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2310 Grant Building
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November 21, 1997

Richard R. Wilson
of Counsel

Facsimile
(412) 471-4477

Re: **Smith Bus Company, Inc.**
Docket No. A-00105786, F. 1, Am-A

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

MAILED WITH U.S. POSTAL SERVICE
CERTIFICATE OF MAILING FORM 3817

RECEIVED

NOV 21 1997

Dear Mr. McNulty:

We enclose for filing with the Commission the signed original of a protest to the above application.

Please acknowledge receipt and filing of the enclosed on the duplicate copy of this letter of transmittal and return it to the undersigned in the self-addressed, stamped envelope provided.

Very truly yours,

VUONO & GRAY, LLC


William A. Gray

pz/5625

Enclosure

cc: Dennis S. Shilobod, Esq. (w/enc.)(By Certified Mail)
Transportation Management Services, Inc. t/d/b/a Lenzner Coach Lines

LZ 12/11/97 9:21 AM '97

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET NO. A-00105786, F. 1, Am-A

SMITH BUS COMPANY, INC.

PROTEST AND REQUEST
FOR ORAL HEARING

RECEIVED

NOV 27 1997

PAT
PENNSYLVANIA PUBLIC UTILITY COMMISSION

The motor carrier shown on Appendix A hereof (herein called protestant) protests the above application and requests that the application be assigned for oral hearing and in support thereof respectfully represents as follows:

1. By this application, notice of which has been published in the Pennsylvania Bulletin, applicant seeks authority as set forth in Appendix A.
2. Protestant holds authority from this Commission at the docket number shown in Appendix A and the relevant portions of the authority are attached to the protest. Unless otherwise indicated in Appendix A, protestant will withdraw the protest

83-3111 83-3116

only in the event an amendment is made which will totally eliminate the conflict between the authority sought by the application and the authority presently held by protestant.

3. Approval of this application is neither necessary nor proper for the service, accommodation, safety or convenience of the public since (a) protestant presently holds authority to provide service in the area affected by the application, (b) protestant and other existing carriers are providing adequate service to the public in the areas involved in the application, (c) there is no public demand or need for the service proposed by applicant, (d) approval of the application will not serve a useful public purpose; (e) approval of the application will endanger or impair the operations of protestant and other existing carriers to such an extent that on balance, the granting of authority would be contrary to the public interest, and (f) the applicant does not possess the requisite fitness to warrant approval of the application..

4. Protestant requests that the application be set for oral hearing and that applicant be required to prove by competent evidence the elements of proof required by statute. If an oral hearing is held, protestant will appear and present evidence of protestant's own operations and particular interests unless this application is amended so as to eliminate those interests as set forth in this protest.

WHEREFORE, protestant requests that the granting of the application be withheld; the proceeding be assigned for oral hearing with leave to protestant to participate fully therein; and applicant be required to make available at the hearing

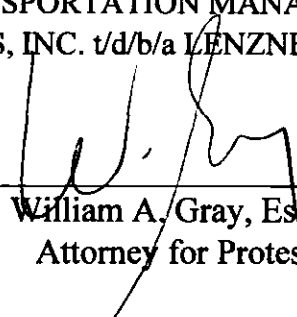
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competent witnesses for examination on all material and relevant facts bearing on the application.

Respectfully submitted,

TRANSPORTATION MANAGEMENT SERVICES, INC. t/d/b/a LENZNER COACH LINES

By: _____


William A. Gray, Esq.
Attorney for Protestant

VUONO & GRAY, LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800

Dated: November 21, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the above protest and request for oral hearing upon applicant or upon applicant's attorney or representative as shown in the Pennsylvania Bulletin notice.

Dated at Pittsburgh, PA this 21st day of November, 1997.



William A. Gray

/s625

57 NOV 23 11:28

Re: Smith Bus Company, Inc.
Docket No. A-00105786, F. 1, Am-A

APPENDIX A

SCOPE OF AUTHORITY SOUGHT:

By application published in the Pennsylvania Bulletin on November 8, 1997

applicant seeks authority to operate as a common carrier, transporting:

Persons in group and party service between points in the townships of Burrell and Centre, Indiana County, and the borough of Elderton, Armstrong County, and from points in the said townships and borough, to points in Pennsylvania, and return.

