understand that Randall L. Smith,
10 the applicant in this case, in other words, Smith
11 Bus Company, operates your scheduled school route
12 taking kids to and from school?

13 A Yes.

14 Q All other activities that aren't on the
15 scheduled run are done on the basis other than the
16 school contract, is that correct?

17 A That is correct.

18 Q And you are using Randall L. Smith, Smith
19 Bus Company, for that, too; is that correct?

20 A I do, yes.

21 Q Is that both --

22 A The Blairsville/Saltsburg School District
23 composes the area of Saltsburg and Blairsville.

24 Now, the Stewart Bus Lines do a lot of the
25 busing in Saltsburg and I have no knowledge of that at

1 all.

2 Q That is all I am asking you to speak for.

3 You say ones in Burrel and ones in Blairsville
4 your schools --

5 A That's correct.

6 Q What I am asking you for are the trips that
7 you are responsible for, or you would be on with BEST,
8 that are not under the school bus contract arrangement,
9 you still use Smith?

10 A That's correct.

11 Q And on those trips, do I understand that
12 the parents pay for the trips other than the scheduled
13 school bus runs?

14 A That is correct.

15 Q How many parents would go on those trips
16 in one bus, let's say?

17 A In our field trips?

18 Q Yes.

19 A On a field trip we usually take, in addition
20 to two teachers, we would take three to four adults.

21 It depends if our special ed children are
22 going, we like to take additional.

23 Q Do you sometimes take more than five adults
24 on those trips?

25 A Yes.

1 Q What's the highest number of adults you
2 have taken on the field trips?

3 A Including teachers, probably seven or eight.

4 Q That would be what, two teachers and six
5 parents?

6 A Yes.

7 Q Now, going back to BEST, it gets confusing
8 if I state it incorrectly, and you let me know.

9 How many parents go on the BEST trips?

10 A Many parents.

11 Q How many?

12 A The BEST trip is a family oriented trip,
13 so we tell the children they have to be accompanied
14 by an adult.

15 Q For every child there's at least one adult?

16 A No, that's not true.

17 Q Tell me what it is.

18 A I would say probably average two to three
19 children per adult, one adult to every two or three
20 children.

21 Q I am not sure what size bus; can you give
22 me approximately the number of adults that go on the
23 average BEST trip?

24 A If we were to take one bus we might take
25 30, 40 children, and possibly 20, 24 adults; 18 adults.

1 Q Now, you talk about payment, and you said
2 that the BEST organization pays for the trips that we're
3 talking about now; is that correct?

4 A That's correct.

5 Q How does that work, do the parents -- is it
6 strictly from this fund-raising that BEST gets this
7 money?

8 A No, BEST operates that we make the trip
9 available to the student to take home to their parents,
10 say where we're going, and say we would like to have
11 this amount of money.

12 Q And who pays for the trip, though, the
13 parents individually?

14 A The parents individually, yes.

15 Q Just for clarification, where does that
16 money go?

17 Does that go to the district and then the
18 district pays?

19 A Yes.

20 MR.ASCHINGER: I think that should be clear.

21 I think we have gone over it a couple of times,
22 Mr. Nurick.

23 MR. NURICK: It is not clear to me, Mr.
24 Aschinger.

25 HEARING EXAMINER: I think you are deliberately

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1 confusing the record. Let us proceed.

2 THE WITNESS: When the money comes in, the
3 parent sends the money in envelopes, that money is
4 deposited into the Burrel School elementary account
5 because we need a place to hold it, so it is placed
6 in that account with approval of the school district
7 whenever that -- whenever the trip is done, the district
8 is billed and then I get a note from Dr. Clawson showing
9 me where our place was on the bill and asked to re-
10 imburse the district.

11 BY MR. NURICK:

12 Q So, in reality, though, it is really the
13 parents paying for the trip, isn't that correct?

14 A Correct.

15 MR. ASCHINGER: Your Honor, I object.

16 He testified exactly as to how these payments
17 occurred.

18 Now --

19 MR. NURICK: He said I am correct.

20 What's the argument?

21 HEARING EXAMINER: We understand it.

22 I think the question and answer is valid.

23 I don't see anything wrong with it.

24 BY MR. NURICK:

25 Q And for all the BEST trips, and other than

1 scheduled route bus trips, you have been using Randall
2 L. Smith as Smith Bus Company for those trips, correct?

3 A That is correct.

4 Q And that's taken place for the full two
5 years that you have been there?

6 A That is correct.

7 Q Now, we talked about the BEST payment.

8 Let's take the field trip payments.

9 Who pays for the field trip payments?

10 I'm getting back to the elementary school
11 field trips.

12 A Our local PTA, Parent Teachers Association.

13 Q And it comes from their funds as opposed
14 to school district funds, correct?

15 A That is correct.

16 They reimburse the school district.

17 Q As in the last case, in reality it is the
18 PTA paying, isn't that correct?

19 A Correct.

20 MR. ASCHINGLER: He didn't say that.

21 THE WITNESS: The bill goes to the school
22 district.

23 The school district pays Smith, and I get a
24 bill to reimburse.

25 MR. ASCHINGER: The school district pays Smith?

1 BY MR. NURICK:

2 Q In reality, isn't it the PTA --

3 HEARING EXAMINER: That is a point of argument.

4 That is not for this witness to determine.

5 You get the correct facts and reach your own
6 conclusions.

7 BY MR. NURICK:

8 Q How many BEST trips are there a year?

9 A It varies, but we try to do five.

10 Q And are they within Pennsylvania?

11 A Yes.

12 MR. NURICK: I have no further questions.

13 Thank you very much.

14 BY MS. MAYERCHECK:

15 Q Mr. Boyland, how did you find out about
16 today's hearing?

17 A How did I find out?

18 Mr. Free informed me and asked me if I would
19 come up.

20 Q Mr. --

21 A Charlie Free.

22 Q Who is he?

23 A He's an employee of Mr. Smith.

24 Q How many trips does the PTA take per year,
25 generally?

1 A Well, there's two separate PTA's, the one
2 school is -- has a better fund-raiser, so this year we
3 took four trips -- five trips.

4 The other school took none.

5 Q Is the BEST group free to plan any trip it
6 wants to take?

7 A The BEST committee meets in September of
8 each year and plans the year's activities so parents
9 can save for whatever trip they want.

10 Q But it is strictly up to the group where it
11 goes?

12 A Yes.

13 To the BEST group?

14 Q Right.

15 A Right.

16 There is input from parents and teachers, and
17 I always sit in on that meeting.

18 Q But you do not need anyone's approval to
19 take the trips?

20 A When the trips -- it's all done in cooperation
21 with our superintendent. He is aware of all things
22 that go on in our schools.

23 MS. MAYERCHECK: I have no further questions.

24 Thank you.

25 HEARING EXAMINER: Thank you.

1 MR. ASCHINGER: Reverend Taylor, please.

2 REVEREND VAUGH TAYLOR, called as a witness,
3 having been duly sworn, was examined and testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. ASCHINGER:

7 Q Reverend Taylor, will you state your name
8 and address for the record, please?

9 A My name is Vaughn Taylor. I'm pastor of
10 the Elderton Lutheran Parish comprised of two churches,
11 Christ Lutheran and Mt. Union.

12 Q How long have you lived in this area, Reverend
13 Taylor?

14 A Fourteen years.

15 Q What groups are you representing in support
16 of this application?

17 A The two churches of the Elderton parish,
18 Christ Lutheran and Mt. Union.

19 Q Are you authorized to be here to testify in
20 support of this application?

21 A Yes, sir.

22 Q What is your membership?

23 A The two churches in the parish, active
24 membership, about 325 members. confirmed membership,
25 about 450.

1 Q Does your group have a need for charter buses
2 for trips to various points in Pennsylvania?

3 A Yes.

4 Q And to what point, and for what purposes,
5 have these trips been taken?

6 A Mostly social, to Idlewild Park, Kennywood
7 Park, the Flower Show.

8 Q Where, primarily?

9 A Well, primarily the Pittsburgh area; the
10 Flower Show, ball games, occasionally to one of our
11 institutions, also, in the Pittsburgh area.

12 Q Do you have any preference as between school
13 bus-type vehicles and charter coaches?

14 A Well, of course we prefer the school buses
15 because of the cost involved, and safety.

16 Q Would you also have use for charter coaches?

17 A A long distance, not too often.

18 Mostly, to the Pittsburgh area, within 50
19 miles, or so.

20 Q What carriers have you used for the purposes
21 of these trips?

22 A The Smith Bus Company.

23 Q On all occasions?

24 A All occasions.

25 Q Do you know what buses were involved in

1 these trips?

2 Were they Smith Bus Company's, or --

3 MR. NURICK: I object. He already answered
4 the question.

5 MR. ASCHINGER: This is just for clarification.

6 MR. NURICK: I think it is clear. He said
7 Smith Bus Company.

8 THE WITNESS: You mean who did I understand is
9 the owner?

10 MR. NURICK: I am afraid there's going to be --

11 HEARING EXAMINER: Just a minute.

12 I want the question first, then you can make
13 your objection.

14 State your question first and we'll look at his
15 objection.

16 BY MR. ASCHINGER:

17 Q Do you know what buses were used in these
18 particular trips?

19 A It was my assumption that the buses were
20 owned by Ester Smith.

21 Q Was any compensation paid?

22 A On most occasions, the ones I'm thinking
23 about right now, the buses were donated for use and
24 then, perhaps, a collection would be made to pay the
25 bus driver something.

1 Q Would your group use the Smith Bus Company
2 if this application were approved for charter trips
3 throughout the state?

4 HEARING EXAMINER: So there is no misunder-
5 standing, tell him which Smith Bus Company you are
6 talking about.

7 MR. ASCHINGER: Smith Bus Company, the appli-
8 cant in this proceeding, Your Honor.

9 HEARING EXAMINER: Well, Randall L. Smith
10 trading as Smith Bus Company?

11 MR. ASCHINGER: That is right.

12 BY MR. ASCHINGER:

13 Q Would you use Randall L. Smith trading and
14 doing business as Smith Bus Company if its application
15 for charter authority was granted?

16 A Certinaly.

17 MR. ASCHINGER: That's all.

18 HEARING EXAMINER: Before you start cross
19 examination, I believe this witness was indicated as
20 one of the persons that was included in Exhibit 2?

21 MR. ASCHINGER: Yes, page 75.

22 It is the last one.

23 HEARING EXAMINER: It is not 75.

24 MR. NURICK: 95, maybe?

25 HEARING EXAMINER: 95.

1 MR. ASCHINGER: 95; I'm sorry.

2 HEARING EXAMINER: We're asking whether that's
3 his response?

4 Do you want to answer that?

5 MR. ASCHINGER: In answer to my question, Your
6 Honor?

7 HEARING EXAMINER: Did you determine whether
8 he's the party who has responded in this Exhibit?

9 MR. ASCHINGER: No, all right.

10 BY MR. ASCHINGER:

11 Q Did you file a response to the questionnaire
12 submitted by Smith Bus Company, the applicant in this
13 proceeding?

14 A Yes.

15 Q Is that your signature?

16 A Yes.

17 MR. ASCHINGER: I have no further questions.

18 HEARING EXAMINER: You may cross examine.

19 CROSS EXAMINATION

20 BY MR. MURICK:

21 Q With regard to the trip to Idlewild, or
22 is it Idlewood?

23 A Idlewild.

24 It is an amusement park down by Ligonier.

25 Q When did that trip take place?

1 A That was last summer, I'm pretty sure.

2 Q And what bus company did you use for that?

3 A The Smith Bus Company.

4 Q Are you talking about Randall Smith?

5 A I mentioned earlier that my understanding
6 was that it was Ester that owns the buses in the
7 Elderton area.

8 Q You know that Randall L. Smith is with that
9 operation, also?

10 A I don't know how the family arrangement is,
11 but my understanding, it was Ester L. Smith because
12 we used the local buses.

