

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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Application of Davcon Packing :
Services, Ltd., t/d/b/a Davcon :
Relocations Services, a Corporation :
of the Commonwealth of Pennsylvania, :
for the additional right to transport, :
as a common carrier, by motor vehicle, :
household goods, in use, between :
points in the County of Lancaster, :
and from points in said county, to :
points in Pennsylvania, and vice versa :
(Initial Hearing) :
----- x

Docket No.
A-00117540F0003

DOCUMENT
FOLDER

Pages 1 through 94

Hearing Room 3
Commonwealth Keystone Building
Harrisburg, Pennsylvania

Tuesday, March 28, 2006

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

BEFORE:

KANDACE F. MELILLO, Administrative Law Judge

APPEARANCES:

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FORM 2

P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE KANDACE F. MELILLO:

1 This is the time and place for an initial hearing in the
2 Application of Davcon Packing Services, Limited, trading and
3 doing business as Davcon Relocations Services, for the
4 additional right to transport, as a common carrier by motor
5 vehicle, household goods in use between points in the County
6 of Lancaster and from points in said county to points in
7 Pennsylvania and vice versa. The docket number is
8 A-00117540F0003.
9

10 This application is being protested by Jack
11 Treier, Inc., Shelly Moving and Storage, Inc., Charles E.
12 Groff and Sons, Inc., and Phillip J. Mertz and John M.
13 Mertz, co-partners, trading as Mertz's. There have been no
14 restrictive amendments filed to my knowledge nor have I
15 received notice of withdrawal of any protests.
16

17 I am Administrative Law Judge Kandace F.
18 Melillo, assigned by the Commission to preside in this
19 matter. I note the appearances this morning of J. Bruce
20 Walter, Esquire, on behalf of the Applicant, and James D.
21 Campbell, Jr., on behalf of the Protestants, Shelly Moving
22 and Storage, Inc., Jack Treier, Inc., Charles E. Groff and
23 Sons, Inc., and Mertz's.

24 The parties were notified of this hearing by
25 hearing notice dated February 13, 2006. A prehearing order

1 was issued on February 15, 2006. As you know, this hearing
2 is being transcribed, so I ask all of you to speak slowly,
3 clearly, and loudly.

4 As is my custom, I'm going to give the
5 parties at this time an opportunity to speak candidly with
6 each other about settlement. The Commission strongly
7 encourages settlements. Are the parties interested in a few
8 moments to pursue settlement at this time?

9 MR. CAMPBELL: Your Honor, we've had an
10 opportunity to discuss it, and we don't believe that there's
11 any basis for settlement because of the conflict of
12 authorities.

13 JUDGE MELILLO: Can you please keep your
14 voice up and use the microphone.

15 Yes, Mr. Walter.

16 MR. WALTER: I agree with Mr. Campbell.

17 JUDGE MELILLO: All right. Davcon Relocation
18 Services, you have the burden of proof in this matter to
19 show that approval of your application will serve a useful
20 public purpose, responsive to a public need or demand, and
21 that you possess the technical and financial ability to
22 provide the service, so you will go first in the order of
23 presentation.

24 As indicated in my prehearing order,
25 Protestants should be prepared to begin their evidentiary

1 presentations immediately upon the conclusion of the
2 Applicant's direct case. Protestants, you have the burden
3 of proof with respect to assertions that entry of a new
4 carrier endangers or impairs your operation, thus rendering
5 the grant of the application contrary to the public
6 interest.

7 Does anybody have any questions before we
8 begin?

9 MR. WALTER: No, Your Honor.

10 MR. CAMPBELL: No, Your Honor.

11 JUDGE MELILLO: All right. We'll begin with
12 the Applicants's case now. Please call your first witness.

13 MR. WALTER: We would call David Burkholder
14 to the witness stand.

15 JUDGE MELILLO: Mr. Burkholder, please take
16 the stand up here and check to make sure the microphone is
17 on. Hopefully it is. Is the green light on?

18 MR. BURKHOLDER: Yes, the green light is on.

19 JUDGE MELILLO: Very well. Please stand and
20 raise your right hand.

21 Whereupon,

22 DAVID P. BURKHOLDER,
23 having been duly sworn, testified as follows:

24 JUDGE MELILLO: Please be seated.

25 Continue, counsel.

1 MR. WALTER: Thank you, Your Honor.

2 As I indicated off the record and Mr.
3 Campbell is aware, we have a form of prepared direct
4 testimony in a statement. Mr. Campbell has received prior
5 copies, and I've placed copies before Your Honor and the
6 reporter. It consists of a statement and seven attachments,
7 and they are so numbered. I would ask after the preliminary
8 questioning of Mr. Burkholder that the statement be marked
9 as Applicant's Exhibit 1.

10 JUDGE MELILLO: All right. That may be so
11 marked as Applicant's Exhibit 1.

12 (Whereupon, the document was marked
13 as Applicant's Exhibit Number 1 for
14 identification.)

15 JUDGE MELILLO: Mr. Walter, can you please
16 talk into the microphone and see if that microphone is
17 working because I'm having difficulty hearing you. You may
18 have to press the button there to get it to work.

19 MR. WALTER: The green light is on.

20 JUDGE MELILLO: All right. So you have
21 submitted Applicant Exhibit 1 consisting of a Statement of
22 Applicant, and you have provided the requisite copies to the
23 court reporter?

24 MR. WALTER: I have.

25 JUDGE MELILLO: All right. I see that there

1 are seven numbered attachments. I think I see an eight on
2 my copy.

3 MR. WALTER: There is a second exhibit, the
4 insurance certificate, Your Honor. It's not part of the
5 attachment.

6 JUDGE MELILLO: What number do you want to
7 give that?

8 MR. WALTER: I think that would be
9 Applicant's Exhibit Number 2 because it's not referred to in
10 the statement per se, and it doesn't work as an attachment.

11 JUDGE MELILLO: All right. But the
12 attachments that I see, I see attachment 5 and it skips to
13 number 7?

14 MR. WALTER: Yes, there is a 6. That is not
15 stapled, but it is there. Attachment 6 is the financial
16 information.

17 JUDGE MELILLO: All right. So then are there
18 really eight attachments to Applicant's Exhibit 1? You said
19 there were seven.

20 MR. WALTER: There are seven. The reason I
21 suggested the insurance certificate be marked as Applicant's
22 Exhibit 2 is it is not specifically referred to in the
23 statement. It doesn't work as an attachment per se. It's a
24 freestanding document.

25 JUDGE MELILLO: All right. But then had you

1 intended originally that the insurance certificate be an
2 attachment because you said there were seven attachments,
3 but you see there's numbered up to eight in the attachments?
4 I have attachment eight as being Lancaster County Planning
5 Commission data. If you look at the bottom, it says eight.

6 Seven is the safety rating. Then five is the
7 relocation service, it looks like an advertisement; and six
8 is the Davcon Packing Services statement of income and
9 balance sheet. Four looks like additional information about
10 the relocation services. Three is an equipment list. Two
11 is the secretarial letter regarding the Certificate of
12 Public Convenience granted in 2001, and one is the actual
13 case docket caption. So it looks like there's eight
14 attachments; is that correct?

15 MR. WALTER: That is correct. There is an
16 attachment eight which is the population statistics from the
17 Planning Commission of Lancaster County. I misspoke. It is
18 referred to within the statement.

19 JUDGE MELILLO: All right. Applicant Exhibit
20 1 consisting of a statement of Applicant and eight
21 attachments will be identified for the record. Please have
22 it authenticated and move on from there.

23 DIRECT EXAMINATION

24 BY MR. WALTER:

25 Q. Mr. Burkholder, will you state your name and where

1 you reside for the record, please.

2 A. David, middle initial P, as in Paul, Burkholder; and
3 I reside at 115 Chapel, C-H-A-P-E-L, Lane, and that's
4 Ephrata, Pennsylvania 17522.

5 Q. And what is your connection with Davcon Relocation
6 Services?

7 A. I'm the owner of the company.

8 Q. Are you an officer of the company as well?

9 A. Yes.

10 Q. Are you authorized to appear this morning on behalf
11 of the company and provide testimony?

12 A. Yes.

13 Q. Together with my office did you cause to be prepared
14 the document we've been referring to as Applicant's Exhibit
15 1 and the various attachments to it?

16 A. Yes.

17 Q. Are you prepared to adopt that with some supplemental
18 questioning as your prepared direct testimony in this
19 proceeding?

20 A. Yes, I am.

21 Q. Are there any corrections or changes in the statement
22 which you would like to make at this time?

23 A. No.

24 Q. In the process of preparing for this application,
25 what research did you do that motivated you to apply for

1 this operating authority?

2 A. I thought about this for a number of years that the
3 Lancaster County market was an area that was a growing
4 community, so I wanted to do this at some point. Last year,
5 in 2005, there was a company that was represented in the
6 Lancaster market that did go out of business. Their
7 official name might be -- I think it's Worldwide
8 Transportation Services -- but they were known as doing
9 business in Berks County, Reading, Fritz Moving and Storage
10 Company, F-R-I-T-Z; and, in Lancaster, it was Lancaster
11 Storage Company.

12 They were a moving company in the Lancaster
13 market for decades. As a matter of fact, I started with
14 them back in 1981. So, when they closed their doors last
15 year because of whatever reasons they were going through, I
16 thought at that time they were taking a major mover out of
17 the market that made an impact along with the other movers
18 that have authority today. And I felt that, with where my
19 own company was at, that this was an opportunity to look
20 further into it to see if there would be a need, you know,
21 in that market.

22 And so I went forward and contacted Lancaster
23 Planning Commission. I met with a Rose Long at the Planning
24 Commission and discussed with her my situation and what I
25 was looking to do; and she said, well, the growth has been

1 unbelievable in Lancaster and I would like to provide you
2 with information to get ready for the hearing at some point,
3 which she provided. That was part of the information that
4 you passed over this morning.