INTEREST OF PROTESTANT:

Transportation Management Services, Inc. t/d/b/a Lenzner Coach Lines, R.D. #2, Nicholson Road, Sewickley, PA 15143, (412) 761-7000, holds authority at Docket No. A-00112590. A copy of the relevant authority is attached hereto. As relevant hereto, Lenzner is authorized to provide service from the borough of Elderton, Armstrong County, to points in Pennsylvania.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held February 8, 1996

Commissioners Present:

John M. Quain, Chairman
Lisa Crutchfield, Vice-Chairman
John Hanger
David W. Rolka
Robert K. Bloom

Application of Transportation Management Services, Inc., a corporation of the Commonwealth of Pennsylvania, for the transfer of all of the operating rights of Lenzner Coach Lines, Inc., t/d/b/a North Boroughs Cab, a corporation of the Commonwealth of Pennsylvania, under the certificate issued at A-00097494, F. 1, subject to the same limitations and conditions.

A-00112590
F. 2

William A. Gray for the applicant.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed October 27, 1995. Public notice of the application was given in the Pennsylvania Bulletin of December 9, 1995. The unopposed application is certified to the Commission for its decision without oral hearing.

Transportation Management Services, Inc., a Pennsylvania corporation, seeks to acquire all of the group and party rights of Lenzner Coach Lines, Inc., t/d/b/a North Boroughs Cab. The acquisition of the rights is part of a corporate reorganization of the companies. Charles S. Lenzner and John E. Lenzner are the sole shareholders of the transferor. They are officers and directors of both the transferee and the transferor and are also officers, directors and stockholders of Airlines Acquisition Co., Inc., t/d/b/a Airlines Transportation, which is a certificated carrier holding authority at A-00108743. The applicant will use all the facilities and equipment now in use by the transferor. This equipment consists of 28 motor

coaches, five mini-buses, three vans and three automobiles. Transportation Management Services, Inc., will operate from R.D. 2, Nicholson Road, Sewickley, Allegheny County.

As evidence of its financial capacity to continue operations, the applicant provided a balance sheet dated March 31, 1995, reporting total assets of \$4,920,608.70 with total liabilities of \$1,693,023.21. For the months January 1, 1995 to March 31, 1995, total revenue of \$888,909.66 produced a net income of \$61,127.31.

Since this is a corporate reorganization, the total consideration for rights and other assets has been assigned the nominal consideration of \$1.00 which will be paid upon approval of the transfer by the Commission.

A review of the record before us indicates that the applicant possesses the requisite experience, equipment and financial capacity to provide the proposed service.

The authority to be transferred has been operated by the transferor, therefore, it is presumed that there is a continuing need, which may be overcome only by evidence to the contrary. In re: Eyerly, 440 Pa. 521 (1970); Hostetter v. Pa. P.U.C., 160 Super. Ct. 94 (1947). Since the record is void of any such evidence, this presumption of continuing public need applies in this transfer proceeding.

We find:

1. The applicant is fit, willing and able to provide the service proposed.

2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the transfer application be and is hereby approved and that a certificate be issued granting the following rights:

To transport, as a common carrier, by motor carrier, persons in group and party service,

- (1) from the townships of Franklin, Ohio, and Kilbuck and the boroughs of Emsworth, Ben Avon Heights, Ben Avon, Avalon and Bellevue, Allegheny County, to points within an airline distance of seventy-five (75) statute miles of the limits of said townships and boroughs;
- (2) from the townships of McCandless, Sewickley Heights and Aleppo, and the borough of Sewickley Heights, Allegheny County, to points within an airline distance of seventy-five (75) statute miles of the limits of said township and borough;
- (3) from the borough of Glenfield, Allegheny County, to points within an airline distance of seventy-five (75) statute miles of the limits of said borough;
- (4) from the boroughs of Avalon, Ben Avon, Ben Avon Heights, Bellevue, Emsworth, Glenfield, Sewickley Heights, Sewickley Hills and Franklin Park, and the townships of Aleppo, Kilbuck, McCandless, Ohio, Pine, and Ross, Allegheny County, to points in Pennsylvania excluding service to points in Allegheny County, except as currently authorized;
- (5) from the townships of Hanover, Independence, Hopewell, Potter, Raccoon, Center and Greene and the boroughs of Shippingport, South Heights, Georgetown, Hookstown and Frankfort Springs, Beaver County, and from the borough of Bradford Woods, Allegheny County, to points in Pennsylvania, excluding transportation between points in Allegheny County, except as currently authorized;

- (6) from the township of Harmony and the boroughs of East Rochester, Freedom, Conway, Baden, Economy and Ambridge, Beaver County, and the boroughs of Leetsdale, Bell Acres and Edgeworth, Allegheny County, to points in Pennsylvania;

with Right No. 6 subject to the following conditions:

- (a) That no right, power or privilege is granted to provide service between points in Allegheny County; except as currently authorized;
- (b) Provided that transportation service from the township of Harmony and the borough of Ambridge, Beaver County, and the borough of Leetsdale, Bell Acres and Edgeworth, Allegheny County, is limited to trips that are more than one hundred fifty (150) miles from the point of origin to point of destination;

- (7) from the city of Beaver Falls, the townships of South Beaver, Vanport, Rochester, Pulaski, New Sewickley, North Sewickley, Marion, Franklin, Daugherty, Darlington, Chippewa, Brighton and Harmony, and the boroughs of West Mayfield, Rochester, Patterson Heights, Ohioville, New Brighton, Monaca, Midland, Koppel, Industry, Homewood, Glasgow, Fallston, Eastvale, Big Beaver, Bridgewater, Beaver, Aliquippa and Ambridge, Beaver County, to points in Pennsylvania;

with Right No. 7 subject to the following condition:

That no right, power or privilege is granted to render service to points in Allegheny County from the boroughs of Aliquippa and Ambridge;

- (8) from points in those parts of Allegheny County lying (1) east of the eastern boundaries of the townships of Richland, Hampton and Shaler and north and west of the Allegheny River to points in Pennsylvania; excluding service from points in the city of Pittsburgh and between points in the county of Allegheny, and (2) south of the Ohio and Monongahela Rivers and west of U.S. Route 19, to points in Pennsylvania, excluding service from points in the city of Pittsburgh and between points in the county of Allegheny;

with Right No. 8 subject to the following conditions:

- (a) That no right, power or privilege is granted to provide service to points within forty (40) statute miles of the City-County Building in the city of Pittsburgh, Allegheny County;
- (b) That no right, power or privilege is granted to provide service in the boroughs of Tarentum and Brackenridge and the township of Harrison, Allegheny County;

(9) from the townships of Richland, Hampton, Reserve and Shaler, Allegheny County; the boroughs of Millvale, Etna and Westview, Allegheny County; the city of Pittsburgh, Allegheny County; and that part of the county of Allegheny lying between the Allegheny and Monongahela Rivers, to points in Pennsylvania; excluding service between points in the county of Allegheny;

with Right No. 9 subject to the following condition:

That no right, power or privilege is granted to provide service to points within forty (40) statute miles of the City-County Building in the city of Pittsburgh, Allegheny County;

(10) from points in the county of Washington, to points in Pennsylvania;

with Right No. 10 subject to the following condition:

That no right, power or privilege is granted to provide service from points in the borough of Charleroi, Washington County, and within an airline distance of ten (10) statute miles of the limits thereof;

(11) from points in Washington County located within an airline distance of ten (10) statute miles of the limits of the borough of Charleroi, Washington County, to points in Pennsylvania;

(12) between points in the counties of Butler and Lawrence;

(13) from points in the counties of Butler and Armstrong, and from the boroughs of Tarentum and Brackenridge, and the township of Harrison, Allegheny County, to points in Pennsylvania;

with Right No. 13 subject to the following conditions:

(a) That no right, power or privilege is granted to render group and party service between points in Allegheny County;

(b) That no right, power or privilege is granted to render charter service as defined in 52 Pa. Code §29.322(1)(i), from points located in the boroughs of Tarentum and Brackenridge and the township of Harrison, Allegheny County, to points in Pennsylvania, which are located within forty (40) statute miles of the City-County Building in the city of Pittsburgh, Allegheny County;

(14) from points in the county of Allegheny to points in the counties of Beaver, Lawrence, Butler, Armstrong, Indiana, Westmoreland, Fayette, Greene, and Washington, which lie within a radius of forty (40) statute miles of the City-County Building in the city of Pittsburgh, Allegheny County;

(15) from the boroughs of Ambridge and Aliquippa, Beaver County, to points in Allegheny County;

with Rights No. 14 and 15 subject to the following conditions:

(a) That no right, power or privilege is granted to transport special groups of persons arriving by airplanes at the Greater Pittsburgh International Airport in the township of Moon, Allegheny County, and upon request to subsequently return said groups to the Greater Pittsburgh International Airport;

(b) That no right, power or privilege is granted to transport airline passengers grounded at the Greater Pittsburgh International Airport, when the passenger pays for the transportation;

(16) between points in the counties of Blair, Cambria, Washington and Westmoreland; and from points in those counties to other points in Pennsylvania; with both rights limited to service for ABC Travel, Inc., a licensed passenger broker, where arrangements for service have been made by said company;

with Right No. 16 subject to the following condition:

That no right, power or privilege is granted to provide service from the city of New Kensington, Westmoreland County, and from points in Westmoreland County located within an airline distance of nine (9) statute miles of the limits of the borough of Charleroi, Washington County;

subject to the following general conditions:

1. That the operating authority granted herein, or now held, or subsequently granted to the applicant to the extent that it is duplicative, shall not be construed as conferring more than one operating right.
2. That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or rights to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefor, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.
3. That the applicant record in its Utility Account 1321 - Franchises, the actual cost of such rights recorded by the original holder thereof.
4. That the utility accounts of the transferee shall reflect the same book values for all utility property acquired as shown in the records of the transferor at the effective date of the transfer, any previously recorded depreciation having been deleted therefrom.

5. That the applicant charge to Account 1341 - Other Intangible Property, any amount of the consideration paid for the rights and going concern value attributable thereto in excess of the amounts recorded under condition 3 above.
6. That the certificate holder shall not transfer, sell or in any way convey any of its outstanding capital stock to any individual, partnership, corporation or any other entity, without the prior filing of an application and approval thereof by the Commission under Section 1102(a)(3) of Title 66, PA C.S.A.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted in this application until the following is submitted to the Commission:

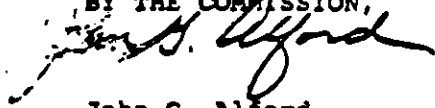
1. Form E evidence of Bodily Injury and Property Damage Liability Insurance.
2. A tariff establishing just and reasonable rates.

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

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of the service of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

IT IS FURTHER ORDERED: That upon compliance with this order, the rights granted the transferor, Lenzner Coach Lines, Inc., t/d/b/a North Boroughs Cab at A-00097494, F. 1 be and is hereby cancelled.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: February 8, 1996

ORDER ENTERED: FEB 13 1996



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

IN REPLY PLEASE
REFER TO OUR FILE

January 29, 1998

In Re:A-00105786F0001AmA

(See attached list)

DOCUMENT
FOLDED

Application of Smith Bus Company a Corporation of the Commonwealth
of Pennsylvania

For amendment to its common carrier certificate, which grants the right, to transport, by motor vehicle, groups and parties of persons, from points in the township of Burrell and the facilities of Homer Center High School in the township of Centre, Indiana County, and the borough of Elderton, Armstrong County, to points in Pennsylvania within an airline distance of one hundred (100) statute miles of the point of origin; subject to the following conditions: (1) That the service herein authorized is limited to charter service with no right, power or privilege granted to provide tour, sight-seeing or special excursion service; and(2) That all transportation herein authorized is limited to the use of school bus type equipment: SO AS TO PERMIT the transportation of persons in-group and party service, between points in the townships of Burrell and Centre, Indiana County, and the borough of Elderton, Armstrong County, and from points in the said townships and borough, to points in Pennsylvania, and return.

Hearing Notice

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

Type: Initial
Date: Friday, April 3, 1998
Time: 10:00 a.m.
Location: 11th floor hearing room
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania

DOCKETED
JAN 30 1998

Presiding Officer: **Administrative Law Judge Larry Gesoff**
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550

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

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

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

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

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

pc: Judge Gesoff
Norma Lewis
Steve L. Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

A-00105786F0001 Application of Smith Bus Company a Corporation
of the Commonwealth of Pennsylvania

For amendment to its common carrier certificate, which grants the right, to transport, by motor vehicle, groups and parties of persons, from points in the township of Burrell and the facilities of Homer Center High School in the township of Centre, Indiana County, and the borough of Elderton, Armstrong County, to points in Pennsylvania within an airline distance of one hundred (100) statute miles of the point of origin; subject to the following conditions: (1) That the service herein authorized is limited to charter service with no right, power or privilege granted to provide tour, sight-seeing or special excursion service; and(2) That all transportation herein authorized is limited to the use of school bus type equipment: SO AS TO PERMIT the transportation of persons in-group and party service, between points in the townships of Burrell and Centre, Indiana County, and the borough of Elderton, Armstrong County, and from points in the said townships and borough, to points in Pennsylvania, and return.

SMITH BUS COMPANY INC
RD 1 BOX 622B
BLAIRSVILLE PA 15717

DENNIS S SHILOBOD ESQUIRE
SMITH BUS COMPANY INC
617 GRANT BUILDING
330 GRANT STREET
PITTSBURGH PA 15219

WILLIAM A GRAY ESQUIRE
VUONO & GRAY LLC
TRANSPORTATION MANAGEMENT SERVICES INC
2310 GRANT BUILDING
PITTSBURGH PA 15219