13 Q Do you ever deal with Randall L. Smith for
14 this transportation even though it is his mother's
15 buses?

16 A Well, see, the way we do it in the church,
17 when a trip is planned by whoever heads that organi-
18 zation, will either contact me or go directly to the
19 Smith Bus Company to arrange for transportation.

20 I generally don't do the calling directly, but,
21 then, you know, refer their name or number onto what-
22 ever organization would like to use the bus for whatever
23 reason.

24 Q Would it be right, Reverend Taylor, to say
25 you are not the person to make the arrangement for the

1 trips?

2 A Only occasionally but I might direct someone
3 else to call the Smith Bus Company to do that.

4 In that area everyone knows everyone else.
5 They might come to me for the number.

6 Q Do you know anything about what you are
7 referring to as the Smith Bus Company?

8 A Do I know anything personally about it?

9 Q Yes.

10 A Well, I assumed that it was Ester Smith
11 who owns the local buses for our particular district
12 and I know Randy has had operations in Homer City, I
13 believe, and Blairsville, but how that all trades within
14 the family, I'm not sure.

15 Q Do you know whether Randy works with his
16 mother in connection with the total project?

17 A I assumed that was true.

18 I assumed there was some family type of arrange-
19 ment.

20 Q Have you ever dealt with Randall on any
21 of these trips?

22 A You mean to call him up and ask if we could
23 use the bus for a certain place, and so forth?

24 Q Yes.

25 A I think I generally called -- I'm not sure,

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1 but I would say I probably generally called Ester, his
2 mother, or had whoever wanted to know who to call,
3 I think I directed them to Ester Smith.

4 Q When was the trip to Kennywood Park taken?

5 A Oh, Kennywood; that would be Christ Lutheran
6 Church took that one.

7 They had one last summer, too, and one pending
8 this year, too.

9 Q By the way, how many people went to Idlewild
10 Park?

11 A Generally our groups have been averaging
12 about 60, 65.

13 This is a family thing, too, children and
14 adults.

15 Q Do they go on one bus, generally?

16 A Well, if the number doesn't exceed that --

17 Q Yes.

18 A But our numbers would be, I would say, be-
19 tween 55 and 65, and a few people that come along with
20 cars in case we have trouble, to bring some people
21 back.

22 Sometimes, generally, the older people will
23 go by car because the distance is sometimes too hard
24 on them.

25 Q Now, the Flower Show; where was that, is

1 that in Pittsburgh?

2 A That's -- yes, that's in Pittsburgh down
3 by the Mellon University.

4 Q And when did that take place?

5 A That was a last year trip, too.
6 We haven't replanned one of those.

7 It was last summer sometime.

8 Q When was the last ball game your group went
9 on?

10 A I'm hard pressed to tell you that.

11 Oh, wait a minute. Last fall I did go to that
12 one.

13 Yeah, I think that was last fall and that was
14 Christ Lutheran Church, also.

15 Maybe it was -- yeah, I think it was primarily
16 Christ Lutheran Church.

17 I remember we sat in the right field and watched
18 it on the T.V.

19 Q Was that Three Rivers Stadium?

20 A Yes.

21 Q They have a T.V. ?

22 A Yes, T.V. monitors in the field.

23 Q Let me ask you this, Reverend Taylor, the
24 Christ Lutheran and the Elderton Lutheran parish --
25 I'm sorry, Mt. Union and Christ Lutheran churches, are

1 they located in the Borough limits of Elderton?

2 A No, they both -- not the Borough.

3 The Borough's quite small.

4 Christ Lutheran is in a little community called
5 Gastown, which is a community two miles north of
6 Elderton on Old Route 210, and the Mt. Union church
7 is two miles south on the same Old 210, Route 210.

8 Q That's Armstrong County, isn't it?

9 A Yes.

10 Q Would both of these churches be in the
11 Township of Plum Creek, Armstrong County?

12 A Yes.

13 Q And I take it you want to leave right from
14 the church, is that correct?

15 A Our gathering place is, generally, from
16 the church, or sometimes from the church parking lot -
17 I mean, the school parking lot.

18 I live in Elderton and sometimes we'll gather
19 there.

20 Mostly it is from the churches.

21 Q Your interest in this proceeding is to have
22 pick-ups right at the church; is that your primary
23 interest?

24 A Well, the point of pick-up is not all that
25 important but we would like to go right from the church

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1 because we have our parking lot there for cars, and
2 so forth.

3 Q Do you have parking lots at the churches,
4 also?

5 A Yes.

6 Q When did you ever leave from Elderton itself?

7 A Well, what occurred to me there, but I'm
8 not quite sure what the occasion was, but we had
9 gathered at the school parking lot.

10 I think my mind goes back to a community event,
11 that, perhaps, we had gathered at the parking lot at
12 Elderton.

13 Q That was when?

14 A Several years ago.

15 Q But since several years ago all the pick-ups
16 of concern to you have been from the Township of Plum
17 Creek, is that correct?

18 A Yes, that's right; that's right.

19 Q And then is that where you want to have
20 service from with regard to this hearing?

21 A You mean for the church?

22 Q Yes.

23 You are testifying only for the church.

24 A Yes, precisely; from my parish.

25 Q That's two churches?

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1 A Yes.

2 Q That's churches, one parish, two churches?

3 A Yes, that's right.

4 MR. NURICK: If I may, Your Honor, I am trying
5 to read this statement.

6 Off the record.

7 (Discussion off the record.)

8 BY MR. NURICK:

9 Q You said that your churches are really within
10 50 miles, for the most part, is that correct?

11 A Essentially, yes.

12 Q For that kind of trip, a school bus is
13 satisfactory?

14 A That's right.

15 Q Now, you were talking about the applicant
16 in this statement you sent in.

17 Who do you think the applicant is in this case?

18 A In this case here, I assume the applicant
19 is Randy.

20 Q You are correct.

21 I wondered because you are talking about both
22 and I wanted to clarify which you thought was here, and
23 you are right about that.

24 A Yes.

25 Q Now, you indicate in your response to a

1 questionnaire that you are also interested in taking
2 tours, or site-seeing trips?

3 A Yes, we have discussed this on many occasions
4 in the church.

5 Q but you are talking about the church, not
6 you as an individual; correct?

7 A That's right, that's right.

8 Q So, you are not interested in this hearing
9 for taking any trips other than with the church; is
10 that correct?

11 A That's right.

12 MR. NURICK: Those are all the questions I have,
13 Your Honor.

14 BY MS. MAYERCHECK:

15 Q Reverend Taylor, is it your testimony that
16 you did not know Randall Smith serves the Elderton
17 School District and that he garages and maintains
18 buses there?

19 A My assumption was that the bus line, when
20 it existed just in Armstrong County, was, essentially,
21 owned by Ester L. Smith, and, of course, Randy's
22 part of that family, and in terms of maintenance, and
23 so forth, that was the understanding I had down through
24 the years.

25 I understand when the expansion took place --

1 I don't know exactly how that would fit into the family
2 situation --

3 Q In No. 17 of your questionnaire which asks
4 you to state reasons why you want to charter buses
5 from the applicant, you state, the overall care of the
6 buses is excellent. This applicant is known and
7 respected by all of our congregation. He also has
8 an excellent team of drivers.

9 I'm a little confused now about how you are
10 familiar with Randall Smith.

11 A How I am familiar?

12 Q Yes.

13 A I have known Randy for 14 years.

14 Q How are you familiar with his drivers and
15 buses?

16 A I know practically of them and, you mean,
17 how do I know them, what's my relationship to them?

18 Q Yes, what is your relationship to the drivers?

19 A Mostly I simply know them.

20 There are some, of course, who are in one of
21 my -- one of my congregations. There's a few there,
22 but most of the people I simply know in Elderton.

23 You just know the people and I don't have any --
24 it seems to me the driving record is quite excellent.

25 Q Do you know whether these drivers also drive

1 for Ester?

2 A Well, the ones which I'm referring to I
3 thought, essentially, did drive for Ester.

4 Q Your response of question 17 is, your
5 perception of Ester's buses and her drivers --

6 A I think always Randy has been in charge
7 of maintenance and probably in the employment side of
8 it, too.

9 Q So, as far as you know, Randy Smith is very
10 much involved in Ester Smith's bus operation to the
11 point where you cannot distinguish the two companies?

12 A I assume ownership, it is back then, and
13 I don't know how things have changed, was under Ester
14 L. Smith.

15 Randy has always been part of the organization.

16 I definitely knew he was involved, but I
17 thought this was referring to an application by Randy
18 Smith for licensing.

19 Q You did not understand that he had already
20 been a separate organization?

21 If I understood correctly, you thought that
22 this application was for him to form his own organi-
23 zation and run his own buses?

24 Did you not know that he had been already doing
25 that as a school bus contractor with the school district?

1 A You mean like Blairsville, and so forth?

2 Q And Elderton.

3 A I don't know how any of the others paid
4 contractual arrangements.

5 Like I said, we assumed the company was owned,
6 per se, by Ester L. Smith, and Randy, of course, is
7 very much involved in the whole operation.

8 Q Are you familiar with Lutler Motor Transit,
9 Inc.; Butler Motor Transit Bus Company?

10 A Recently, because we felt we had to go to
11 some other system.

12 We have some trips planned.

13 One of the youth advisors called bus companies
14 in the area to get prices, and she said that the average
15 price into the Pittsburgh area was \$300.00, and that
16 was for 40 passengers and I couldn't tell you if she
17 called the butler line. I couldn't tell you.

18 She said she called two or three of them.

19 Q But you personally aren't familiar with
20 Butler?

21 A No, I am not.

22 Q Is your congregation willing to use other
23 licensed carriers?

24 A I think probably what will happen -- I
25 don't know. I think what will happen is, because of

1 the nature of our congregations, they probably will
2 stop taking trips because \$300.00, 48 passengers, that's
3 between \$6.00 and \$7.00 , and if you need two buses,
4 you double it.

5 Q If I understand you correctly, unless the
6 buses can be donated --

7 A I wouldn't say donated.

8 I would say, unless buses would be available
9 at a price that they were willing to contract for, they
10 probably wouldn't do much.

11 They won't use cars and vans. They stopped
12 that a few years ago. It's a little too dangerous.

13 MS. MAYERCHECK: I have no further questions.

14 THE WITNESS: They have been donated, to my
15 knowledge, but -- I mean, more recently they have been
16 donated.

17 That's the way it has been.

18 BY MS. MAYERCHECK:

19 Q Every trip recently you have gone on has
20 been donated?

21 A To the best of my recollection, yes, donated,
22 and we try to raise money to at least pay the driver.

23 MS. MAYERCHECK: Thank you, Reverend.

24 MR. ASCHINGER: Just one question.

25 REDIRECT EXAMINATION

1 BY MR. ASCHINGER:

2 Q Reverend Taylor, if you have a choice of
3 being picked up at Elderton or not picked up at all,
4 would you prefer being picked up at Elderton?

5 MR. NURICK: I object to that. There is no
6 basis for it beyond direct, Your Honor.

7 There is no basis for the question.

8 HEARING EXAMINER: You inquired about it, in
9 the first place, so, in all fairness, we will have to
10 give Mr. Aschinger an opportunity to refer to that
11 matter.

12 You opened the matter up, not he.

13 THE WITNESS: Is the question more than I
14 would --

15 BY MR. ASCHINGER:

16 Q If you had a choice of being picked up at
17 Elderton or no service at all, would you prefer to being
18 picked up at Elderton?

19 A I think I would like to be picked up.

20 MR. ASCHINGER: That's all; thank you.

21 HEARING EXAMINER: We will take a brief recess.

22 (Recess taken.)

23 HEARING EXAMINER: Continue with your next
24 witness.

25 EDWIN B. KIMMEL, called as a witness, having

1 been duly sworn, was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. ASCHINGER:

4 Q Mr. Kimmel, will you please state your name
5 and address for the record?

6 A I'm Edwin B. Kimmel, Postmaster in Elderton,
7 Pennsylvania, and so I, therefore, have general
8 delivery as my address.