5 And, with the statistics that we did see, you
6 know, with home sales in the residential market, new home
7 sales, new construction, everything is pointing that it's on
8 its way up. And, based on those statistics, a major mover
9 out of the market, and with us having experience in the
10 household market, we felt that this was the time to apply.

11 MR. WALTER: With that introduction, Your
12 Honor, we would move for the admission of Applicant's
13 Exhibit 1 and the attachments subject, of course, to Mr.
14 Campbell's cross-examination.

15 JUDGE MELILLO: All right.

16 Do you have any objection?

17 MR. CAMPBELL: I don't believe so, Your
18 Honor; but I rather you defer until I get through my
19 cross-examination as far as admitting it.

20 JUDGE MELILLO: All right. Let's defer
21 admission until after the conclusion of cross-examination.

22 Please continue, counsellor.

23 MR. WALTER: There is before Your Honor and
24 the reporter and I call Mr. Burkholder's attention to a
25 stapled document called Common Policy Declarations, which we

1 would ask be marked as Applicant Exhibit Number 2.

2 JUDGE MELILLO: All right. That may be so
3 marked as Applicant's Exhibit 2.

4 (Whereupon, the document was marked
5 as Applicant's Exhibit Number 2 for
6 identification.)

7 JUDGE MELILLO: Did you provide the requisite
8 copies to the court reporter?

9 MR. WALTER: I did.

10 JUDGE MELILLO: And you have a copy,
11 Protestants?

12 MR. CAMPBELL: We do, Your Honor.

13 JUDGE MELILLO: Very well.

14 Please continue.

15 BY MR. WALTER:

16 Q. Can you identify what this document represents, Mr.
17 Burkholder?

18 A. Can you hold that? I'm sorry.

19 Q. I think you have it in the back of the packet?

20 A. In the back of the first packet?

21 Q. Yes.

22 A. Common Policy Declarations?

23 Q. That's it.

24 A. That has to do with the insurance coverages that
25 Davcon Packing Services has as far as general liability,

1 auto, Workers' Comp to make sure we do have protection in
2 that area.

3 Q. And this is a current certificate of insurance?

4 A. That's correct.

5 Q. And you, Davcon Relocations Services, are actually a
6 certificated carrier before this Commission for other
7 purposes; is that correct?

8 A. Correct, property authority we have.

9 MR. WALTER: That's all I have for this
10 witness, Your Honor. Again, subject to cross-examination, I
11 move for the admission of Applicant's Exhibit Number 2.

12 JUDGE MELILLO: All right. Let's defer also
13 admission of that until after cross-examination. I have
14 just a couple questions before we have Mr. Burkholder
15 subject to cross-examination.

16 Mr. Burkholder, if you look at Applicant
17 Exhibit 1, under the number 2, identity and qualifications,
18 you said you worked for BBNB. What does that stand for?

19 THE WITNESS: I'm sorry. Is that -- you were
20 looking in the first paragraph on number 2?

21 JUDGE MELILLO: Yes, I am.

22 THE WITNESS: Okay. That was Blue Ball
23 National Bank.

24 JUDGE MELILLO: All right. And, also, if you
25 would look at attachment seven to Applicant Exhibit 1, you

1 have attached there a safety rating dated August 30, 2001.

2 Do you have a more recent safety rating other than that?

3 THE WITNESS: No. We had the initial one
4 when we first became a common carrier. That's been the last
5 one that they've done.

6 JUDGE MELILLO: Okay. By they, do you mean
7 the Public Utility Commission Motor Carrier Safety Division?

8 THE WITNESS: That's correct.

9 JUDGE MELILLO: All right. I believe that's
10 all the questions I have at this point. The witness is now
11 available for cross-examination.

12 CROSS-EXAMINATION

13 BY MR. CAMPBELL:

14 Q. Mr. Burkholder, on page 3 of your statement in the
15 first full paragraph, you state that you provide no
16 intrastate service within the Commonwealth of Pennsylvania
17 currently. Have you -- has Davcon in the past provided any
18 intrastate service for compensation?

19 A. Are you regarding -- which authority, the property
20 authority or --

21 Q. I'm sorry. I'm intending to limit it to household
22 goods in use.

23 A. There was a situation that had occurred, I want to
24 say, probably two years -- well, a little over a year ago
25 where there was a movement was done by Davcon; and I know

1 that my competitor, Jack Treier, Incorporated, had turned us
2 in to Public Utility Commission. And they had investigated
3 that situation, and there was a fine we did pay for that
4 situation.

5 Q. Was that your only intrastate transportation for
6 household goods that your company has done?

7 A. We have done moves that maybe -- I don't know if you
8 would call it that -- but where people would rent a truck,
9 and we would provide labor to help those people; and that's
10 the jurisdiction basically we go by.

11 Q. When you provide help, do you include a driver with a
12 truck; or do you provide a driver as well as packing,
13 loading, and unloading?

14 A. No. If we present it in the beginning that we don't
15 have the authority to do that particular move and provide
16 the truck that would have to be used, we tell the customer
17 that they would have to rent the truck and they would also
18 have to drive it. The only thing we're providing is the
19 labor to help assist and also the equipment that might be
20 needed, you know, blankets, hand trucks, any dollies, that
21 type of thing.

22 Q. Then start again -- I'm sorry. Has Davcon in the
23 recent past given quotes on intrastate moves of household
24 goods other than the do-it-yourself thing you just
25 described?

1 A. If any quotes were given in any of those situations,
2 it would have been to try to convince the customer to
3 utilize a rental truck situation.

4 Q. The safety rating that is identified as attachment
5 seven to your statement, I understand that was done when you
6 received your general commodities property authority from
7 the Commission?

8 A. Correct.

9 Q. So that would be Folder 1, and your present
10 application is captioned Folder 3. Do you have a Folder 2?
11 Is there another application for --

12 A. Okay. Folder 2, if I'm correct on this, would have
13 probably been back a few years ago, maybe in 2002. We had
14 applied for authority at that time for the same authority
15 we're doing today; and, for different reasons, financial is
16 one of them for sure, I decided to back down from that and
17 not go through it at that time.

18 Q. You refer in your statement and you also mention
19 orally the fact that Fritz Moving closed in June of 2005.

20 A. I think it was in that second quarter.

21 Q. Approximately?

22 A. Correct, yeah.

23 Q. Are you aware that the Fritz authority was
24 transferred not cancelled?

25 A. Now, that's the Fritz authority. I'm assuming --

1 Q. Actually, the household goods authority.

2 A. I'm not sure. There may be a separate docket for
3 Fritz in Berks County, and maybe Lancaster Storage had a
4 different number for Lancaster County. I don't know in
5 Lancaster County if they're two different ones, and maybe
6 that's in the process of being switched over to another
7 owner.

8 Q. So you don't know the status of the Fritz authority;
9 is that a fair statement?

10 A. The Fritz authority, if that's different than
11 Lancaster Storage Company, then they were owned by the same
12 entity. The Fritz authority I wasn't sure of, which I
13 assume was Berks County; but the Lancaster County authority
14 I don't know. Is it being transferred? You know, at this
15 point, nobody is advertising in the phonebooks for that type
16 of business to be able to solicit that type of business, so
17 I just assume right now nothing has been done at this point.

18 Q. The terminal facility that you describe in your
19 statement, is that owned by Davcon or is that leased?

20 A. Actually that's a lease base.

21 Q. Who owns that property?

22 A. You know, I know we lease it through Horst Reality,
23 and Horst Reality represents the owner which is Rapho
24 Associates.

25 Q. So that's an arms-length kind of a lease, it's not

1 anyone that's affiliated with your company?

2 A. Not affiliated with my company, no.

3 Q. Referring to the trucks that are described on
4 attachment three of your statement -- when I say trucks I
5 guess I should say vehicles -- are those owned by the
6 company or are they leased?

7 A. They are all owned by the company.

8 Q. And so that the record is complete, can you tell us
9 the year and make of the two straight trucks?

10 A. Sure. The first one, the 24-foot straight truck, was
11 the first one I bought when I went into business full-time.
12 That's a 19 -- I'm sorry, 2003 International straight truck.
13 The second straight truck that's listed is a 26-foot
14 straight truck. That is a -- I'm sorry, let me back up a
15 second. The first truck, the 24-foot straight truck, is a
16 2001 International straight truck; and the second truck, the
17 26-foot straight truck, is a 2003.

18 The Chevy Cube van, of course, that's listed
19 as a 2003; and the 48-foot trailer that we do have, that is
20 a 1998, and I think it's -- I think that's a Kentucky
21 trailer.

22 Q. And forgive my ignorance, but I'm not seeing a
23 vehicle described as a tractor that goes with that trailer?

24 A. That is correct. That will be my next purchase down
25 the road. We can rent tractors through some rental

1 companies like Penske Truck Leasing if the situation
2 warrants it.

3 Q. So that, if you're going to use that for your own
4 service, you would rent a tractor to operate it?

5 A. At this time that's correct.

6 Q. And I think I saw it somewhere, but perhaps you can
7 tell me the total number of employees of your company.

8 A. That has varied a little bit. Maybe in the testimony
9 it showed, like, ten; but we're probably more like six
10 full-time and ten as well when part-time people help out.

11 Q. So six full-time and the addition of four or so would
12 make it ten; is that what you're saying?

13 A. That would be a consistent number. If we have an
14 office move or something like that, we have access to five
15 or seven more people to do that on a part-time basis,
16 correct.

17 Q. Now, of the six full-time employees, are they
18 constant throughout the year; or are there periods of time
19 when they're laid off?

20 A. No. The six are constant throughout the year. I
21 haven't had to lay anyone off at this time.

22 Q. And would you agree with me, Mr. Burkholder, that the
23 moving industry is to some extent a seasonal industry or
24 that there are peaks and valleys in demand for service over
25 time?

1 A. I think, yeah, for most companies the majority
2 definitely is for, like, May through September when the
3 household moves are the largest quantity of moves that get
4 done at that time. I think, too, for the competitors at
5 your table, one thing that companies have done over the past
6 few years is gone more to the office moving side as well.
7 You get into office moving, and that seems to help out at
8 slow times when the household isn't as strong.