9 Q Mr. Kimmel, what groups or group are you
10 representing in support of this application?

11 A Well, I belong to the Plum Creek church of
12 the Brethren who has used this.

13 Q I think you filed a response under that
14 group?

15 A Yes, however, I --

16 Q Are you appearing for any other groups?

17 A Yes, the Elderton Lions Club, and I was
18 authorized by them to represent the Elderton Lions
19 Club, also, and I also have arranged transportation
20 for the Elderton American Legion Post, and also the
21 Elderton Fire Company, both of which I'm a member.

22 Q Can you give us any idea to the membership
23 of the various groups, Mr. Kimmel?

24 A Well, the fire company would be -- member-
25 ship, I think, would be between 50 and 75, somewhere.

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1 The Plum Creek Church would be, different
2 members, about 125.

3 Q Lions?

4 A The Lions Post has 75, 78 members, and the
5 Lions has 43 members.

6 Q Do these groups have a need for charter
7 buses for trips throughout the state?

8 A Yes.

9 Q Can you give us an idea of the various trips,
10 purposes, and so forth?

11 A The Church of the Brethran has a lot of
12 churches in the Johnstown area, and sometimes they would
13 have a -- meetings that the whole church of Western
14 Pennsylvania will go to the Johnstown area.

15 Sometimes we have had them in the War Memorial,
16 and other places.

17 Q Where would that be?

18 A Maybe at another church, a large Brethran
19 Church, but the last trip that Ester Smith's buses went
20 for the church, we went to the Johnstown War Memorial
21 as a group.

22 Q Let's stop right there.

23 You said, Ester Smith?

24 A Yes, Smith Bus Company.

25 The reason I say Ester is because my son drove

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1 bus for her and it was her that signed the checks. 157

2 Q Do you use the terms, Ester, and, Smith
3 Bus Company, interchangeably?

4 A Yes, right.

5 Q As to the Legion, what trips have you taken
6 throughout the state?

7 A The Legion hasn't made very many trips.
8 The Lions Club has made more trips.

9 Q For what purposes and to what points?

10 A All right.

11 We like to take young people from the area to
12 ball games in Pittsburgh, Three Rivers Stadium, and our
13 Lions Club has sponsored trips down there.

14 We like to do it once and twice each summer,
15 and --

16 Q How about the firemen?

17 A The firemen, I don't think -- I have never
18 arranged for very many trips for the fire company but
19 they would be in Western Pennsylvania.

20 They wouldn't be long trips that the firemen
21 would be interested in taking.

22 Q What carriers have you used for the purpose
23 of these various trips?

24 A Well, the Smith Bus Company has donated
25 their buses to us several times and we probably would

1 have used them more, but we felt guilty about it and,
 2 therefore, we hired Lanich Bus Lines to take trips to
 3 the ball game in Pittsburgh, and it may be a selfish
 4 interest about our organizations, but the Smith Bus
 5 Company is a part of our community and they would give
 6 us more competitive prices than Lanich Bus Lines, or
 7 I have seen Butler Motor Company in the area, but I
 8 don't know anything about them and their prices, only
 9 hearsay.

10 Q Is it my understanding of your testimony
 11 that you think an additional carrier in this area would
 12 be beneficial to your various groups?

13 MR. NURICK: Objection, leading question.

14 HEARING EXAMINER: Yes, we will sustain the
 15 objection in that form.

16 BY MR. ASCHINGER:

17 Q Mr. Kimmel, if this application were approved,
 18 would you use the services?

19 A Yes, we would.

20 Q Why?

21 A Because of the price structure.

22 Q Do you have any preference between charter
 23 coaches and school bus-type equipment?

24 A We would mostly need school bus-type
 25 equipment rather than coaches.

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MR. ASCHINGER: That's all I have, Your Honor.

HEARING EXAMINER: You may cross examine.

CROSS EXAMINATION

BY MR. MURICK:

Q Mr. Kimmel, the Plum Creek Church of the brethren, is that located in Plum Creek?

A That is correct.

Q What county is it?

A It's Plum Creek County -- Township. It's Armstrong County, but Plum Creek Township.

Q And the church is located at the -- within the Township?

A Yes.

Q And is that where the members of the church would like to be picked up?

A In the past, when we have used it, that's where they were picked up.

Q Now, do I understand that those trips went to someplace like Johnstown for a major church organization?

A That's correct.

Q Now, you say you are authorized by the Elderton Lions Club?

A Yes.

Q When did you become authorized by that club?

1 A Because --

2 Q No, when?

3 A Oh, when.

4 When I filled out that paper.

5 I don't remember when that was.

6 It seems like it was a while ago, and that's
7 when they asked me to represent the Lions Club and the
8 church -- general church board asked me to represent
9 them.

10 Q And I have a document here dated September
11 22, 1984 which purports to bear your signature.

12 If I may approach the witness I will show you.

13 HEARING EXAMINER: I'll show him.

14 BY MR. MURICK:

15 Q Will you look at pages 34, 35, and 36, and
16 is that what you filled out and is that your signature
17 on page 36?

18 A Yes, that's my signature.

19 Q And those are the answers you gave?

20 A Yes.

21 Q Now, sir, if you will look on page 34, it
22 talks to you about who you are representing in support
23 of the application, and, by the way, are you authorized
24 by the Alderton American Legion to testify here?

25 A No, I only mentioned them because I have

1 arranged transportation in the past.

2 I'm the adjutant of the American Legion Post.

3 MR. ASCHINGER: His direct testimony tells you
4 who he is authorized for.

5 MR. NURICK: I'm entitled to ask him. He
6 didn't mention anything about that.

7 HEARING EXAMINER: Let's not waste time. Let's
8 proceed.

9 BY MR. NURICK:

10 Q Are you authorized by the American Legion
11 Fire Company to testify?

12 A No, not as such.

13 I have only arranged for transportation for
14 them in the past, too.

15 Q Not any more?

16 A If -- I might be.

17 Q But, you are here testifying, isn't it so,
18 really, for the Plum Creek Church, according to this
19 statement which you submitted?

20 A That's correct.

21 Q You don't mention anywhere on here about
22 the Elderton Lions Club, and you said you knew about
23 it when you filled this out.

24 I wanted to clarify that.

25 What you are here for is for the church.

1 A That's what I filled the paper out for.

2 Q That is what you are here today for?

3 A The Lions Club asked me to represent them,
4 too, but that wasn't when I filled this paper out.

5 HEARING EXAMINER: You mean they asked you to
6 represent them after you had executed this response?

7 THE WITNESS: That is correct.

8 BY MR. NURICK:

9 Q Now, let us take the trip to the ball games
10 to Pittsburgh.

11 That is the Lions, is that correct?

12 A That's correct.

13 Q And where does the Lions, members of the
14 Lions Club want to be picked up?

15 A At the school in Elderton because of the
16 parking facilities that are available there.

17 Q And when was the last time they went to
18 the ball game?

19 A We didn't go last summer.

20 I believe it was the summer before.

21 Q So you don't go every summer?

22 A We would if the cost wasn't prohibitive.

23 Q When was the last time you used Smith for
24 one of these trips?

25 A I didn't look it up. I can't honestly

1 remember, but it would be approximately two years.

2 Q Now, do you know what the cost of using
3 the applicant, Randall L. Smith, in this case, would
4 be if he were authorized to perform services for you?

5 A He never quoted us any prices.

6 Q So, you don't know what that price would be?

7 A No, I don't.

8 I only know the Smith family, had been born
9 and raised in the community, and I know how the family
10 has been through the years.

11 I knew the boy's family when he owned the
12 buses.

13 Q So, you have been friends with the Smith
14 family for how long?

15 A Ever since -- ever since I was of an
16 accountable age.

17 My mother went to the same church that they
18 did and then, when she was a girl and we would go to
19 visit that church, and I got acquainted with the
20 Smith family.

21 Q Okay.

22 A I drove school bus for the contractor that
23 had the school bus contract before the Smiths bought
24 them out, but I never drove for The Smith Family but
25 my son did.

1 Whenever it is someone in our community who is
 2 interested in your organizations, naturally I would
 3 guess that we would get a good price on a bus because
 4 in the past, the Smith Bus Company had donated us buses.

5 Q So you think that, if Smith Bus Company
 6 got authority, they would give you -- the company would
 7 give you a break on the price because they know you?

8 A I believe that is correct.

9 Q I don't think I asked you, I asked you about
 10 being authorized for three of the four groups.

11 I don't think I asked you if you were authorized
 12 for the Plum Creek Church of the Brethren?

13 A I was authorized by the general church board.

14 Q In looking at the American Legion, you say
 15 they don't take very many trips?

16 A Not too many.

17 Q When was the last time they took a trip,
 18 a couple years ago?

19 A At least; might be longer than that.

20 Q How long would you guess it might have been?

21 A Three -- maybe three and a half years.

22 Some of the groups that I belong to have wanted
 23 to take trips.

24 Q There's not a question pending, sir.

25 A All right.

1 Q I'm pausing because I'm trying to read your
2 statements.

3 A Okay.

4 Q School bus coaches are comfortable for the
5 length of trips that are taken in which you are in-
6 volved in, is that correct?

7 A That is correct.

8 Q Have you ever taken any trips at all with
9 Randall L. Smith on a Randall L. Smith bus as opposed
10 to the other Smith you mentioned?

11 A We always made our arrangements with the
12 mother, Ester Smith.

13 Q The mother?

14 A That is correct.

15 I mean, I've known Randall L. Smith was involved
16 in the operation.

17 Q You did know?

18 A I knew he was involved in the operation, but
19 to what extent, I'm not -- I assume that Ester Smith
20 owned the company.

21 Q Well, did you think that the operation that
22 Ester Smith operates is one and the same as the operation
23 which Randall Smith operates; is that what you thought?

24 A I presumed somewhere recently since he's
25 applying for the PUC, that it was changing hands..

1 Q You thought --

2 A I have always known that it was Ester Smith
3 that owned the bus company, like I said because she
4 signed the checks.

5 Q And you thought Randall worked for her?

6 A That is what I assumed.

7 Q You thought they were one in the same
8 operation?

9 A Yes.

10 Q Now, when these buses were donated, did
11 you mention anything about trying to raise money to
12 pay the drivers, or anything?

13 I can't remember your response.

14 A I don't know if any of the people paid the
15 drivers or not, but like I said, my son pretty often
16 drove the bus for our church, or for the Lions.

17 He belonged to the Lions Club, and so he wasn't
18 about to charge anything if the Smith Bus Company would
19 donate the bus.

20 He wasn't about to charge anything to drive it.

21 Q Who paid for the gas; do you know?

22 A My son and I have put gas in it already.

23 Q Have you?

24 A Yes.

25 Q You say you go to the Lions, you go to a ball

1 game in Pittsburgh once or twice each summer?

2 A Yes.

3 Q Who did you use this past summer, 1984?

4 A We didn't go this past summer but the summer
5 before we used Lanich Bus Lines for the last trip.

6 Prior to that we used the Smiths.

7 Q Was there only trip last summer?

8 A That is correct.

9 Q And one trip the summer before?

10 A That's right.

11 We would plan more if the cost were not pro-
12 hibitive because we take the kids.

13 The Lions Club takes a lot of kids along and,
14 when you take kids along, let's suppose some family
15 has two or three children that want to go.

16 The cost gets too great and then they can't go.

17 Q What price range did you say you were quoted?

18 A For what?

19 Q Did you say you were quoted -- you didn't
20 say you were quoted a price from any other company?

21 A No.

22 Q I'm sorry. I thought you said that.

23 A No.

24 MR. NURICK: I have no further questions.

25 BY MS. MAYERCHLCK:

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1 Q Mr. Kimmel, in number one of the answers to
2 your questionnaire, you state that you are representing
3 the Plum Creek Church and you give an address, R.D. 1,
4 Shelocta, Pennsylvania?

5 A That's right.

6 Q To what does that address refer?

7 A That is the location of the church.

8 Now Shelocta, Pennsylvania, is in Indiana
9 County but the church and the route that serves the
10 church is in Armstrong -- I mean, part of the R.D. 1
11 is in Indiana County and part is also in Armstrong
12 County.

13 Q That's just a mailing address?

14 A Correct.

15 Q It is not the location?

16 A Correct.

17 Q In number 25 which asks for additional
18 comments, you say this applicant is nice for our church
19 group to deal with. He knows our needs and can accommodate
20 us.

21 What led you to make that statement?

22 A Because of the fact that they donated their
23 equipment, and so on, for our use, for groups in the
24 community, not groups that's doing it for money.

25 Q You mean that Randall Smith donated equipment

1 for you?

2 MR. ASCHINGER: He didn't say that.

3 THE WITNESS: I do not mean that. I mean, the
4 Smith Bus Company and, like I said, Ester Smith is
5 who we dealt with.

6 BY MS. MAYERCHECK:

7 Q I understand that but, this questionnaire
8 was asking you about Randall Smith and his application
9 as the Smith Bus Company, and you stated he knows our
10 needs and can accommodate us.

11 My question to you is, how do you know that
12 Randall Smith can accommodate your needs?

13 A I know everyone.

14 I know Randall Smith and I know his mother.
15 I have known his family all my life and I also know
16 his employees.

17 Q Do you know his employees?

18 A Yes, the bus drivers.

19 I'm acquainted with practically all his bus
20 drivers, that's in the Elderton area.

21 Q You are familiar with Randall Smith Bus
22 Company?

23 A Yes.

24 Q Have you ever ridden on Randall Smith buses?

25 A I don't know.

1 When did he take over the buses?

2 I mean, I was -- this is a family matter and
3 I have known down through the years that Ester Smith
4 owned the Smith Bus Company, and to my knowledge, I
5 didn't know that he had taken it over or was in the
6 process of taking it over for this reason, or not, but
7 I haven't ridden in any of his buses since I filled
8 that form out that he would have sent out.

9 Q When you referred to this applicant in No.
10 25 -- would you like to refer to your questionnaire?

11 A I remember now.

12 Q Were you referring at that time to Ester
13 Smith?

14 A Yes -- no, no; not necessarily.

15 I was referring to the Smith Bus Company and
16 I didn't know if they were applying for the PUC number
17 in Randall Smith's name, or Ester Smith's name.

18 I didn't know who was signing it.

19 Q But you thought the Smith Bus Company would
20 be the name on the application?

21 A As far as we were concerned, yes.

22 Q As far as you were concerned, there was no
23 difference between Ester Smith and Randall Smith
24 applying for PUC authority?

25 A As far as us getting a bus, I didn't think

1 there would be any difference.

2 Q Do you know who has the school contract in
3 Elderton?

4 A There's other buses. They come into
5 Elderton beside the Smith Bus Company.

6 Q To serve the school district, do you know
7 who serves the school district?

8 A I know the Smith Bus Company, but I'm under
9 the impression students in there, too.

10 Q I am just concerned with Smith.

11 A Yeah, okay.

12 Q You don't know in Elderton whether it is
13 either Ester or Randall?

14 A Whether it is what?

15 Q Ester or Randall?

16 A I just know it is the Smith Bus Company, is
17 all I know.

18 Randall never told me whether he bought his
19 mother out or not.

20 Q I see.

21 Mr. Kimmel, I represent Butler Motor Transit
22 and I think you mentioned in your testimony that you
23 had seen their buses.

24 Are you familiar at all with their service?

25 A No, I am not.

1 Q Have you ever inquired whether they could
2 serve Elderton or the church?

3 A No, I have not.

4 The only other company I have ever inquired
5 for prices was from Lanich.

6 Q Would you consider using Butler if equip-
7 ment was available?

8 A This is based entirely on hearsay, but from
9 what I have heard what other people say, what they
10 had to pay to get a bus from Butler Transit, or what-
11 ever it is, I don't believe that we would use it be-
12 cause of the fact of the cost.

13 When we didn't -- were unable to get a bus
14 to take us, we would go in a bunch of cars or vans
15 that belonged to members, or something like this,
16 see, used some alternative means of transportation,
17 so, I don't believe that the Lions Club would want to
18 rent a bus to take a bunch of kids to Pittsburgh
19 from Butler.

20 Q Do you know what the cost of Butler, Lanich,
21 or another licensed carrier, would be compared to
22 Smith would charge you?

23 A I don't know other than from what experience
24 I had with the Smith Family in the past because they're
25 a part of the community.

1 Butler's 40 miles away from Elderton.

2 HEARING EXAMINER: What kind of bus served you
3 from Lanich?

4 THE WITNESS: They weren't school buses.

5 They were -- what do you call them -- coaches.

6 HEARING EXAMINER: You are not so much con-
7 cerned whether Lanich or Butler Bus Company owns the
8 buses.

9 You are concerned about the cheapest trans-
10 portation, and you feel that the school bus would cost,
11 from your experience, less than --

12 THE WITNESS: That's exactly why I'm here
13 today.

14 BY MR. HAYERCHECK:

15 Q Have you ever inquired about the availability
16 of school buses from a licensed carrier?

17 A From -- from any other licensed carrier, no,
18 I haven't.

19 Q You are only familiar with coach prices?

20 A That's correct; that's correct.

21 Q If school buses were available from these
22 carriers as they were available, say, from Butler, would
23 you look into the possibility of using them?

24 A I never shut my mind to anything.

25 I mean, I don't know whether we have ever asked

1 somebody to bring a school bus 40 miles to take a trip
2 to Pittsburgh or not.

3 Q I assume it would depend on the price --

4 A Right.

5 Q -- from your testimony?

6 A That's correct.

7 That's why I said it's a selfish reason for
8 me to be here, but the Smith Bus Company has done so
9 many favors for the organizations in our community
10 and I would like to see them have a PUC number so we
11 could continue to have that relationship.

12 MS. NAYLRCHECK: No further questions.

13 MR. ASCHINGER: Mr. Grant, please.

14 ROBERT GRANT, called as a witness, having
15 been duly sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. ASCHINGER:

18 Q Do you want to state your name and address
19 for the record, please?

20 A Robert Grant, 216 Moorewood, H-O-O-R-D-
21 W-O-O-D, Blairsville, Pennsylvania.

22 Q By whom are you employed?

23 A Grant Insurance Agency.

24 Q What groups are you representing in this
25 proceeding?

1 A Specifically authorized, none whatsoever.
2 No groups whatsoever am I specifically approved to
3 be here.

4 I am here as a frustrated citizen.

5 Q Here as an individual?

6 A I'm happy that's clear.

7 Q What is the nature of your frustration, Mr.
8 Grant?

9 A Working with three particular organizations
10 in the arranging of transportation.

11 Specifically, the Blairsville Recreation Board,
12 which I'm senior member thereof.

13 Again, I am not here on the official capacity
14 of the Blairsville Recreation Board about arranging
15 for the past ten years for transportation, also working
16 for the Advisory Group for the youth in our church,
17 arranging transportation.

18 HEARING EXAMINER: What church is that?

19 THE WITNESS: The Blairsville First Methodist
20 Church.

21 And, as member of the social committee of the
22 Blairsville Fire Department, again, in the past, directly
23 involved with arranging transportation for our group.

24 BY MR. ASCHINGER:

25 Q Can you describe the problems that you have

1 had?

2 A Specifically, -- specifically, Recreation
3 board trips, on ski trips.

4 Our Recreation Board is sponsored by the
5 Blairsville/Saltsburg District.

6 Routinely, through the years -- I jotted some
7 notes here.

8 Then, through the years, '70 through '81 we
9 routinely ran a Sunday night ski bus trip to Seven
10 Springs. That bus was with the Smith Bus -- wait.

11 Let me get these bus companies straight.

12 What I know about Smith Bus Company is strictly
13 Charlie Free who I -- I met Randy before I ever heard
14 of Ester until today, so I'm not familiar whose bus
15 I was in.

16 Nevertheless, '77 through '81 we ran Sunday
17 night ski bus trips sponsored by the Blairsville
18 Recreation Board.

19 In 1982 we were advised by the school board
20 that they were no longer -- they no longer authorized
21 Recreation Boards, of which they controlled, any more
22 bus trips.

23 Q For clarification, the Recreation Board
24 is that what you are talking about?

25 A It is sponsored by the Blairsville School

1 Board.

2 HEARING EXAMINER: Who went on these trips,
3 school children, or --

4 THE WITNESS: Well, routinely it would be
5 anywhere from, oh, 40 kids and probably 15 adults.

6 Sometimes quite often the kids, the school
7 children who were going were not even in the Blairsville
8 Saltsburg School District. They are in the Blairsville
9 School District.

10 Quite often our school district was authorizing
11 us trips that involved students from Derry Township
12 School.

13 BY MR. ABSCHINGER:

14 Q They were paid by the school district, is
15 that correct?

16 A Smith Bus Company was paid by the school
17 district, correct.

18 Now, the difficulty came in '82 when one of the
19 other Recreation Boards, which the school district
20 sponsored, received their bill for their bus and the
21 school board secretary said they were unable to pay it.

22 Now, ours was somewhat of the situation that
23 the fellow that was here earlier from BEST, we would
24 receive a statement from the school board for so many
25 bus trips and so many Sunday evenings, and our recreation

1 board would pay the school district and the school
2 district would, I assume, pay the bus company.

3 So, in 1982 our Sunday night ski bus trips
4 came to a sudden screeching halt.

5 At that time we were paying on a Sunday night
6 for this trip to Seven Springs, started 3:00 o'clock
7 in the afternoon, came home 10:00 or midnight and we
8 were paying in '81, \$125 per trip.

9 An investigation in '82 by myself and our
10 Recreation Board director, or Mr. James Kavalancha
11 (phonetic), with Lanich Bus Company, indicated that
12 our price would be \$225 a Sunday night.

13 Now, that doesn't sound -like much. That's
14 a hundred bucks to spread between 60 people.

15 Considering our groups --

16 MR. NURICK: Your Honor, I am going to object
17 on this basis that this testimony is dealing strictly
18 with rates.

19 THE WITNESS: Do you want something else,
20 another frustration?

21 MR. NURICK: Well, I don't know what we need
22 that for, but it is our position, and we have gotten
23 into this and it's come out through cross examination
24 that that's what it is now on checking but now that
25 this is on direct, we object that rates are not a basis

1 for granting authority.

2 MR. ASCHINGER: I don't agree with him.

3 HEARING EXAMINER: Are you interrogating your
4 witness as to the --

5 MR. NURICK: We move that his testimony on the
6 rates be stricken.

7 MR. ASCHINGER: Rates is a factor, as I see it,
8 for consideration in any application proceeding.

9 It involves competition; it involves the public
10 interest.

11 MR. NURICK: We move it be stricken.

12 MR. ASCHINGER: Competition is a factor, is a
13 factor for consideration and, incidental thereto, would
14 be the matter of rates.

15 HEARING EXAMINER: The opportunity of the
16 consuming public to competitive prices to serve their
17 needs is a very important element in the accommodation
18 that the public has and we overrule the objection in
19 this case.

20 THE WITNESS: I can void that.

21 Specifically, in -- this is history because I've
22 gotten out of the business trying to find business
23 because of frustration, but, okay, in 1976 our youth
24 group had --

25 MR. NURICK: Objection. That's too remote, and

1 that's a stale issue, 1976; that's stale.

2 HEARING EXAMINER: Yes, we will sustain the
3 objection.

4 THE WITNESS: A more current example, in 1982,
5 I called --

6 MR. NURICK: Objection, again.

7 We are talking about three years this time.

8 HEARING EXAMINER: What are you objecting to?

9 MR. NURICK: In 1982, we're talking about years
10 ago.

11 HEARING EXAMINER: We will overrule the ob-
12 jection and that can be considered.

13 We don't think that's too remote.

14 THE WITNESS: Perhaps, Your Honor, again, when
15 I say frustration I have avoided anything having any-
16 thing to do with buses because of my frustration, but
17 in '82 I contacted an employee from Mr. Smith.