9 MR. CAMPBELL: May I have just a moment, Your
10 Honor?

11 JUDGE MELILLO: Yes, you may.

12 (Whereupon, a brief discussion was
13 held off the record.)

14 MR. CAMPBELL: Thank you, Your Honor. I am
15 finished cross-examining. I have no objection to the
16 exhibit and its attachments.

17 JUDGE MELILLO: All right. Applicant Exhibit
18 1 with the eight attachments and Applicant Exhibit 2 are
19 admitted.

20 (Whereupon, the documents marked as
21 Applicant Exhibits Numbers 1 and 2
22 were received in evidence.)

23 JUDGE MELILLO: I have one additional
24 question before you leave the stand, Mr. Burkholder. The
25 Commission regulation does talk about the background checks

1 that are done on employees with respect to their possible
2 criminal records, that type of thing. Can you give me a
3 little bit of information about what type of background
4 checks your company does do prior to hiring people who are
5 involved with moving household goods?

6 THE WITNESS: Sure. There's a new law in
7 place. Well, I shouldn't say law, but because the consumer
8 regulations have changed so much and the industry is
9 concerned about people entering people's home and that,
10 Wheaton Van Lines -- and I know, I'm an agent for Wheaton
11 Van Lines -- we do interstate household moving. They have
12 adopted a policy where you are required to do a background
13 check on each employee that you involve, you know, in
14 household moving.

15 So we have gone through the process,
16 including myself, that have had background checks done and
17 drivers working for us. Plus 90 percent of the helpers, I
18 know we have helpers to hire, so they'll go through that
19 process as well. There's an investigation firm that goes
20 through and checks and does a background check. And, of
21 course, with driving, all our drivers are drug tested and
22 have to pass a physical and that type of thing. We keep
23 files in our office, so that is something that is mandatory
24 with Wheaton Van Lines.

25 JUDGE MELILLO: All right. So that would be

1 the case with regard to Davcon as well that those background
2 checks are done?

3 THE WITNESS: Yeah, it's kind of automatic.
4 Since we're an agent for Wheaton, it just rolls into one so
5 we get it done.

6 JUDGE MELILLO: All right.

7 Anything further? Any redirect, Mr. Walter?

8 MR. WALTER: I have two items, Your Honor.
9 You have to respond to questions. With Mr. Campbell's
10 permission, I would like to give you the docket numbers on
11 the complaint proceeding and the Folder 2 as well so the
12 record is complete.

13 MR. CAMPBELL: Sure.

14 MR. WALTER: The complaint proceeding that
15 Mr. Campbell referred to is A-00117540C0501. The complaint
16 was instituted May 26 of 2005, and the Folder 2 docket that
17 Mr. Campbell referred to in his cross-examination was
18 withdrawn and the proceeding marked closed on September 25,
19 2002.

20 JUDGE MELILLO: All right. The A docket that
21 you described, that was the case in which a fine was
22 imposed?

23 MR. WALTER: Yes.

24 JUDGE MELILLO: All right. Thank you. Did
25 you have anything further on redirect?

1 MR. WALTER: One little section, Your Honor,
2 if I may.

3 REDIRECT EXAMINATION

4 BY MR. WALTER:

5 Q. With regard to the complaint proceeding, Mr.
6 Burkholder, what, in addition to paying the Commission's
7 fine, what other action did you take internally with regard
8 to the fact that an estimate and a move was, in fact, made?

9 A. Well, I was required to put together a confirmation
10 as to how we were supposed to operate, you know, with calls
11 that come into our office and how to handle situations on
12 moves that we can't legally perform. The issue was that, if
13 it's a rental truck and we present that to the customer and
14 explain to them why we can't do it, then we proceed from
15 that point to offer them an estimate at that point.

16 JUDGE MELILLO: Anything further?

17 MR. WALTER: I have nothing further.

18 JUDGE MELILLO: Any recross?

19 MR. CAMPBELL: No, ma'am.

20 JUDGE MELILLO: You are excused, Mr.

21 Burkholder.

22 (Witness excused.)

23 JUDGE MELILLO: You may call your next
24 witness, Mr. Walter.

25 MR. WALTER: Thank you, Your Honor. I would

1 call Pastor David Long.

2 JUDGE MELILLO: Your name was Pastor?

3 MR. LONG: You can call me Dave.

4 JUDGE MELILLO: Would you prefer Mr. or
5 Pastor?

6 MR. LONG: Mr.

7 JUDGE MELILLO: All right. Very well. Mr.
8 Long, please stand and raise your right hand.

9 Whereupon,

10 DAVID LAMAR LONG,

11 having been duly sworn, testified as follows:

12 JUDGE MELILLO: You may be seated.

13 You may proceed, counsel.

14 MR. WALTER: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. WALTER:

17 Q. Pastor Long, would you state your name and where you
18 currently reside?

19 A. David Lamar Long. I live at 6016 Custard Road,
20 Stroudsburg, Pennsylvania.

21 Q. And, before moving to Stroudsburg, where did you
22 reside?

23 A. I resided in Brownstown on 38 School Lane.

24 Q. In what county?

25 A. Lancaster County.

1 Q. Thank you. How recently did you move?

2 A. We moved the end of June.

3 Q. And which company did you move with?

4 A. Jack Treier did our move for us.

5 Q. Were you satisfied with the move?

6 A. Yes, they did an excellent job.

7 Q. What was the reason for your move?

8 A. My job. I'm in the ministry, and we are assigned to
9 our churches. I was moved from my Brownstown church up to
10 the Poconos, and that was the reason for the move.

11 Q. What was your experience trying to get estimates to
12 do the move that Treier finally did?

13 A. Terrible. I could not. I'm required by my
14 denomination to get three moving estimates, and Treier came
15 out right away. I had no problem in getting the first
16 estimate. I had great difficulty in getting the second
17 estimate. A number of companies I called told me that they
18 were not able to do that. There was one that recently had
19 went out of business.

20 I called Davcon because someone at my church
21 in Brownstown worked with them. I had a little bit of a
22 connection there. I was hoping maybe they'd be able to do
23 it, and they explained to me that they were not able to do
24 it as well. I did eventually get a second estimate from a
25 McGarrity Moving. They came out and gave me an estimate. I

1 was unable to get a third estimate.

2 MR. CAMPBELL: Excuse me. I didn't get the
3 name you said of the company that gave you the second
4 estimate.

5 THE WITNESS: McGarrity was the second.

6 MR. CAMPBELL: McGarrity?

7 THE WITNESS: Yeah. They gave me the second
8 estimate. I was unable to get a third estimate, and
9 eventually all I had was those two estimates to turn in to
10 the denomination. I had about eight weeks to get my
11 estimates, and it was a stressful time.

12 BY MR. WALTER:

13 Q. With denominational transfers, is there a possibility
14 or a likelihood that you would return to Lancaster County?

15 A. Yeah, anything is possible. And my family is from
16 Lancaster, so we will probably in the near future look at
17 taking another church in Lancaster.

18 Q. And, if you were to move in that regard, would you
19 like to have available to you the Davcon services?

20 A. Absolutely. I cannot explain just the trouble I had
21 in getting those estimates in the midst of all the
22 transition that already had to occur for our move to try and
23 get three estimates. I was really quite surprised, and I
24 shared with a number of people how difficult it was. I
25 thought you could just look in the phonebook and call

1 somebody up, and they would come out and give you an
2 estimate and then you choose who you wanted. I later came
3 to realize that not everyone is able to do that move.

4 Davcon was honest. They told me that they
5 were not licensed to do that move and that they would not be
6 able to help with that, and I was disappointed because one
7 of their workers obviously was a member of my church. I
8 knew he was a good worker.

9 MR. WALTER: Thank you, Mr. Long. That's all
10 I have.

11 JUDGE MELILLO: Mr. Long, I just had a
12 clarifying question. When you said you had trouble getting
13 estimates, did you mean by that that you were unable to get
14 anyone else to commit to performing the move that you wanted
15 other than Jack Treier?

16 THE WITNESS: Jack Treier came out and gave
17 me the estimate and they did the move, and McGarrity came
18 out and gave me an estimate.

19 JUDGE MELILLO: That's right.

20 THE WITNESS: I was required to get three
21 estimates, and I could not get a third estimate.

22 JUDGE MELILLO: By saying that, is your
23 testimony that you were unable to get anyone else to commit
24 to providing that move for you?

25 THE WITNESS: That's correct.

1 JUDGE MELILLO: All right.
2 Is there any cross-examination?

3 CROSS-EXAMINATION

4 BY MR. CAMPBELL:

5 Q. Pastor Long, what is your denomination?

6 A. Evangelical Congregational Church.

7 Q. And, when you were seeking estimates, did you call
8 Shelly Moving and Storage?

9 A. I went through my phonebook and basically whoever was
10 listed in the phone book were the moving companies that I
11 called. I called well over a dozen moving companies. Some
12 of them didn't get back to me, and I never returned the
13 call. I can't tell you if I called them or not.

14 Q. So, except for Jack Treier that provided the service
15 and McGarrity, you don't remember who else you called?

16 A. No.

17 Q. Specifically if I asked you names of companies --

18 A. I wouldn't recall. I basically went down through the
19 phonebook and put checkmarks on the ones I called and just
20 kind of worked my way down through.

21 MR. CAMPBELL: That's all I have, Your Honor.

22 JUDGE MELILLO: All right.

23 Is there any redirect?

24 MR. WALTER: No, Your Honor.

25 JUDGE MELILLO: Very well.

1 Q. Mr. Samley, would you state for the record your name
2 and where you currently reside?

3 A. My name is Matthew Samley. I currently reside in
4 Manheim Township, Lancaster County, Pennsylvania.

5 Q. Are you here representing an entity or an
6 organization?

7 A. I am here on behalf of my firm which is the law
8 offices of Reese, Pugh, Samley, Wagenseller, and Mecum; and
9 we have offices in downtown Lancaster.