18 I asked Charlie in church one day, I said,
19 Charlie, we want to take a trip to Busch Gardens.

20 He referred to me as we -- I said we want to
21 go to Busch Gardens for three days.

22 The price at that time was around \$1200.

23 HEARING EXAMINER: Leave the price out. That's
24 an intra-state trip.

25 THE WITNESS: Nevertheless, we, in subsequent

1 conversations, it turned out it wasn't connected with
2 school buses.

3 HEARING EXAMINER: Busch Gardens, where is that
4 located?

5 THE WITNESS: Virginia.

6 HEARING EXAMINER: That's not within the
7 jurisdiction of this commission?

8 THE WITNESS: Okay.

9 Any questions you may have.

10 BY MR. ASCHINGER:

11 Q What other carriers have you used?

12 A The Greensburg Bus Company.

13 What's their -- that's -- they changed their
14 name not too long ago.

15 A PUC carrier out of Greensburg, Jim Wilson,
16 is the guy I talked to.

17 Q Have you ever used Lanich?

18 A Myself specifically, no.

19 MR. ASCHINGER: I have no other questions.

20 CROSS EXAMINATION

21 BY MR. NURICK:

22 Q I think you said Mr. Grant that you stopped
23 making arrangements for transportation in 1982; is
24 that correct?

25 A Yes, sir.

1 Q When the 1982 skiing season --

2 A Skiing season, December of '82 -- skiing
3 season of '82.

4 I think we had snow in '83. I'm not sure.

5 Q All the trips as I take it were up to
6 Seven Springs --

7 A Yes, sir.

8 Q -- that you testified about?

9 A Yes, sir.

10 Q Now, you mentioned something about con-
11 tacting a Charlie Free?

12 What's that name?

13 A Charles Free.

14 Q F-R-E-E?

15 (Unidentified voice): Yes, sir.

16 BY MR. NURICK:

17 Q Who is Mr. Free with?

18 What's his business, his job, or --

19 A He's -- Smith Bus Company, okay.

20 I don't know, Mr. or, I don't know Ester Smith,
21 so I can't get into that.

22 Q But, you know Randall L. Smith, right?

23 A I recognize him to see him there.

24 I probably shook hands with him twice in my
25 life.

1 Q You do know him?

2 A Yes, sir.

3 Q And, you know that Mr. Free works for him;
4 is that correct?

5 A Yes, sir.

6 Q And you contacted Mr. Free for what purpose?

7 A To arrange bus trips to Seven Springs, to
8 attempt to arrange other trips with other groups, which
9 he said we can't haul you there.

10 Q Now, on the trip to Seven Springs, what group
11 was that; was that the Recreation Board?

12 A Blairsville Recreation Board.

13 Q And Randall L. Smith Company, the company
14 Mr. Free is with, took your group to Seven Springs;
15 is that correct?

16 A Yes, sir.

17 Q And when was that?

18 A Specifically, '80 and '81.

19 I don't want to go back further than that.

20 Q Was it in '82, also?

21 A That's when the school board shut us off,
22 in '82.

23 Q Did you use them at all in '82 before the
24 school board shut you off?

25 A I think we got one trip in before they made

1 the rule.

2 Q With Randall Smith?

3 A Yes, I believe so.

4 Q You used one bus for each of these trips?

5 A Yes.

6 Q As I understand it, correct me if I'm wrong,
7 you said there were 40 kids and 15 adults on the bus?

8 A Routinely; could average.

9 Q Were these adults, parents?

10 A In most cases.

11 Let me add.

12 A lot of our kids going at the time were in
13 the 7, 8, 9 year old group.

14 In most cases when we had the young ones, we
15 had at least one mother, one dad with them, especially
16 with the younger ones.

17 Q These kids, 14 (sic) kids and 15 adults --

18 A Forty kids and 15 adults.

19 Q I'm sorry.

20 What did I say, 14?

21 A Yes.

22 Q I meant 40.

23 You stick to your testimony on that.

24 A Yes.

25 Q Fine.

1 You mentioned something about Derry Township.

2 What county is that in?

3 A Westmoreland.

4 Q Westmoreland?

5 A Yes, sir.

6 Q Maybe I didn't understand you. Is that
7 where some of these trips left from?

8 A No, from Blairsville.

9 Q And right in the Borough of Blairsville?

10 A Yes.

11 Q Did every trip leave from Blairsville?

12 A Second Ward School parking lot in Blairsville.

13 Q Within the corporate limits of the Borough
14 of Blairsville?

15 A Yes, sir.

16 Q School buses were used, I take it?

17 A Yes.

18 Q How many days was that trip, or was it just
19 one day?

20 A Ski trips?

21 Q Yes.

22 A Normally Sunday afternoon, return Sunday
23 evening; eight hours.

24 Q Eight hours?

25 A Yes.

1 Q Now, when you checked with Lanich for a
2 price, did you check for a coach or for a school bus,
3 or don't you remember?

4 A And if you don't remember, it's okay.

5 I just want to be --

6 A No, I don't remember.

7 I would expect the most inexpensive.

8 I expect my routine would be what is the most
9 inexpensive way you can get us from here to there.

10 Q But at this point you don't remember, is
11 that correct?

12 A Right.

13 Q Again, as before, the people really paying
14 for this trip were the parents and their kids, although
15 they ran it through the school board; is that accurate?

16 A Unbeknownst to Smith, it is accurate.

17 Q Well, how do you know it was unbeknownst to
18 Smith?

19 A Because the check came from the school
20 district signed by Helen Joyce (phonetic), secretary.

21 Q But how would he not know they weren't
22 taking kids on a regular school trip; they knew they
23 were going on a ski trip.

24 A Oh, yes.

25 Q And how often did this trip take place per

1 year? Was this one time, or --

2 A I think the best -- the best -- the best --
3 the best snow winter we had was '80, I believe, and I
4 think we did, oh, something like 12 or 14 weekends in
5 a row.

6 I mean, it was that good of snow.

7 That was the most, I would say.

8 I think a horrible winter I'm thinking, two
9 years prior to that, was two trips.

10 It depends totally on what the snow is like.

11 Q Do you ever use the scheduled route service
12 yourself that goes through Blacklick township into
13 Indiana or back?

14 A Indiana Transit Authority?

15 Q Yes.

16 A I haven't. My kids do, going to IUP.

17 Q Do they depend on that from time to time?

18 A Well --

19 Q In other words, they use it?

20 A Let's say two kids use it ten times a year,
21 five times each a year.

22 Q You didn't submit any responses to an inquiry
23 in this case, did you?

24 A I wasn't asked to, sir.

25 Q Who asked you to support this application?

1 A Mr. Free.

2 Q Same person you referred to before?

3 A Yes.

4 Q Do you know what Mr. Free's position is
5 with Randall Smith?

6 A Whenever I have a question he has the answer.
7 It must be a pretty good position.

8 Q He's sort of like the manager?

9 A I would say at least that.

10 May I offer briefly --

11 Q No, there is no question pending.

12 The other carrier you used, to your recollection,
13 is Greensburg Bus Company?

14 A Yes, sir.

15 Q And what year did you use that?

16 A Let's see.

17 Blairsville Fire Company, three times in --
18 three times in '78; five times in '79.

19 Baseball trips to Pittsburgh.

20 Q As I understand the testimony that you gave
21 here, was, really, concerning the Recreation board
22 when you talked about dates and other items, isn't
23 that correct?

24 A Yes, sir.

25 Q Because you mentioned three groups, and then

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1 you went into some testimony, and I understood that
2 to be for the Recreation Board?

3 A Yes, the ski trip.

4 That sort of -- yeah; that's the majority of
5 my involvement.

6 Q And again you were not involved with that
7 any more because you stopped arranging in 1982,
8 correct?

9 A By choice.

10 I could have the job back, but I don't want it.

11 Q You won't be arranging these trips any more?

12 A Not unless we get something better to arrange
13 with.

14 MR. NURICK: I have no further questions.

15 BY MS. MAYERCHECK:

16 Q Mr. Grant, are you familiar with Butler
17 Motor Transit?

18 A No, ma'am.

19 Today's the first I heard of it.

20 Q From your testimony you have been involved
21 at least, until 1982, for many years in arranging trans-
22 portation, but you never investigated what bus companies
23 could serve you or, in your words, help alleviate your
24 frustration?

25 A We have worked with another bus company out

1 of Clearfield, Trailways.

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2 Q Fullington Trailways?

3 A We have worked with them in the past, but
4 that makes so much trouble.

5 They have -- there is some confusion there.

6 I have worked with them once or twice but it was
7 too difficult, and that's because I have a family
8 related to that company and that's why they listened
9 to me.

10 Q You never investigated whether Butler could
11 serve you?

12 A No, ma'am.

13 Q Getting back to the Recreation Board, you
14 said the school district paid the company?

15 A Yes.

16 Q And the Rec Board paid the school district?

17 A Yes.

18 Q And was it your testimony the parents paid
19 the Rec Board?

20 A Yes.

21 Q So, the Rec Board, for those trips, did not
22 have any money other than what the parents gave to it
23 to pay for the buses?

24 There were no school district funds, in other
25 words?

1 A No school district funds?

2 Yes, there were.

3 Q What were the parents paying for?

4 A Routinely the collection for the bus was
5 not enough money, okay, so, our Rec Board is financed
6 by the Blairsville/Saltsburg School District.

7 We receive money from them to run programs.

8 Whenever -- on the way home we got smart and
9 started collecting money before they spent the money.

10 There would often not be enough to pay the bus.

11 We would be \$20, \$30 shy and whenever the
12 school district sent us our statement saying we have
13 received so many bus trips for Seven Springs, you owe
14 us so much money, and we would pay the school board.

15 Q Paying any shortcomings in financing the
16 idea was for the parent to always pay for the bus?

17 A Correct.

18 Q How do you know Mr. Free?

19 A We go to church every Sunday.

20 We sit, you know -- Blairsville's a little
21 bigger than Elderton, but not much.

22 Q Have you been friends for years?

23 A Friends for years, no.

24 How long have we known each other, two years,
25 two and a half years possibly.

1 About the only time I ever see him is in church.

2 Yeah, we're friends, but we're not -- I
3 wouldn't -- I know where you are leading to.

4 I'm not here out of friendship for Charlie.
5 I'm here out of frustration to Bob Grant.

6 MS. MAYERCHECK: I have no further questions.

7 MR. ASCHINGER: We call Mr. Quinn.

8 JACK QUINN, called as a witness, having been
9 duly sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. ASCHINGER:

12 Q Mr. Quinn, do you want to state your name
13 and address for the record?

14 A My name is Jack Quinn, Box 222, Elderton,
15 Pennsylvania.

16 Q By whom are you employed?

17 A I'm employed by the Armstrong County School
18 District, the Health and Physical Education teacher.

19 Q What group are you representing here today?

20 A I'm representing the Elderton Plum Creek
21 Recreation Commission.

22 Q Do you have occasion for a need for charter
23 trips to various points in Pennsylvania?

24 A We feel that we could be offering a lot of
25 further programing if we had this available in our

1 community. We would be able to do trips.

2 We had some trips done by the Smith's with
3 donated drivers, and donated equipment, but again,
4 we're sort of to the point where we didn't want to
5 wear out our welcome.

6 MR. NURICK: I will object to that because
7 there wasn't proper groundwork done to make a broad
8 conclusion like that.

9 HEARING EXAMINER: What's the nature of your
10 objection?

11 MR. NURICK: There has been no groundwork for
12 him making a broad statement like that.

13 HEARING EXAMINER: We'll strike the last portion
14 of the answer.

15 MR. ASCHINGER: Let's have the question and
16 answer back.

17 HEARING EXAMINER: Very well.

18 THE REPORTER: (The following question and answer
19 were read back as follows:)

20 "Q Do you have occasion for a need for charter
21 trips to various points in Pennsylvania?"

22 "A We feel that we could be offering a lot of
23 further programing if we had this available in our
24 community. We would be able to do trips."

25 HEARING EXAMINER: Let's strike that and start

1 all over again, Mr. Aschinger.

2 BY MR. ASCHINGER:

3 Q Are there occasion where you could use
4 licensed carriers for trips?

5 A Yes.

6 Q Could you explain that, Mr. Quinn, in what
7 respect?

8 A I think first you have to understand the
9 nature of our operation.

10 The Elderton Plum Creek Recreation Board or
11 Commission, rather, is a commission that was created
12 through ordinances passed by both the Elderton Borough
13 Council and the Plum Creek Township Supervisors.

14 It's made up of seven members, three from
15 each municipality, and a chairman at large, which I
16 am.

17 We have been involved in the past number of
18 years in building a park on leased property from the
19 school district, and also in sponsoring summer recreation
20 programs which are funded, the personnel are funded
21 through donations of various organizations in the
22 school groups, and to what we have, a working scholar-
23 ship program in order to give college-bound students
24 an opportunity to give their services back to the
25 community, and I feel if we had this type of service

1 in our own neighborhood, within our own district, then
2 we could do more in planning trips with our Rec pro-
3 grams, which we try to service both school, church,
4 and the adult population.

5 Q What kind of trips do you have in mind?

6 A Well, for example, we'll have to go back
7 to some of the trips that were donated by the Smiths
8 and their drivers.

9 We have been, in the past, taken youngsters
10 to the YMCA in Ben Franklin, in order to have a Learn
11 and Swim Program.

12 These were donated.

13 Last summer we went to Kennywood Park.

14 Q Where are these places located?

15 A Kennywood Park is in West Mifflin, Allegheny
16 County.

17 The Learn to Swim Program, which we curtailed
18 two years ago because, again, wearing out -- I felt
19 wearing out, or -- we got to the point where I felt
20 it was too much to ask the Smiths to continue to donate,
21 and we had this Learn and Swim Program going for the
22 community.

23 When we stopped with the buses, the parents
24 picked up the program and used their own cars, but
25 then I cautioned the parents of the liability of that.

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1 I was afraid this could come back on us, so
2 that's why that was curtailed.

3 Other trips that we have had donated drivers
4 and buses for were one or two occasions we would go
5 to Yellow Creek State Park, for an afternoon of
6 picnicking, swimming and fishing with the youngsters.

7 Q If this application were approved, would you
8 use the services of the Smith Bus Company?

9 A I think we would.

10 Q Would you have any preference between school
11 bus-type equipment or charter coaches?

12 A I don't believe when we're dealing with
13 school children, basically, that this would entail too
14 much.

15 Q Have you used any other carriers?

16 A No, sir; we have not.

17 Q How long have you been with the School
18 District, or the Commission?

19 A I've been with the School District for 31
20 years.

21 This is my 31st year of teaching.

22 The Commission was formed, I believe, in 1978.

23 This was formed because of a make-work grant
24 we got from the DCA, to start our park.

25 Q Are you familiar with the Smith Bus Company?

1 A Very much.

2 As I said, I was 25 years the athletic director
3 of Elderton High School, and we used Smith buses for
4 our athletic programs which I was involved in scheduling.

5 Q Service was satisfactory?

6 A Very much.

7 MR. ASCHINGER: I have no further questions.

8 HEARING EXAMINER: You may cross examine.

9 CROSS EXAMINATION

10 BY MR. MURICK:

11 Q You said you're the Elderton Plum Creek
12 Recreation Commission?

13 A Right.

14 Q Now, for the trips that you used Smith for
15 strike that -- have you been authorized to speak on
16 behalf of the Commission today?

17 A Yes.

18 Q Can you tell us who authorized you?

19 A Our board.

20 We have six members -- seven member board,
21 which I'm chairman.

22 This was discussed, oh, earlier this year at
23 one of our meetings.

24 Q Are you the person that arranges for the
25 transportation?

1 A We have -- I sometimes do it and we also
2 have, as I said, a work scholarship program established
3 for college youngsters, and they, in turn, do our
4 program so they'll make the calls on occasion and see
5 if they can get a donated driver.

6 Generally it is a mother of one of the children
7 on our program.

8 Q What you are looking for is a donated trip?

9 A That's what we have now.

10 Q Is that what you are looking for in the
11 future?

12 A We wouldn't turn it down.

13 But, as I said, almost all the operations of
14 the park are donated and the money that comes into our
15 coffers for our work scholarship is all donated money.

16 Q And whether or not you would use Smith,
17 the applicant in this case, would depend on what the
18 charter of his would be?

19 A I suppose.

20 Q You don't know what the charge would be?

21 A I haven't seen prices.

22 Q Where did these trips you took originate?

23 A Right at our playground in Elderton Borough.
24 Like I said, we built this facility on leased
25 property.

1 Q would this be within the physical limits
2 of Elderton Borough?

3 A Yes, it is, although we have a portion of
4 our park where eight acres was donated to the park by
5 a nice neighbor whose property is in Plum Creek Town-
6 ship, but Elderton Borough, if you look on the map,
7 is about the size of a postage stamp, but the facility
8 itself, we have three hundred people in the Borough.

9 MR. NURICK: Off the record.

10 (Discussion off the record.)

11 BY MR. NURICK:

12 Q So you say you do have land that was donated
13 to the Commission in Plum Creek Township?

14 A Yes.

15 Q And do you plan that there would be, perhaps,
16 some people picked up at Plum Creek Township in the
17 future?

18 A No, our ideal is right at our park facility
19 which is the basic structure of the park sits entirely
20 within the confines of the Borough due to the fact that
21 DCA wouldn't give us money because Plum Creek Township
22 didn't have the flood insurance at that time.

23 Q The YMCA, Ben Franklin trip, was that
24 strictly kids?

25 A Strictly kids.

1 Q When was the last time that went?

2 A You mean as -- with Smith equipment?

3 Q My grammar wasn't very good there.

4 When was the last time you took that trip with
5 anyone, any bus company?

6 A We curtailed that last summer and didn't
7 use it because I advised the parents that they were
8 sticking their neck out.

9 Like I said, we started with equipment donated
10 and drivers, but then it got to the point that the
11 parents took it over and they were driving, using their
12 own cars, and I was afraid of liability.

13 Q I understand.

14 When was the last time you used a bus for that
15 service?

16 A I imagine it would be '83 or '82.

17 We used buses sometimes and sometimes we used
18 vans because of the size of the group.

19 Q So, you may not need a bus, is that correct?

20 A Possibly.

21 Q How small has the group been sometimes from
22 time to time?

23 A Well, the reason for the van was the YMCA
24 structured its project for ability and age, and we had
25 to get so many kids into the different sessions in the

1 morning.

2 You take a bus and you have 30 kids waiting
3 while 30 others are swimming, you know.

4 Q I do know.

5 A You are a parent; I can tell.

6 Q But how big were the groups that went on
7 the van; what number was the group?

8 A Well, we couldn't exceed -- I think it was
9 10 or 11 in the van.

10 Sometimes we would send, you know, two different
11 departure times.

12 Q So, you are looking for, in that case, a
13 van service?

14 A Possibly.

15 It is hard to project the type of interest
16 the next group of parents would have.

17 Some parents are very astute about getting
18 kids into this type of program and some don't care.

19 Q When was the last time you used a bus to
20 Kennywood Park?

21 A Last summer.

22 That was our last scheduled day activity for
23 the playground.

24 Q And the last time you used a bus to the
25 Yellow Creek State Park?

1 A I believe we had trip there last summer;
2 I believe.

3 Q No matter what happens, your interest here
4 is with a school bus as opposed to a deluxe charter?

5 A I don't know.

6 Like I said, we're in a commission that's
7 constantly trying to look to better our community
8 through activities that we can sponsor and foster, and
9 if down the line we can do some things in the way of
10 trips for senior citizens, and that.

11 We would be more than happy to do it, but at
12 the present time we're not into that:

13 I'm not -- I mean, I can't project.

14 Q Right now it is speculative?

15 A Speculative, exactly.

16 Q When you used Smith, you were talking about
17 Randall Smith?

18 A There again you are getting into that --
19 as far as I know, I know that the company began its --
20 with his father. When he was deceased, the mother
21 took over.

22 When the transition between Randall and his
23 father -- I can't answer that.

24 Q Do you consider that to be all one operation?

25 A I consider that; it's a mother/son situation.

1 Q Did anybody who went on the trip pay any
2 of the drivers for the trip?

3 A No, the drivers -- all parents donated their
4 time.

5 Q So, the drivers were parents?

6 A Yes, who were also licensed bus drivers who
7 normally run regular school runs during the year.

8 Q The parents were licensed to operate the
9 buses?

10 A Yes.

11 Q The parents' job during the school year was
12 to drive school buses?

13 A Yes, these were the persons that donated
14 their time.

15 Q Did you make any consideration for gas,
16 at least?

17 A No, not last year.

18 Q How about the year before?

19 A We may have. I'm not really sure.

20 There could have been a billing for gas, but
21 I'm not -- I'm not sure; I don't know.

22 Q Well, again, just to summarize, there's no
23 need to get into this any further. It all depends
24 on what the cost to you, any service is going to be,
25 as to whether or not you use it and it also applies

1 to the applicant in this case?

2 A That's right.

3 MR. NURICK: I have no further questions.

4 BY MS. MAYERCHECK:

5 Q Is it your testimony that all of the trips
6 the Rec Board has taken were donated buses?

7 A Yes.

8 Q Have you ever paid for a bus?

9 A We may have a couple of years ago.

10 I won't say we didn't, but I don't know that
11 was basically gas more than anything because we always
12 had the drivers donated.

13 Q Who was the bus company on that trip?

14 A Smith.

15 Q Do you realize, if this application is
16 granted, that you will start paying to use Smith?

17 A I would imagine.

18 I don't understand the POC, whether they're
19 allowed to donate or not.

20 MS. MAYERCHECK: I have no further questions.

21 HEARING EXAMINER: Thank you.

22 Off the record.

23 (Discussion off the record.)

24 RALPH NUIR, called as a witness, having been
25 duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

1
2 BY MR. ASCHINGLER:

3 Q Mr. Muir, do you want to state your name
4 and address for the record?

5 A Ralph Muir, R.D. 1, Box 315, Blairsville.

6 Q By whom are you employed?

7 A Helen Mining Company.

8 Q How long have you been in this area?

9 A How long have I been with Helen?

10 Q No, this area.

11 A All my life.

12 Q How long is that?

13 A Thirty-eight years.

14 Q What groups are you representing here today?

15 A Pennview Mountain Hunting Club and Helen
16 Mining.

17 Q And what was the other one?

18 A Helen Mine.

19 Q Do your groups have a need for charter
20 buses for trips to points in Pennsylvania?

21 A Pennview Mountain Hunting Club does.

22 We help sponsor trips down to Harrisburg to
23 the outdoor show; to Pittsburgh to the outdoor show.

24 We transport hunters education students from
25 place to place, you know; from the classroom to the

1 range.

2 Q That's the Pennview Rifle Club?

3 A Yes.

4 Q What about the mine?

5 A Helen Mine, we use buses for transporting
6 union employees on a breakdown of an elevator, or what-
7 ever.

8 It's -- we use Lanich Bus Company quite a bit.
9 It's the only bus company we use.

10 Q With respect to your representation of the
11 Pennview Rifle Club, what carrier have you used?

12 A We haven't used carrier right just yet.
13 We haven't leased --

14 Q You lease equipment?

15 A We always went together with other organi-
16 zations and which we use Lanich Bus Company.

17 Q Has that service been satisfactory?

18 A Other than we have to drive 22 miles to get
19 our people to the bus where we can get on it and 22
20 miles back, we're further ahead to drive.

21 Q You are familiar with the Smith Bus Company?

22 A Yes.

23 Q If this application were approved, would you
24 be inclined to use their service?

25 A Yes, if the rates were competitive; yes.

1 Q And Helen Mine. Would you have -- would you
2 use the services of Smith Bus Company for that?

3 A I, myself, could not answer that question.

4 I'm not, you know, an authority. They would
5 be closer than the Lanich Bus Company, yes, but, as
6 far as -- saying who is used, I'm not authorized to
7 say that.