10 Q. And are you authorized by the firm to be here to
11 testify?

12 A. Yes, I am.

13 Q. How many members of the firm are there?

14 A. We have five of us.

15 Q. Do you anticipate bringing in additional members to
16 the firm?

17 A. Yes. At some point we anticipate hiring an associate
18 or two. We have three partners in their mid-50s right now.
19 I am the youngest at 38, and we have one who is 47. In
20 another five years, we anticipate our senior members cutting
21 back their services with the hope that they go into at least
22 partial retirement in their early- to mid-60s.

23 Q. In that eventuality or likelihood, whichever way you
24 want to look at it, do you anticipate moving in new
25 attorneys to provide additional services?

1 A. Yes. We would anticipate getting an associate or
2 two. Primarily the attorneys who are at that age, in their
3 mid-50s, practice family law which is a very significant
4 part of our firm's practice; and we have to get people in
5 that area. We have hired law clerks in the past,
6 paralegals. We have found it very difficult in the
7 Lancaster area to find the talented people we need. On that
8 basis, we're anticipating these associates would be from
9 outside of the area, Harrisburg, perhaps, Widener School of
10 Law, Dickinson School of Law. So a recent grad from one of
11 those schools would probably be what we would anticipate.

12 Q. Just so the record is clear, those schools are
13 located within the Commonwealth of Pennsylvania?

14 A. Yes, that is correct.

15 Q. If the Commission were to grant to Davcon the
16 certificate we're applying for, would you anticipate using
17 the services of Davcon Relocation in the future?

18 A. Yes, we would definitely do that. We had an office
19 move in 2002 that we used Davcon on a commercial basis. We
20 moved from one part of Lancaster city to another part. It
21 was not a very lengthy move, but it involved a significant
22 volume of material and furnishings and so forth because, at
23 our prior location, we had utilized those offices for almost
24 50 years, including the predecessor partners of our firm.
25 So it was quite a substantial amount, and we were quite

1 pleased with the move.

2 MR. WALTER: Thank you, Mr. Samley. That's
3 all I have for you.

4 MR. CAMPBELL: Excuse me. May I have one
5 second?

6 JUDGE MELILLO: Yes, you may.

7 CROSS-EXAMINATION

8 BY MR. CAMPBELL:

9 Q. Sorry, I missed a little bit of the demographics of
10 your firm. Do you have any associates at the present time
11 or is it five partners?

12 A. We have five partners, no associates, a legal
13 assistant, paralegal, and three legal secretaries.

14 Q. All chiefs and no Indians?

15 A. Yeah, that's pretty much it.

16 Q. Do you anticipate that, if you hired someone from law
17 school or brought in an associate, that the firm would take
18 responsibility to pay the moving expenses?

19 A. I think we would certainly strongly consider that.
20 The last time we hired an associate frankly was when I was
21 hired and that was almost 15 years ago, so we don't have a
22 lot of precedent. But, like I said, I think based on what
23 we're looking for and the partners that we have, at least
24 three of the five -- we just added two who were senior
25 partners from another firm -- so we would want them to be

1 committing to Lancaster, and I think we would certainly
2 strongly consider assisting them in their financial aspect
3 and referring including movers or anybody else we can to
4 assist in getting them in our area.

5 MR. CAMPBELL: That's all I have, Your Honor.

6 JUDGE MELILLO: All right.

7 Mr. Samley, did you state the address of the
8 firm?

9 THE WITNESS: It is 120 North Shippen Street
10 in Lancaster city.

11 JUDGE MELILLO: All right. Very well.

12 Is there anything further for this witness?

13 MR. CAMPBELL: No, Your Honor.

14 MR. WALTER: I have no redirect, Your Honor.

15 JUDGE MELILLO: Very well.

16 You're excused, Mr. Samley.

17 (Witness excused.)

18 JUDGE MELILLO: Please call your next
19 witness.

20 MR. WALTER: I would call Bruce Myers.

21 JUDGE MELILLO: Is that M-Y-E-R-S.

22 MR. WALTER: Yes.

23 JUDGE MELILLO: Mr. Myers, please stand and
24 raise your right hand.

25 Whereupon,

1 ROBERT BRUCE MYERS,
2 having been duly sworn, testified as follows:

3 JUDGE MELILLO: Very well. Please be seated.
4 Continue, counsellor.

5 MR. WALTER: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. WALTER:

8 Q. Mr. Myers, could you state again for the record your
9 name and where you reside?

10 A. Robert Bruce Myers. I reside at 4 Creekwood Drive,
11 Lancaster County, PA.

12 Q. Are you here representing an entity of some type?

13 A. Yes. I'm here representing Blue Ball, a division of
14 Community Banks.

15 Q. And where is your division located?

16 A. My division is the Lancaster division. I'm located
17 at the Blue Ball main office, which is 1060 Main Street,
18 Blue Ball, PA.

19 Q. And are you authorized by the Bank to testify this
20 morning?

21 A. Yes, I am.

22 Q. About how many employees would be within Community
23 Banks or your division if you can break it down?

24 A. Well, the number within Community Banks is
25 approximately 1000. We have about 70 offices mostly located

1 in Pennsylvania and a couple offices down in the Maryland
2 area.

3 Q. And is the Bank policy to relocate personnel within
4 the Bank when their jobs change?

5 A. It comes up occasionally as sort of an infrequent
6 thing. Sometimes people ask for transfers or whatever, but
7 there is on occasion executive recruiting for some of the
8 higher positions within the Bank.

9 Q. And would some of those relocations occur from or to
10 Lancaster County?

11 A. Yes, they would.

12 Q. If the Bank had the opportunity upon one of those
13 relocations to utilize the services of Davcon Relocation,
14 assuming they're granted the authority, would they do so?

15 A. Yes.

16 Q. Do you anticipate, again assuming we're granted a
17 certificate, that happening in the relative near future?

18 A. I really can't say whether that would happen in the
19 relative near future. It's sort of a infrequent type thing,
20 but we do support Dave and his attempt to further his
21 business. We have a good business relationship with David
22 and his company, and we support him in his effort.

23 Q. Is Davcon a customer of yours?

24 A. Yes, it is.

25 MR. CAMPBELL: I'm sorry. I didn't hear the

1 last question and answer.

2 MR. WALTER: I asked was Davcon a customer of
3 the Bank, and the answer was yes.

4 MR. CAMPBELL: Thank you.

5 BY MR. WALTER:

6 Q. What do you know about the services of Davcon
7 Relocation?

8 A. I've had a couple of conversations with Dave, and
9 I've visited his location over in the Industrial Park. I
10 saw a couple of his trucks, toured his facility. It looks
11 to be clean, well-run; and those conversations have
12 indicated that, in order to grow, he would like to have the
13 opportunity to do local relocations and moves within
14 Pennsylvania.

15 MR. WALTER: Thank you, Mr. Myers.

16 That's all I have, Your Honor.

17 JUDGE MELILLO: All right. Just a couple
18 clarifying questions.

19 Mr. Myers, when you refer to Dave, are you
20 referring to Mr. Burkholder?

21 THE WITNESS: Mr. Burkholder, yes.

22 JUDGE MELILLO: How many branches of
23 Community Bank are there within Lancaster County?

24 THE WITNESS: Twelve within Lancaster.

25 JUDGE MELILLO: Did you state your position

1 with the Bank?

2 THE WITNESS: I'm the office manager at the
3 Blue Ball office.

4 JUDGE MELILLO: All right.

5 You may cross-examine.

6 CROSS-EXAMINATION

7 BY MR. CAMPBELL:

8 Q. I just want to make sure I got the answer to the last
9 question. You are the manager of Blue Ball Community Banks'
10 branch office?

11 A. Branch office, yes.

12 Q. And can you recall the last time that a Bank employee
13 was located from some point in Pennsylvania to Lancaster
14 County or vice versa?

15 A. I can't recall an exact date because I've been with
16 the Bank a limited number of years, but I have heard from my
17 supervisor that it was probably about seven or eight years
18 ago.

19 Q. And, if at the present time that circumstance arose,
20 would you be the one that would be in charge of selecting
21 the carrier that was used; or would that be somebody else at
22 the Bank?

23 A. No. We certainly would let the carrier selection up
24 to the individual that was being hired, but it would be nice
25 in order to mention that we do have a bank customer who is

1 in that business that can certainly give them a call for a
2 bid and give them an option at that point.

3 Q. And you are aware, are you not, that there are other
4 presently certificated household goods carriers available to
5 provide those types of services?

6 A. Yes.

7 Q. Is there any reason why you wouldn't recommend one of
8 the existing Lancaster County servicing carriers to an
9 employee who is to be relocated within the Commonwealth?

10 A. I'm not familiar with the other carriers; and, having
11 Mr. Burkholder's business as a business customer, you know,
12 I have a little bit of a relationship there and I know a
13 little bit more about his business than I would about
14 others.

15 Q. But you're not here to complain about the service
16 available from the other carriers?

17 A. No.

18 MR. CAMPBELL: Thank you, sir. That's all I
19 have.

20 JUDGE MELILLO: Any redirect?

21 MR. WALTER: No.

22 JUDGE MELILLO: You are excused, Mr. Myers.

23 Thank you.

24 (Witness excused.)

25 JUDGE MELILLO: Please call your next

1 witness.

2 MR. WALTER: Mr. Thomas Becker.

3 JUDGE MELILLO: Is that B-E-C-K-E-R?

4 MR. BECKER: Yes.

5 JUDGE MELILLO: Please stand and raise your
6 right hand.

7 Whereupon,

8 THOMAS T. BECKER,
9 having been duly sworn, testified as follows:

10 JUDGE MELILLO: Very well. Thank you.

11 You may proceed, counsel.

12 DIRECT EXAMINATION

13 BY MR. WALTER:

14 Q. Mr. Becker, would you state for the record, please,
15 your full name and where you currently reside?

16 A. Thomas T. Becker and I reside at 22 A Nolt Avenue in
17 Willow Street and that's in Lancaster County, Pennsylvania.