8 MR. ASCHINGER: I have no further questions.

9 CROSS EXAMINATION

10 BY MR. NURICK:

11 Q Do I understand, then, you are not authorized
12 to be here on behalf of Helen Mine?

13 A Yes, I am.

14 Q It's --

15 A I'm authorized by Pennview Mountain, he asked
16 me a question, would we use them, and, I said, I
17 couldn't answer that because I'm not an authority to
18 say we would use that.

19 Q For whom?

20 A For Helen Mining.

21 I said, I can't answer that question. I'm not
22 allowed.

23 Q I understand.

24 So, as far as Helen Mining and Pennview, when
25 you say you are authorized by both companies to be here --

1 A Right.

2 Q Who authorized you for Pennview?

3 A I was elected the new president and our
4 by-laws, you know, so constitute it.

5 Q When did you become president?

6 A April.

7 Q '84 or '85?

8 A This past April, '85.

9 Q Helen Mine, what is your position?

10 A I'm a clerk for Helen Mine.

11 I work the steady midnight shift.

12 Q Who authorized you to come here?

13 A Mine superintendent, Mike Mancher.

14 Q He has authority to do that?

15 A Yes, he runs the mine.

16 Q You can't say, sitting here today, that
17 even if this application were approved, Helen Mine
18 would use the applicant, correct?

19 A That's correct.

20 The only reason I really wanted to come was to
21 tell them, you know, in times we have used Lanich, and
22 other times, I had to go to somebody else because I
23 was refused buses.

24 We work 24 hours around the clock. The bus
25 coming -- you know, when we need a bus we have to have

1 the bus now.

2 Q You say you were refused buses by Lanich?

3 A Yes, we were.

4 MS. LANICH: That's not true.

5 MR. MURICK: Just a moment. One at a time.

6 BY MR. MURICK:

7 Q When was the last time you were refused a
8 bus by Lanich?

9 A It's been years past. I couldn't find the
10 exact date because there was a take-over of our mine.

11 North American Coal did own it and it was sold
12 to Valley Camp, and the records for North American are
13 gone, so I couldn't look back to get the exact date.

14 The mine superintendent remembers the incident
15 that actually happened. I was on duty and I remember
16 that.

17 Q How long ago was it, roughly?

18 A About three, four years, but I remember it
19 quite well.

20 Q To your knowledge, it may have been over
21 four years ago?

22 A It's possible, yes.

23 It's also possible being less.

24 Q Well, would it be within three or four
25 years?

1 A Yes, but I can remember the situation quite
2 well when it happened.

3 Q Can you remember what month it was?

4 A It was winter month. I do remember this
5 because we had a storm, and it was an ice storm.

6 It took the elevator and all the power.
7 The men had to walk out of the mines and I called for
8 buses because they were walking out.

9 When they get to the top, you have to have
10 transportation for them.

11 I was told there were no drivers available.

12 I told her we had to have buses.

13 I called -- well, the mine superintendent
14 and he told me to call somebody else to get the buses
15 there.

16 At that time I think I called Lodestar, or
17 somebody over at New Florence.

18 They had a PUC.

19 He said he couldn't come in for that reason
20 because somebody else had the PUC.

21 I told him what happened; he come in and
22 come across 50.

23 Q You were able to get transportation?

24 A Right, we can't wait on transportation.

25 Every time we do call there's been -- even the

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1 mine superintendent has the same complaint.

2 We have -- if I can get a driver.

3 We pay good money for the trips --

4 Q Wait a minute. You are talking about three
5 or four years ago?

6 A No, recently, too.

7 We call for buses if we can get a driver.

8 Q Do you call for the buses, or does somebody
9 else?

10 A If it is on my shift, steady midnight, I
11 call.

12 If it's on somebody else's, somebody else calls;
13 they call.

14 Q Now, I'm not worried about when someone
15 else calls. I can't test that.

16 Do you understand that?

17 You were keeping your testimony with what you
18 are aware of for this record; you agree to that?

19 A Yes.

20 Q When was the last time you called Lanich
21 that you couldn't get a bus?

22 A The only time I couldn't was that one time.

23 Q That was three or four years ago?

24 A Yes, but since I've called them, you know,
25 between then and now because any time you have a storm,

1 or anything, it's a possibility you lose your power,
2 lose a fan; you can't judge what happens.

3 Q When you have an ice storm, it is pretty
4 tough to get buses moving on the roads during an ice
5 storm, isn't it?

6 A Well, it's pretty hard to get the men out
7 of the mine, too.

8 Q I understand.

9 If there's ice on the roads, it is going to
10 take time to get a bus moving --

11 A There's ice on the electric lines and traffic
12 is moving.

13 Q I'm asking the last time you personally
14 called Lanich and couldn't get a bus --

15 A There was only one time I was refused a bus.

16 Q Three or four years ago?

17 A Well --

18 Q You are talking about the same incident?

19 A We're talking different incidents.

20 One time I called and I couldn't --

21 Q But you always got the bus otherwise?

22 A Yes.

23 Q And, how long has Lanich served you over
24 the years?

25 A Every since the Mine's been open.

1 Q Since how long?

2 A It's been there since the late 60's.

3 Q And Lanich has given you good service over
4 the years?

5 A Right; we pay for good service, we get good
6 service.

7 Q Now, let's talk about the Pennview Mountain
8 Hunting Club.

9 You say you have trips to Harrisburg and Pitts-
10 burgh, too, to sports shows there?

11 A Right, outdoor shows.

12 Q When was the last time you had a -- had a
13 trip to Harrisburg?

14 A Last year.

15 This year here, when they had the outdoor show
16 down here, in the first part of the year, January,
17 February.

18 Q And Pittsburgh --

19 A Was also the first part of this year.

20 Q And you had, for these shows, people got
21 together and hired Lanich?

22 A We went in for the show down east, we went
23 with Heildwood, H-E-I-L-D-W-O-O-D; Heildwood.

24 Q And who did you go with to Pittsburgh?

25 A We didn't take a bus this year to Pittsburgh.

1 Q You didn't?

2 How did you go to Pittsburgh?

3 A We drove this year, but in the past, we have
4 been on different charter services going in.

5 Q Are those the two places you go, basically,
6 for the Mountain Hunting Club?

7 A Yes, we, besides --

8 Q For the education?

9 A Yes, going from the classroom to the ranges.

10 Q Now, where is this classroom located?

11 A We use the Elks facility in Blairsville.

12 They have a large hall and we're able to put
13 50, 60 students in there.

14 Q Is that in the village of Blairsville?

15 A Yes.

16 Q It's in the borough of Blairsville?

17 A Yes.

18 Q And for all these trips, a school bus is
19 satisfactory; is that correct?

20 A Yes.

21 Some would prefer a coach going to Harrisburg,
22 though.

23 Q From Blairsville?

24 A Right.

25 Q So then, if you had a company that didn't

1 have a coach available that wouldn't be satisfactory,
2 is that correct?

3 A Depends on the people that want to go.

4 They would vote on how they would want to go,
5 bus or school bus.

6 Q Would it be convenient for you to have your
7 choice from a company?

8 A Yes.

9 Q If you didn't have that choice available,
10 it wouldn't be that convenient, correct?

11 A Right.

12 HEARING EXAMINER: Convenient depending on what
13 service you wanted?

14 MR. NURICK: That's right.

15 BY MR. NURICK:

16 Q You would like to be able to use from one
17 bus company either type of bus?

18 It's easier to call one company, right?

19 A We would like to pick and choose.

20 It would be the same whether you would like to
21 drive a Cadillac or a Chevy.

22 Q It would be convenient to call one company?

23 A Right.

24 Q That's Blairsville, you want a school bus
25 or a coach; is that correct?

1 A For the trips to Harrisburg, right.

2 Q For the other trips --

3 A Other trips, school buses are fine.

4 They actually serve our purposes better.

5 Q For other trips?

6 A Right.

7 Q How about for the Helen Mine; what do you
8 use for that?

9 A We use school buses, correct.

10 Q Now, have you tried any other bus companies
11 for your Pennview Mountain Hunting Club trips?

12 A We have called price-wise.

13 Q Price-wise --

14 A You know, to check on, you know, chartering
15 a bus for our club itself.

16 Q Have you ever used Smith Bus Company?

17 A No.

18 Q Do you know Randall Smith?

19 A I met Randall Smith one time.

20 Q Does it depend whether you use a bus or not
21 on what the price will be?

22 A Correct.

23 Q And the availability of it?

24 A Yeah.

25 Q You indicated when you used Lanich, you had

1 to go someplace to use the bus?

2 A Indiana, and from where we meet it is 22
3 miles one way to Indiana.

4 Q Where is that meeting place?

5 A On Township route 724.

6 Q What township or village?

7 A The Township Road is in Burrel Township,
8 but everything else is in West Wheatfield Township.
9 That's Indiana County.

10 Q You have some people picked up in West
11 Wheatfield Township?

12 A Right, where they would be picked up at.

13 Q None would be picked up in Burrel Township,
14 correct?

15 A Right, the road is the separating difference
16 of the township.

17 You drive in on Burrel Township, you park your
18 car in West Wheatfield Township.

19 Q You are here supporting, as far as the
20 Pennview Mountain Club is concerned, you are supporting
21 this application for West Wheatfield Township; is that
22 correct?

23 A Correct.

24 Q Did you ever ask Lanich to pick you up in
25 Blairsville?

1 A No, because as I said, we always went to-
2 gether with other organizations.

3 Heildwood is probably out that way, but the
4 other one is Indiana.

5 Q Did some people want to be picked up in
6 Indiana?

7 A Heildwood is -- Heildwood is --

8 Q Where is that?

9 A It's in the northern part of the county.

10 Q The northern part of Indiana County?

11 A Correct. It's on 422 and 553.

12 Q Is it close to Indiana?

13 A I would say 15 to 20 miles from Indiana.

14 Q Is it north of Indiana?

15 A Northeast.

16 Q That's what I need to know.

17 So, the reason you went to Indiana is because
18 part of the joint group, for lack of a better term,
19 wanted to be picked up in Indiana, and you said, okay,
20 we'll go up there with you, correct?

21 A Correct.

22 Q And didn't ask to be picked up in any other
23 place?

24 A (Inaudible response.)

25 Q The answer is --

1 A I did not ask to be picked up in Blairsville.
2 MR. NURICK: I don't have any further questions.
3 Thank you very much.

4 BY MS. MAYERCHECK:

5 Q Mr. Muir, have you ever ridden on a Randall
6 Smith Bus?

7 A No, sir -- or no, ma'am; I'm sorry.

8 Q Do you know anything about the buses?

9 A They're good buses.

10 Q How do you know that?

11 A I've looked at them; I have seen them around.

12 Q Where have you looked at them?

13 A In their lot, and my wife drives for Homer
14 City School District, which is Smith Bus Company, and
15 I have seen the buses there.

16 Q Your wife works for Mr. Smith?

17 A Right, but other than my wife driving for
18 them, I do not know Mr. Smith at all.

19 Q How did you find out about this hearing
20 today?

21 A My wife asked me about it and we put it in
22 front of our club membership, and we talked about it
23 and approved it.

24 Q Are you familiar with Butler Motor Transit?

25 A Yes, I am.

1 Q How are you familiar with it?

2 A My wife is Mr. Kaylor's niece.

3 Q And now that you are president of the Penn-
4 view Mountain Hunting Club, would you consider using
5 Butler for some of your trips?

6 A If he could compete price-wise, yes.

7 Q It all depends on price?

8 A Correct.

9 It would have to be totally on price.

10 Q If Mr. Kaylor picked up closer to Blairsville
11 so you would not have to travel very far and his price
12 was competitive, you would use him?

13 A Yes, and the same with the kids.

14 I can't see a carrier going that far to trans-
15 port them that short of a distance.

16 You're only transporting them eight miles.

17 Q When you are transporting the students to
18 the range, from where to where do you go?

19 A They would go -- going from Blairsville to
20 the club range which is located in West Wheatfield
21 Township, which is approximately eight miles -- eight
22 and a half miles.