18 Q. Mr. Becker, are you here on behalf of an entity or
19 testifying as an individual?

20 A. Individual.

21 Q. Do you anticipate moving in the near future?

22 A. Yes. I'm getting too big for my house, too much
23 stuff. I do anticipate moving.

24 Q. Do you know where you would be moving to?

25 A. I have my eye on a house in Manor Township which is

1 also in Lancaster.

2 Q. Have you moved in the rest of your life to or from
3 Lancaster?

4 A. Yeah. I've always moved within the County, yes.

5 Q. And what were the purposes of those moves?

6 A. Just an increase in size of the house, and the other
7 was just a move out of one school district into another.
8 And the last move was after divorce I bought a new house.

9 Q. Are you familiar with the proposed services and the
10 equipment of Davcon Relocation?

11 A. Yes.

12 Q. How so?

13 A. I am a relative-in-law of Dave, and they seem very
14 professional. Dave certainly is professional in his
15 approach.

16 Q. And, if the Commission were to grant the authority we
17 seek this morning, would you consider using the services of
18 Davcon Relocation?

19 A. Absolutely.

20 MR. WALTER: Thank you, Mr. Becker.

21 That's all I have, Your Honor.

22 JUDGE MELILLO: Mr. Becker, when you were
23 referring to Dave, are you referring to Mr. Burkholder?

24 THE WITNESS: I'm sorry, yes.

25 JUDGE MELILLO: All right. And the move that

1 you're contemplating, that would be a household move?

2 THE WITNESS: A household move, yes.

3 JUDGE MELILLO: You may cross-examine.

4 CROSS-EXAMINATION

5 BY MR. CAMPBELL:

6 Q. When did you move into your present house?

7 A. 2000 -- I'm sorry, 2001.

8 Q. Was that an intra-Lancaster County move did you say?

9 A. Yes.

10 Q. Who did you use for that service?

11 A. I did it myself.

12 Q. Was there a previous move between two points in
13 Lancaster County in your residential history?

14 A. Yes. That would be from Baumgardner Road, which is
15 in Willow Street, to where I am now.

16 Q. And when was that?

17 A. That was 2001.

18 Q. I'm sorry. That's the one that you just referred to?

19 A. Yeah.

20 Q. And you moved yourself?

21 A. Right. Before that it was in Lancaster city, 140
22 Landis Drive.

23 Q. To?

24 A. To Baumgardner Road.

25 Q. When did that move take place?

1 A. That move took place in 2000.

2 Q. And at that time did you move yourself, or did you
3 use a company?

4 A. I moved myself.

5 Q. Have you ever in the past used one of the presently
6 certificated household goods carriers in Lancaster County?

7 A. No.

8 Q. But, if you did have to make another move, you'd like
9 to use your inlaw?

10 A. Yes.

11 Q. But you're not here to complain about the service
12 that might be available from other present carriers in the
13 County?

14 A. No. I'm coming from the standpoint of choice. I
15 want more choice.

16 MR. CAMPBELL: That's all I have, Your Honor.

17 JUDGE MELILLO: Any redirect?

18 MR. WALTER: No, Your Honor.

19 JUDGE MELILLO: Very well.

20 Mr. Becker, you're excused. Thank you.

21 (Witness excused.)

22 MR. WALTER: I would call Mr. William Hecker.

23 JUDGE MELILLO: Could you spell that, please,
24 for the record?

25 MR. WALTER: H-E-C-K-E-R.

1 JUDGE MELILLO: Mr. Hecker, please stand and
2 raise your right hand.

3 Whereupon,

4 WILLIAM V. HECKER,
5 having been duly sworn, testified as follows:

6 JUDGE MELILLO: Very well. Please be seated.
7 Continue, counsel.

8 MR. WALTER: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. WALTER:

11 Q. Mr. Hecker, would you state your name for the record,
12 please, your full name and where you currently reside.

13 A. My name is William V, as in victory, Hecker. I live
14 at 161 East Hemlock Road, Ephrata, Lancaster County,
15 Pennsylvania.

16 Q. And are you here this morning to testify as an
17 individual or on behalf of some entity?

18 A. As an individual.

19 Q. Can you give us your employment background, just a
20 general history, please.

21 A. I'm retired now. I was in the concrete pipe industry
22 previously. I was president of the Ephrata Bureau Council
23 for 14 years and a member of the Council for 20. Chairman
24 of the water authority for three municipalities, chairman of
25 the Economic Development Corporation for the Borough. I

1 served on an advisory board of the Millersville University
2 for the Shanghai executive training program, serving
3 executive board of the Pennsylvania Train Museum in
4 Strasburg.

5 Q. And all of the entities that you refer to, are they
6 located within Lancaster County?

7 A. Yes.

8 Q. Have you had an occasion to use a carrier to move
9 your household goods in your lifetime?

10 A. One time.

11 Q. And how long ago was that?

12 A. Thirty-four years ago.

13 Q. Do you anticipate in the relatively near future doing
14 so?

15 A. In the very near future.

16 Q. Why is that?

17 A. We're downsizing.

18 Q. Would you like to have the ability, assuming the
19 Commission were to grant this authority, to use the Davcon
20 Relocation?

21 A. Absolutely.

22 Q. Could you briefly explain why?

23 A. I believe in free trade. I believe in the American
24 dream, and I think that the more people that you have in a
25 business the better it is. And I believe that the PUC

1 Commission also believes that. They deregulated the
2 electric industry, which the Borough of Ephrata -- as the
3 president of the Borough we were a participant. And I can't
4 say if they deregulated an industry that large in
5 Pennsylvania that they would want to protect movers.

6 Q. When you do downsize, do you know the location or
7 approximate location you would be moving to?

8 A. Yes.

9 Q. And will that be within the Commonwealth of
10 Pennsylvania?

11 A. Yes. It will be very close to the Borough of
12 Ephrata.

13 Q. In your employment background, have you had other
14 transportation experiences or other transportation needs as
15 well?

16 A. Yes. I appeared here maybe four years ago for the --
17 to get expanded rights to transport concrete products, both
18 the PUC and the ICC. We transported from Connecticut to
19 South Carolina, so it was we needed both rights to do that.

20 MR. WALTER: Thank you, Mr. Hecker. That's
21 all I have.

22 JUDGE MELILLO: Any cross-examination for Mr.
23 Hecker?

24 CROSS-EXAMINATION

25 BY MR. CAMPBELL:

1 Q. Mr. Hecker, I didn't -- you said you would be
2 downsizing and you anticipate a move, and I didn't catch the
3 destination. Did you provide a destination?

4 A. Ephrata Township.

5 Q. Very close by?

6 A. Yes.

7 Q. Do you know how many existing household goods
8 carriers there are available to provide those services at
9 the present time?

10 A. It's very difficult to determine that because the
11 telephone directory has a disclaimer on the moving firms
12 that are available. I think it's the only disclaimer that
13 I've been able to find in the Yellow Pages.

14 Q. Well, let me ask you this. Are you familiar with a
15 carrier known as Jack Treier?

16 A. Yes, I am.

17 Q. Yes?

18 A. Yes.

19 Q. Have you heard of Shelly Moving and Storage?

20 A. No.

21 Q. How about Charles Groff and Sons?

22 A. The person that I used was an individual from Lititz,
23 Pennsylvania, when I moved previously.

24 Q. This was years ago?

25 A. Thirty-four years ago, yeah.

1 MR. CAMPBELL: That's all I have, Your Honor.

2 JUDGE MELILLO: Anything further?

3 MR. WALTER: I have no redirect.

4 JUDGE MELILLO: Very well.

5 You're excused, Mr. Hecker. Thank you.

6 (Witness excused.)

7 JUDGE MELILLO: Do you have any additional
8 witnesses, Mr. Walter?

9 MR. WALTER: Your Honor, we have outstripped
10 our time. We have an additional five witnesses who we plan
11 to have come, but we didn't anticipate finishing this soon
12 this morning. They will not be here until about one o'clock
13 this afternoon. We would ask for a continuance of sorts
14 until one o'clock. We moved a little quicker than I
15 thought.

16 JUDGE MELILLO: Mr. Campbell, what's your
17 position? How many witnesses do you have? We, of course,
18 would like to finish today. We are going quite quickly
19 through the witnesses so far.

20 MR. CAMPBELL: I'm not trying to be an
21 objector. I'm just thinking in terms of time. Could we
22 just be off the record for a second?

23 JUDGE MELILLO: Yes. Let's go off the record
24 and take a ten-minute recess at this point.

25 (Whereupon, a brief recess was

1 taken.)

2 JUDGE MELILLO: What is the Protestants'
3 position? Do you prefer to continue on? Do you think you
4 can finish with your witnesses and on cross-examination if
5 we have an extended lunch break until one o'clock?

6 MR. CAMPBELL: My preference, Your Honor,
7 would be to have the Applicant complete it's case so that my
8 witnesses can hear all the testimony before we proceed. I
9 don't think we're going to need a whole lot of times because
10 the first five witnesses went very quickly. I can
11 understand why Mr. Walter didn't have them ready to go. But
12 my thought is if we can get some of the Applicant's
13 witnesses in a little bit earlier, maybe break now until
14 12:30, whatever you say, then I would like to take my
15 witnesses after the Applicant does and we can finish up
16 today.

17 JUDGE MELILLO: All right. Do you think that
18 there's any possibility that it could go beyond 4:30 with
19 all the witnesses?

20 MR. WALTER: I don't see that happening at
21 all. In fact, we have four or five more and they should go
22 at about the same time speed. My suggestion is consistent
23 with Mr. Campbell's that we reconvene about 12:30 and just
24 finish up.

25 MR. CAMPBELL: I only have two witnesses of

1 my four, and I would ask Mr. Walter to permit me to put in
2 the operating authority of the other two Protestants. I'd
3 just like to call two that will testify, and they'll be very
4 brief on direct.

5 JUDGE MELILLO: All right. Very well. Do
6 you understand that there will still be an opportunity for
7 rebuttal? So, in other words, whatever, Mr. Campbell, you
8 put on with respect to public demand, technical, financial
9 fitness, then the Applicant will be able to come back on the
10 stand with respect to rebuttal. It's your burden of proof
11 on that. The same with regard to impairment of your
12 operation. You bear the burden of proof on that. You
13 meaning Protestants. If the Applicant wants to put on
14 evidence against that, against your testimony, then you
15 would have the opportunity for rebuttal.

16 So I want to make sure we have time for all
17 of this to occur if we recess until 12:30.

18 MR. WALTER: If indeed we have rebuttal
19 testimony, it would be very short; and I would be surprised
20 if we do to be honest with you.

21 MR. CAMPBELL: I'm the same way, Your Honor.

22 JUDGE MELILLO: All right. Very well. We'll
23 recess then until 12:30; and, at that time, we would want
24 the Applicant's witnesses to be ready to go.

25 MR. WALTER: All right, Your Honor. Thank

1 you.

2 JUDGE MELILLO: We're at recess until 12:30.

3 (Whereupon, the hearing was recessed
4 at 11:15 a.m, to reconvene at 12:30
5 p.m.)

6 JUDGE MELILLO: It's time for the
7 continuation of the Applicant's direct case and the
8 additional witnesses.

9 MR. WALTER: Yes, Your Honor.

10 JUDGE MELILLO: Yes, Mr. Walter, please
11 continue.

12 MR. WALTER: I would call Clifford Lish.

13 JUDGE MELILLO: Mr. Lish, please take the
14 stand. Raise your right hand.

15 Whereupon,

16 CLIFFORD LISH,
17 having been duly sworn, testified as follows:

18 JUDGE MELILLO: You may be seated.

19 Please continue, counsel.

20 MR. WALTER: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. WALTER:

23 Q. Mr. Lish, would you state for the record your name
24 and where you currently reside?

25 A. Clifford Lish, L-I-S-H, 23 Cedar Creek Lane, Toms

1 River, New Jersey 08753.

2 JUDGE MELILLO: Excuse me. Can I interrupt
3 for just a moment? Is that the Cliff Lish that's listed as
4 being in Indianapolis in your witness list? I just want to
5 make sure we have the addresses correct. There's a Cliff
6 Lish, Director of Sales, Wheaton Worldwide Moving, 8010
7 Castleton Road, Indianapolis.

8 MR. WALTER: We have noticed this witness
9 which is, I guess, the only answer. I don't know what the
10 Indianapolis address is.

11 JUDGE MELILLO: All right. Very well. I
12 just wanted to make sure that was the same person.

13 MR. WALTER: He'll be able to explain
14 the Indianapolis address.

15 JUDGE MELILLO: I'm sorry to interrupt. It's
16 just that the address didn't match. Please continue with
17 your address again.

18 THE WITNESS: My home address is 23 Cedar
19 Creek Lane, Toms River, New Jersey 08753.

20 BY MR. WALTER:

21 Q. Mr. Lish, who are you here representing as an entity?

22 A. Wheaton Worldwide Moving out of Indianapolis,
23 Indiana.

24 Q. What is your position with Wheaton?

25 A. I'm Director of Sales.

1 Q. Now, what, in terms of Pennsylvania intrastate
2 service, does Wheaton do, if anything?

3 A. Well, we have two areas. We have quite a few
4 referrals that come through our corporate office that, even
5 though we are an interstate mover, we do receive referrals
6 on an intrastate basis; and it's our liking to submit those
7 to the nearest agent in the state of Pennsylvania.

8 Q. Davcon Relocation is an agent of Wheaton?

9 A. Yes, they are.

10 Q. And does the agency agreement require those
11 referrals, or do you do it for another reason?

12 A. They are not required. The reason we do that is two
13 things happen. We have quite a few business relationships
14 with large corporations, and we will get a call from a
15 corporation asking if we would do an intrastate or local
16 move. And we like to forward those to the closest agent
17 also.

18 Q. And the service that Wheaton Van Line provides itself
19 is interstate or international or both?

20 A. Interstate and international, correct.

21 Q. How many agents do you have within the Commonwealth
22 of Pennsylvania?

23 A. I believe it's about six.

24 Q. And do you have any numbers as to how many referrals
25 may have been made to intrastate agents within Pennsylvania

1 in the last year or two?

2 A. No, I do not.

3 Q. And, assuming the Commission grants this authority,
4 would it be your position as Director of Sales at Wheaton
5 that, if there are inquiries for intrastate moves in
6 Lancaster County, you would be referring them to Davcon?

7 A. Yes, absolutely.

8 MR. WALTER: That's all I have for this
9 witness.

10 JUDGE MELILLO: Any cross-examination?

11 MR. CAMPBELL: I have no questions, Your
12 Honor.

13 JUDGE MELILLO: Very well, then. You're
14 excused, Mr. Lish. Thank you.

15 (Witness excused.)

16 JUDGE MELILLO: Please call your next
17 witness.

18 MR. WALTER: I would call John Martine.

19 JUDGE MELILLO: Mr. Martine, please stand and
20 raise your right hand.

21 Whereupon,

22 JOHN MARTINE,
23 having been duly sworn, testified as follows:

24 JUDGE MELILLO: Please be seated.

25 Please continue, counsel.

DIRECT EXAMINATION

1
2 BY MR. WALTER:

3 Q. Mr. Martine, would you state for the record your name
4 and where you currently reside?

5 A. John Martine, 433 Cornerstone Way, Ephrata,
6 Pennsylvania 17522.

7 Q. What do you do for a living, sir?

8 A. I'm a real estate agent.

9 Q. Are you here testifying on your individual behalf or
10 on behalf of the real estate agency?

11 A. Individually.

12 Q. Have you had an occasion to use an intrastate mover
13 yourself in the recent past?

14 A. I have in 1998 -- either '98 or beginning of '99, I
15 moved within the state.

16 Q. And that was from a point in Pennsylvania to another
17 point in Pennsylvania or interstate?

18 A. Sayre, Pennsylvania to Ephrata, Pennsylvania.

19 Q. What carrier did you use, if you recall?

20 A. It was a corporate relocation, so I believe the
21 carrier was Mayflower.

22 Q. Are you familiar with Davcon Relocation?

23 A. I've gotten to know Davcon Relocation basically
24 through this process. I've had conversations with Mr.
25 Burkholder during the start of this whole process and

1 learned of his company through that process, and I've gotten
2 to know him during the process.

3 Q. And for what purposes, assuming the authority is
4 granted by this Commission, would the grant of that
5 authority be useful to you?

6 A. I have clients that ask me for service providers
7 specifically in the moving industry, and I found that the
8 list of providers is fairly limited. While the Real Estate
9 Commission doesn't allow me to make recommendations, I do
10 provide lists; and my clients make decisions based on
11 contacting these providers. And, frankly, from my
12 perspective, I'd like to see that list be larger to give my
13 clients a bigger base to choose from.

14 Q. And, in the future, again assuming the grant of the
15 application, would you include Davcon Relocation on that
16 list?

17 A. Yes, I would.

18 Q. Why are you here this afternoon now supporting this
19 application?

20 A. Well, you asked earlier if I'm here individually or
21 to represent the real estate industry. I can't represent
22 the entire industry, but I know in Lancaster County that
23 we're selling a lot of homes. We have a lot of people
24 moving. There were over 6,000 homes sold in 2005 based on
25 Lancaster County Real Estate Association data last year.

1 Just based on conversations with other agents and clients,
2 there is a real need out there for more providers.

3 MR. WALTER: Thank you, Mr. Martine.

4 That's all I have, Your Honor.

5 JUDGE MELILLO: I just have a couple
6 clarifying questions. Mr. Martine, you said you had a list
7 of providers and you wanted that list to be larger. Were
8 you talking about a list of household movers within
9 Lancaster County, just to be clear?

10 THE WITNESS: Yes.

11 JUDGE MELILLO: That's all I had.

12 MR. CAMPBELL: Can I have just a moment?

13 JUDGE MELILLO: Yes.

14 MR. CAMPBELL: Thank you, Your Honor. I
15 didn't want to interrupt you. I didn't get a chance, but I
16 would like to move to strike the portion of that last answer
17 which said, based upon his conversations with other people
18 there was a need out there. That seems to be clearly
19 hearsay.

20 JUDGE MELILLO: Can you do me a favor and
21 speak into the microphone?

22 MR. CAMPBELL: Certainly.

23 JUDGE MELILLO: Your voice is trailing off.

24 MR. CAMPBELL: I'm asking that that portion
25 of his answer be stricken that says, based upon

1 conversations he's had with other people he believes there
2 to be a need on the grounds it's hearsay and it may not have
3 been called for by the question.

4 JUDGE MELILLO: Any response, counsel?

5 MR. WALTER: Your Honor, the question was,
6 why is he here? It's the motivation. It's an offer to
7 prove that there is, in fact, a need out there and that is
8 why he came here because of all this demand that he has
9 received or heard. I understand that may affect the weight,
10 but it's not actually hearsay.

11 JUDGE MELILLO: All right.

12 What specific response are you objecting to
13 because I asked a question but my question was asked by
14 counsel for the Applicant. So actually counsel for the
15 Applicant was responding to an earlier question, so which
16 answer were you objecting to?

17 MR. CAMPBELL: I can't remember specifically
18 the question, but I'm objecting to him speaking for other
19 people who believe there is a need in the community. Based
20 on his testimony as to facts upon what other people have
21 told him, that's hearsay and I can't find out a basis under
22 Commission rules.

23 JUDGE MELILLO: All right. I will not
24 consider to be probative since it's been objected to under
25 the appellate authority that I understand in the Walker

1 case. I can't consider hearsay testimony that's objected to
2 to support a finding of fact. So, to that extent, I will
3 not use that to support a finding of fact. I think that
4 what Mr. Martine testified to was that he would like a list
5 of providers to be longer in his own experience; and that's,
6 I think, the essence of what he is saying.