23 Q Are they picked up in Blairsville?

24 A They would be picked up in Blairsville,
25 right.

1 We're starting the program this year, starting
2 in August.

3 Q They're not picked up in West Wheatfield?

4 A No, pick-up in Blairsville, taken to the
5 range and returned to Blairsville.

6 Q You mentioned that you always combine with
7 groups?

8 A Different organizations because of cost-wise.
9 We couldn't afford -- our one small group
10 couldn't afford the bus, so you have ten from this
11 club and ten from that club --

12 Q Regardless of who is driving, somebody
13 would have to travel a distance?

14 A Correct.

15 Q A substantially great distance in some in-
16 stances to get a bus?

17 A But if the bus is closer, more people in our
18 organization would go.

19 MS. MAYERCHECK: No further questions.

20 REDIRECT EXAMINATION

21 BY MR. ASCHINGER:

22 Q Just one question, Mr. Muir.

23 In connection with transportation for the
24 rifle club, would you have any objection to a pick-up
25 in Burrell Township?

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1 A No.

2 MR. ASCHINGER: That's all I have.

3 RECROSS EXAMINATION

4 BY MR. NURICK:

5 Q Well, based on that again, the convenient
6 place, the place you are supporting here is West Wheat-
7 field Township, okay?

8 A It's hard to explain to you.

9 The township road is right here. Half is in
10 Burrel Township and half is in Wheatfield Township,
11 depending what side of the road you are parking on.

12 If you are off one side of the road, you
13 are in Burrel Township.

14 You're actually being picked up in Burrel
15 Township, or, if you were picked up on the right side
16 of the bus, or left side of the bus.

17 If you get on the Burrel Township side of the
18 road, you get picked up in Burrel Township. If you
19 get off on the other side, you get off in West Wheat-
20 field Township.

21 MR. NURICK: Nothing further.

22 HEARING EXAMINER: Thank you.

23 Mr. Aschinger, you indicated off the record
24 that you wanted to recall the applicant to the stand
25 to clear up some questions of who the Smith Bus Company

1 is.

2 MR. ASCHINGER: Yes.

3 I think there has been considerable confusion.

4 I would think the Commission would want that
5 clarified if at all possible.

6 HEARING EXAMINER: Well, we will permit you
7 to recall your witness, the applicant, for that purpose.

8 MR. ASCHINGER: Thank you very much.

9 Do you want to conclude --

10 HEARING EXAMINER: Let's get that cleared up
11 so that these people, the Protestants, will have the
12 benefit of that at the next hearing.

13 RANDALL L. SMITH, Recalled as a witness, having
14 been previously duly sworn, was examined and testified
15 as follows:

16 REDIRECT EXAMINATION

17 BY MR. ASCHINGER:

18 Q Mr. Smith, do you want to explain the re-
19 lationship between Smith Bus Company and Ester L.
20 Smith?

21 A Smith Bus Company is really Randall L.
22 Smith.

23 The Armstrong School District contract is in
24 both Ester L. Smith and Randall L. Smith's name.

25 Q That's the Armstrong --

1 A Right.

2 Mother has 19 pieces of equipment there, and
3 I have four pieces of equipment.

4 She hauls all extra curricular activities at
5 Armstrong.

6 HEARING EXAMINER: Wait a minute.

7 Does she operate also under the Smith Bus
8 Company?

9 THE WITNESS: No, all billings, all checks are
10 made out, Ester L. Smith.

11 BY MR. ASCHINGER:

12 Q You are both operating under that contract
13 but independently, is that correct?

14 A Correct.

15 Homer City, Blairsville, Derry, and the Vo-Tech
16 Sshools --

17 HEARING EXAMINER: Who is the contract with?

18 THE WITNESS: For Armstrong?

19 The contract at Armstrong, Ester L. Smith and
20 Randall L. Smith.

21 BY MR. ASCHINGER:

22 Q But you operate independently?

23 A Correct.

24 That was part of a take-over for a will.

25 MR. NORICK: I didn't hear you.

1 A No.

2 The only lease, there is nothing down on paper
3 legally.

4 The only time that buses would be switched,
5 intermixed, would be spare buses would go from one area
6 to another for demand.

7 Q So, you intermix the operation from time
8 to time?

9 A Very seldom; very seldom.

10 Q As need requires, you do?

11 A Right, but equipment that's intermixed is
12 not used for extra curricular activities.

13 It's used for routine transportation.

14 Q Where is your mother's facility located?

15 A Elderton, also.

16 A The facility is located in the same place?

17 A Yes.

18 Q Is it the same telephone number for both?

19 A Yes.

20 Q And all the employees report at the same
21 place for both companies?

22 A Correct.

23 Q And you and your mother help each other in
24 both operations, correct?

25 A Mother, I do -- mother is 64 and I negotiate

1 contracts and oversee her.

2 She does have employees that take care of
3 maintenance, and other things.

4 She, in turn, does my paperwork.

5 HEARING EXAMINER: Let me interrupt.

6 You stated that the school contracts with
7 Randall Smith, trading as Smith Bus Company, and with
8 Ester Smith, is that right?

9 THE WITNESS: The Armstrong contract reads,
10 Ester L. Smith and Randall L. Smith.

11 HEARING EXAMINER: Ester L. Smith and Randall
12 L. Smith?

13 THE WITNESS: yes.

14 MR. ASCHINGER: And that's the Armstrong --

15 THE WITNESS: Just the Armstrong.

16 HEARING EXAMINER: In that connection, are
17 any particular number of buses contracted to be fur-
18 nished by you and a certain number of buses to be
19 contracted or to be furnished by your mother?

20 THE WITNESS: By the school district, no.
21 We have to list furnishes what at the beginning
22 of the year, and that's it.

23 HEARING EXAMINER: Do you furnish a list?

24 THE WITNESS: Of who furnishes the equipment.
25 She'll list 16 and I'll list four or five.

1 I think it was five this year.

2 BY MR. NURICK:

3 Q If you need equipment, you will -- quote --
4 lease from your mother to fill in; correct, and vice
5 versa?

6 A Very seldom. Correct.

7 Q You mean you oversee your mother; you mean
8 her operation?

9 A Mother is a lot sharper than I am, so mostly
10 it's the other way around.

11 When I see her it is negotiating a contract.

12 Q And you help in her operation, also?

13 A Also we have a farm operation that I'm
14 involved with, also.

15 We're farmers at heart.

16 Q That's good, but, that's getting into another
17 area now, so it is beyond what you were put back on
18 the stand for.

19 I think I get it.

20 It is, at this point, your mother is getting
21 ready to retire and you are sort of taking over for
22 both operations, correct?

23 A (Inaudible response.)

24 Q You have to say yes or no.

25 A Yes.

1 MR. MURICK: Thank you.

2 BY MS. MAYLORCHECK:

3 Q For whom does Mr. Free work?

4 A Randall L. Smith Bus Company.

5 Q Does he do any work for your mother?

6 A No.

7 Q What if she got in a bind and she needed
8 something to be done, would he help her out?

9 A No, we have some -- at his level, he is
10 really confined to that position at that Blairsville
11 facility.

12 HEARING EXAMINER: What position does he have?

13 THE WITNESS: He is responsible for all drivers
14 and all scheduling.

15 So, in answer to the question, when you see
16 Charlie's face in Elderton -- well, you won't.

17 HEARING EXAMINER: Does he have a title?

18 THE WITNESS: I call him manager.

19 He likes that.

20 BY MS. MAYLORCHECK:

21 Q Does the situation ever arise where one of
22 your drivers has to drive one of your mother's buses,
23 or vice versa?

24 A No.

25 My drivers always go with my bus.

1 Q Do you keep separate records for the two
2 companies?

3 A No.

4 You're talking Smith Bus Company and Ester L.
5 Smith, yes, very definitely.

6 Q Separate payrolls?

7 A Correct.

8 Q Does your mother operate under that name?

9 A Ester L. Smith.

10 Q No fictitious name?

11 A Ester L. Smith.

12 MR. MURICK: In all --

13 THE WITNESS: I said no, no fictitious name.

14 BY MS. MAYLROCK:

15 Q Are any of the office employees shared?

16 A No.

17 I mean, I'm the only thing that's shared.

18 Q And the location, the location and the
19 phone?

20 A Correct.

21 MS. MAYLROCK: I have no further questions.

22 MR. MURICK: I'm finished.

23 HEARING EXAMINER: Thank you.

24 How many additional days of hearing do you
25 expect to need in this proceeding?

1 MR. ASCHINGER: I think it would be safe for
2 what, two days because you have cross examination.

3 MR. NURICK: And we'll need a day to come back
4 and put on our case.

5 MR. ASCHINGER: Wait a minute.

6 Can't you do it in two consecutive days?

7 MR. NURICK: If we get this transcript -- are
8 you going to have any more public witnesses?

9 MR. ASCHINGER: I would like to reserve it
10 until tomorrow.

11 Offhand, I would say no.

12 MR. NURICK: If so, I would like time to prepare
13 it.

14 MS. MAYERCHECK: We would like tomorrow to
15 prepare our case after the cross examination.

16 We do not want them back to back.

17 MR. NURICK: That would be my real preference,
18 so we don't have to go right ahead and have a chance
19 to review the record and put it together.

20 I prefer that, also.

21 MR. ASCHINGER: You mean you're going to have
22 two sets of hearings?

23 I don't see why you can't have two consecutive
24 days to clean up this case.

25 MR. NURICK: I'm just giving you my preference.

1 It is not unusual that it wait until the other
2 is finished.

3 HEARING EXAMINER: Well, that sometimes is the
4 case, but this kind of case, I don't see why we can't
5 conclude the hearings from both sides at the next
6 hearing.

7 MR. NURICK: I would say, Your Honor, if there
8 are no more public witnesses and things we don't have
9 to check out, that probably won't be the problem.

10 If someone testified, particularly good, we're
11 in Pittsburgh and we don't have a record to check out
12 but we have to say --

13 HEARING EXAMINER: Suppose we do this.

14 Suppose we have the applicant's counsel advise
15 you of any additional public witnesses that he intends
16 to call, and you can have the benefit and make the
17 proper investigation.

18 MR. ASCHINGER: I can tell them that tomorrow.

19 MR. NURICK: And what they have to say about
20 my complaint.

21 MR. ASCHINGER: Two days, I can't understand
22 why we can't complete it.

23 I'm satisfied to complete it after the
24 presentation of his case.

25 HEARING EXAMINER: We will adjourn the hearing

1 at this time and schedule the further hearings for
2 two days.

3 Will counsel advise me tomorrow whether they
4 prefer Indiana or Pittsburgh.

5 I would think if there were not substantial
6 number of public witnesses that Pittsburgh might be
7 more convenient for all parties.

8 MS. MAYLROCHECK: We prefer Pittsburgh.

9 MR. NURICK: If there are no more public
10 witnesses, I think we could prepare for the next day.

11 The problem we have is nothing new and with
12 people starting to testify we need to check it out.

13 HEARING EXAMINER: Suppose we do this.

14 Mr. Aschinger, if you have any additional public
15 witnesses, will you furnish the names and the summary
16 of the proposed testimony of those public witnesses
17 so Protestant can have some idea what the nature of
18 the testimony will be.

19 MR. ASCHINGER: I'll tell you tomorrow.

20 Offhand, I would say we're satisfied not to
21 call any more public witnesses under those circumstances.

22 Do I understand maybe we'll have two days in
23 Pittsburgh to clean it up?

24 HEARING EXAMINER: Yes.

25 Now, in the event that you determine that you

1 have some additional public witnesses in addition to
 2 getting the names to the Protestant's counsel, will
 3 you also give them a short summary of the nature of
 4 the testimony that they'll present?

5 Very well, we'll adjourn at this time until
 6 further hearings for two days to be set by the
 7 Commission at Pittsburgh.

8 Is that okay?

9 MR. MURICK: Pittsburgh is okay.

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I hereby certify that the proceedings and evidence taken by me before the Pennsylvania Public Utility Commission are fully and accurately indicated in my notes and that this is a true and correct transcript of same.

Paul Kulik
Paul Kulik, Reporter/mo