7 All right. Are we clear on that?

8 MR. CAMPBELL: Yes.

9 JUDGE MELILLO: Anything further for this
10 witness?

11 MR. CAMPBELL: Just a couple, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. CAMPBELL:

14 Q. Mr. Martine, is Ann Lusk a broker at your office?

15 A. No, she is not. She is a licensed agent. Our broker
16 is Marshall Lytle, L-Y-T-L-E.

17 Q. Do you know whether or not your office has made a
18 referral to Jack Treier for a household goods move within
19 the last day or two?

20 A. Within the last day or two? I have no knowledge of
21 that.

22 Q. Can you tell me who is on the list of carriers that
23 you would like to see longer? What carriers do you --

24 A. I can tell you who I have used in the past.

25 Q. I thought that you said that you provided a list of

1 carriers to potential clients or clients?

2 A. I don't have a set list. When clients ask me for a
3 service provider or a mover, I use the two that I've used in
4 the past who I've gotten positive feedback on. While I'm
5 not making a recommendation, that is my list.

6 Q. I understand, sir. Am I correct that you don't make
7 a specific recommendation --

8 A. Correct.

9 Q. -- because you're not allowed to do that under the
10 Real Estate Commission's rules?

11 A. That's correct.

12 Q. But you do tell people who you are aware of who can
13 provide the service?

14 A. Yes.

15 Q. And who is on that list -- it's not a list. Who
16 requires --

17 A. I generally provide two service providers, Jack
18 Treier and Groff Red Ball.

19 Q. Are you aware that there are other carriers that have
20 the authority?

21 A. I believe there are four or five.

22 Q. And your position basically is that you would like to
23 see another one added to the list?

24 A. Correct.

25 MR. CAMPBELL: That's all. Thank you, Your

1 Honor.

2 JUDGE MELILLO: Anything further?

3 MR. WALTER: No, ma'am.

4 JUDGE MELILLO: Very well. You're excused.

5 Thank you, Mr. Martine.

6 (Witness excused.)

7 JUDGE MELILLO: Can you call your next
8 witness, Mr. Walter?

9 MR. WALTER: I would like to call Scott
10 Gentry.

11 JUDGE MELILLO: Mr. Gentry, please stand and
12 raise your right hand.

13 Whereupon,

14 SCOTT D. GENTRY,
15 having been duly sworn, testified as follows:

16 JUDGE MELILLO: Thank you. Please be seated.
17 Continue, counsel.

18 MR. WALTER: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. WALTER:

21 Q. Mr. Gentry, would you state for the record, please,
22 your name and where you reside.

23 A. Scott D. Gentry, 121 Cornerstone Way, Brownstown,
24 Pennsylvania 17508.

25 Q. That's in Lancaster County?

1 A. Yes.

2 Q. Are you here as an individual or on behalf of some
3 organization?

4 A. As an individual.

5 Q. When have you had an occasion to use a moving goods
6 type of carrier?

7 A. We moved from Boston, Massachusetts, in 1998 to
8 Pennsylvania; and that's been our only recent move.

9 Q. Do you anticipate in the immediate future that you
10 would move within the Commonwealth of Pennsylvania?

11 A. We don't have any plans to do so, but it could be
12 likely given our careers and the fact that we could be
13 relocated.

14 Q. Why would that occur? What would be the reason for
15 your relocating?

16 A. For either an upgrade of a house or a move of a job.

17 Q. How did you become aware of Davcon Relocation?

18 A. I've known Mr. Burkholder for about a year or two.
19 He lives in my neighborhood, and I'm familiar with his
20 services. One of our other neighbors used his services for
21 an out-of-state move. I heard it was a good move.

22 Q. In your own words, why are you here supporting the
23 application before the Commission?

24 A. I believe in the principle that, assuming that if a
25 company meets minimum standards of customer service on

1 regulatory issues, that they should be allowed to compete
2 for customers; and there should be no barriers to entry in
3 terms of being able to market yourself and provide the
4 service to customers.

5 Q. Would it be fair, sir, to say that you have not used
6 or called the Protestants who are Charles Groff and Sons or
7 Jack Treier, Mertz's, or Shelly Moving and Storage?

8 A. No, no contact.

9 MR. WALTER: Thank you, sir. That's all I
10 have.

11 JUDGE MELILLO: Any cross-examination?

12 MR. CAMPBELL: I have no questions, Your
13 Honor.

14 JUDGE MELILLO: Very well. You're excused.
15 Thank you.

16 (Witness excused.)

17 MR. WALTER: I'd like to call Michael
18 Corrado.

19 JUDGE MELILLO: Mr. Corrado, please stand and
20 raise your right hand.
21 Whereupon,

22 MICHAEL CORRADO,
23 having been duly sworn, testified as follows:

24 JUDGE MELILLO: Please be seated.
25 Continue counsel.

1 MR. WALTER: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. WALTER:

4 Q. Sir, would you state for the record your name and
5 where you reside?

6 A. My name is Michael R. Corrado, C-O-R-R-A-D-O. I live
7 at 118 Cornerstone Way in Brownstown. ZIP code is 17508,
8 Brownstown.

9 Q. Brownstown is in Lancaster County?

10 A. Yes, it is. The mail is delivered by Ephrata, but we
11 live in Brownstown.

12 Q. Are you here as an individual or on behalf of some
13 group?

14 A. As an individual.

15 Q. Have you utilized a household goods carrier in the
16 recent past?

17 A. Similar to Scott, I moved in from out of state, from
18 Connecticut seven and a half years ago. That's the last
19 time I used a mover.

20 Q. Do you anticipate the possibility in the near future
21 of utilizing a household goods carrier?

22 A. I may move in the near future, probably maybe go back
23 to Connecticut but not local.

24 Q. This Commission regulates moves within the
25 Commonwealth of Pennsylvania.

1 A. I understand.

2 Q. So is this a possibility in the future that you would
3 be moving within the Commonwealth?

4 A. Not likely. There was up until recently when my
5 wife's health requires that we move back to Connecticut.

6 MR. WALTER: Thank you, sir. That's all I
7 have.

8 JUDGE MELILLO: Any cross-examination?

9 MR. CAMPBELL: No questions, Your Honor.

10 JUDGE MELILLO: Very well.

11 Thank you. You're excused, Mr. Corrado.

12 (Witness excused.)

13 MR. WALTER: If I could have one second, Your
14 Honor?

15 JUDGE MELILLO: Yes.

16 MR. WALTER: I'm prepared, Your Honor.

17 JUDGE MELILLO: Are you prepared to go
18 forward? Do you have another witness?

19 MR. WALTER: We have one final witness, and I
20 would call Elaine Burkholder.

21 JUDGE MELILLO: Yes, Elaine Burkholder.

22 Please stand and raise your right hand.

23 Whereupon,

24 ELAINE BURKHOLDER,
25 having been duly sworn, testified as follows:

1 JUDGE MELILLO: Very well. Please be seated.
2 Counsel, you may continue.

3 MR. WALTER: Thank you.

4 DIRECT EXAMINATION

5 BY MR. WALTER:

6 Q. Ma'am, could you state for the record, please, your
7 name and where you currently live.

8 A. I'm Elaine Burkholder, and I live at 2613 Stagecoach
9 Lane, Lancaster, PA 17601; and that's in Neffsville in
10 Manheim Township. My mailing address is Lancaster, but the
11 town I live in is Neffsville.

12 Q. And how are you related to David Burkholder?

13 A. I'm his mother.

14 Q. Have you had or do you anticipate in the relatively
15 near future a need to use someone, a carrier for household
16 goods?

17 A. It's a possibility that we are -- well, we might be
18 moving to downsize more than where we are living. Like I
19 said, it's a possibility. Right now, we have been looking
20 but I don't know.

21 Q. Do you have any idea where you might consider moving
22 to?

23 A. Well, we were thinking of within the County but
24 possibly even Delaware.

25 Q. Have you had a need to call any of the Protestants

1 within the past several years, other moving carriers?

2 A. No. When we did move to Neffsville, we did use
3 Allied. Well, Dave worked for Allied at that time; and they
4 moved us to our present address.

5 Q. That was an interstate move, from another state?

6 A. No, that was within the state.

7 Q. I'm sorry.

8 A. We did live in Earl Township which is in Lancaster
9 County.

10 MR. WALTER: Thank you, ma'am. That's all I
11 have.

12 JUDGE MELILLO: Any questions?

13 CROSS-EXAMINATION

14 BY MR. CAMPBELL:

15 Q. Mrs. Burkholder, the last move that you referred to,
16 that was with Allied?

17 A. Uh-huh.

18 Q. Do you know which Allied agent that it was that moved
19 you?

20 A. That was O'Brien from Reading.

21 MR. CAMPBELL: That's all I have.

22 JUDGE MELILLO: All right. Very well.

23 You're excused, Mrs. Burkholder. Thank you.

24 (Witness excused.)

25 JUDGE MELILLO: Does the Applicant have any

1 additional witnesses?

2 MR. WALTER: No. With that, Your Honor, the
3 Applicant rests.

4 JUDGE MELILLO: All right.

5 We'll move into the Protestants' case with
6 respect to whether there is impairment. They have the
7 burden of proof on that and also response to the Applicant's
8 case.

9 Do you have any witnesses?

10 MR. CAMPBELL: Yes, Your Honor. I would call
11 first Mr. Morris.

12 JUDGE MELILLO: Mr. Morris. Please stand and
13 raise your right hand.

14 Whereupon,

15 CHARLES E. MORRIS,
16 having been duly sworn, testified as follows:

17 JUDGE MELILLO: Thank you. Please be seated.

18 Continue, Mr. Campbell.

19 DIRECT EXAMINATION

20 BY MR. CAMPBELL:

21 Q. Mr. Morris, please state your name and business
22 address for the record.

23 A. It's Charles E. Morris. Business address is Shelly
24 Moving and Storage, 4951 Lincoln Highway, York, PA 17406.

25 Q. And what is your position with Shelly?

1 A. Director of Sales and Marketing.

2 Q. And how long have you been with the company?

3 A. Twenty-two years.

4 Q. What is the business of Shelly Moving and Storage?

5 A. Relocation services, moving and storage, local
6 intrastate, interstate, international, as well as commercial
7 work.

8 Q. And, as Director of Sales, are you familiar with
9 Shelly's operations and facilities; and have you been
10 authorized to appear and testify today?

11 A. Yes, I am.

12 Q. Are you familiar with the present application, and
13 were you present during Mr. Burkholder's testimony and the
14 testimony of the supporting witnesses?

15 A. Yes, I was and I am familiar with the application.

16 MR. CAMPBELL: Your Honor, may we have marked
17 for identification a multipage exhibit as Protestants'
18 Exhibit 1?

19 JUDGE MELILLO: Yes, that may be so marked as
20 Protestants' Exhibit 1.

21 (Whereupon, the document was marked
22 as Protestants' Exhibit Number 1 for
23 identification.)

24 JUDGE MELILLO: I'll please remind you to put
25 the microphone closer to you because I'm having trouble

1 hearing you.

2 MR. CAMPBELL: I'm sorry. I'm having trouble
3 hearing, too. These acoustics are awful.

4 MR. WALTER: We'll stipulate to the
5 Protestants' authority. That's fine.

6 MR. CAMPBELL: Okay.

7 JUDGE MELILLO: I think it's still helpful to
8 have this in the record. Protestants' Exhibit 1 will be
9 moved, without objection, into evidence by stipulation.

10 (Whereupon, the document marked as
11 Protestants' Exhibit Number 1 was
12 received in evidence.)

13 JUDGE MELILLO: Please continue, counsel.

14 MR. CAMPBELL: If Mr. Walter will indulge me,
15 I'll lead the witness just a little bit here.

16 BY MR. CAMPBELL:

17 Q. Mr. Morris, I call your attention to about the fourth
18 page of the exhibit which at the top says Public Meeting
19 held July 25, 1985. Do you see that?

20 A. Yes.

21 Q. At the bottom paragraph number 3, is that the main
22 portion of your Lancaster County operating rights?

23 A. Yes, it is.

24 Q. Where in Pennsylvania does Shelly have terminals,
25 operating facilities?

1 A. We have an office in Harrisburg, Pennsylvania,
2 another in York, Pennsylvania, and Malvern, Pennsylvania.

3 Q. And from what point do you service Lancaster County?

4 A. Primarily out of our York, Pennsylvania location
5 which is actually located in Hellam, PA, just within, I
6 guess, about three, four miles of Lancaster County. We
7 sometimes do service a few moves out of our Harrisburg
8 location, particularly Elizabethtown, Mount Joy area; and,
9 out of our Malvern office, we sometimes do cover areas in
10 Gap along with New Holland, parts of the New Holland area
11 because our authority extends to that point.

12 Q. Approximately how many vehicles does Shelly operate
13 in Pennsylvania, and what kind of vehicles do you operate?

14 A. Total we have around 30. It's a combination of
15 tractor-trailers, straight trucks, pack vans.

16 Q. And how many people do you employ?

17 A. Approximately 75.

18 Q. Does that include full-time and part-time?

19 A. That would be our full-time staff. We might have
20 another 10 to 20 people that could be available to us on a
21 part-time basis at the different locations.

22 Q. And does Shelly provide interstate service as well as
23 intrastate service?

24 A. Yes, we do both.

25 Q. What portion of your business is intrastate business?

1 A. On a move count basis, probably greater than 50
2 percent. On a dollar line, I'm not that sure where it
3 falls.

4 Q. Do you presently have competitors in Lancaster
5 County?

6 A. Yes, we do.

7 Q. Who do you count as your competition in Lancaster
8 County?

9 A. Our primary competition is Jack Treier, Incorporated,
10 Charles Groff. Mertz Moving is a player as well. Also
11 Parks Moving out of Harrisburg has authority to do business
12 in Lancaster County although they don't do a lot. Other
13 than that, I'm not familiar with others that would have
14 authority at the present time.

15 Q. During his testimony, Mr. Burkholder mentioned Fritz
16 Moving as a company that is closed. Do you know whether or
17 not that is accurate?

18 A. Fritz itself ceased operations around May or June of
19 last year.

20 Q. And do you know personally what happened to their
21 authority?

22 A. My understanding is it was purchased by a company out
23 of Wilmington, Delaware.

24 Q. Have you had any difficulties in the past in meeting
25 demands or service that you have received from the Lancaster

1 County territory that you have authority to serve?

2 A. I would say for 95 percent of the year, no. It's
3 possible that there's a high volume time you might run into
4 a problem here or there. For the most part, we have
5 availability to do what's needed.

6 Q. Was the Fritz situation -- did that have a drastic
7 effect upon your business in Lancaster County when Fritz
8 closed its doors?

9 A. I don't believe so. My own feeling was that they
10 were not a major player. Their predecessor had been
11 significant in doing business, but that was replaced by
12 others. And, because they were actually at the end
13 domiciled in Reading, they weren't doing that much business
14 in Lancaster to my knowledge.

15 Q. Now, why do you oppose the present application?

16 A. Based on the situation being as it currently is
17 within Pennsylvania and the regulations that apply, the
18 number of movers that currently serve the Lancaster County
19 area in my opinion are sufficient for the needs of that
20 locale. A company like Shelly Moving, for example, we have
21 fairly extensive authority within Pennsylvania; and every
22 year, it seems it's a little harder to make a dollar.

23 Q. What do you believe would be the effect upon your
24 company if the application is approved?

25 A. I would think that it would be detrimental to us from

1 the aspect that some moves that we currently would be
2 getting possibly would be going elsewhere.

3 MR. CAMPBELL: That completes my direct
4 examination, Your Honor.

5 JUDGE MELILLO: All right.

6 I just had a couple clarifying questions.
7 You said that you believe that Fritz Company was purchased
8 by a firm out of Wilmington, Delaware. Do you know the name
9 of that company?

10 THE WITNESS: I do not, no.

11 JUDGE MELILLO: That's all I have.

12 Is there any cross-examination?

13 MR. WALTER: In the same vein, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. WALTER:

16 Q. Have you observed that company as a competitor since
17 they've taken over that operating authority?

18 A. No. At this time, no.

19 Q. Fritz was known generally as Worldwide Transportation
20 Service or something like that?

21 A. That was the name of the parent company. They
22 advertized under the name of Fritz and Lancaster Moving.

23 Q. If I suggested to you that, in the year 2003
24 according to PUC's annual reports, they were the second
25 largest intrastate mover in the County, would you have any

1 comment on that suggestion?

2 A. No, I really don't.

3 MR. WALTER: Your Honor, I would ask that you
4 take official notice of the annual reports of the carriers,
5 and we'll provide them and the revenue figures that they're
6 related.

7 JUDGE MELILLO: I'm sorry. I'm having a
8 little trouble. Is your microphone on?

9 MR. WALTER: Yes.

10 JUDGE MELILLO: All right.

11 MR. WALTER: What I was asking was if you
12 would take official notice of the Commission's annual
13 reports as to the revenue figures, we will provide copies of
14 them.

15 JUDGE MELILLO: All right. These would be
16 the annual reports for what company?

17 MR. WALTER: For Worldwide Trans Experts and
18 the docket number is A-0066766. It's the name under which
19 Fritz operated.

20 JUDGE MELILLO: All right. If I look at
21 that, will I be able to tell from looking at it that that
22 actually is Fritz that we're talking about?

23 MR. WALTER: Yes.

24 JUDGE MELILLO: Any objection to taking
25 official notice?

1 MR. WALTER: I have one more question.

2 JUDGE MELILLO: At this point we're just
3 talking about official notice.

4 MR. CAMPBELL: No objection.

5 JUDGE MELILLO: All right. I'll take
6 official notice of that, and you'll supply the requisite
7 information for the record that you have available today?

8 MR. WALTER: Probably not, Your Honor; but I
9 will tomorrow.

10 JUDGE MELILLO: Can you supply that? We'll
11 call that Applicant Exhibit 3. Would you please supply that
12 to the court reporter, and she will give you her name
13 because she'll need to put that in the official exhibit
14 folder; and we'll have that admitted.

15 (Whereupon, the documents shall
16 be marked as Applicant's Exhibit
17 Number 3 for identification and
18 received in evidence.)

19 JUDGE MELILLO: You'll supply copies to me,
20 the court reporter, and also to opposing counsel.

21 MR. WALTER: I will do so.

22 JUDGE MELILLO: All right. Please continue.

23 BY MR. WALTER:

24 Q. Mr. Morris, one further question. Of the 30 vehicles
25 that you have, how many of them are based in York?

1 A. Probably 50 percent.

2 Q. Did I hear 15?

3 A. No, 50.

4 MR. WALTER: Thank you. That's all I have.

5 MR. CAMPBELL: Your Honor?

6 JUDGE MELILLO: Yes, is there any redirect?

7 MR. CAMPBELL: It's improper redirect, but I
8 forgot to ask a question before cross and I request
9 permission to do it.

10 JUDGE MELILLO: No objection. Please do so
11 then, and we'll have an opportunity for cross again.

12 FURTHER DIRECT EXAMINATION

13 BY MR. CAMPBELL:

14 Q. I just wanted to ask you this question, Mr. Morris.
15 There was testimony presented by Mr. Myers of Blue Ball
16 National Bank, a division of Community Banks. Have you done
17 any service for them?

18 A. In the past I moved their operation center within the
19 New Holland area.

20 Q. Within the New Holland area?

21 A. Yes.

22 MR. CAMPBELL: That's all I have, Your Honor.

23 JUDGE MELILLO: Will there be any
24 cross-examination on that?

25 MR. WALTER: No, Your Honor.

1 JUDGE MELILLO: Any further cross-examination
2 or redirect for this witness, anything further?

3 (No response.)

4 JUDGE MELILLO: Hearing nothing, then the
5 witness is excused. Thank you, Mr. Morris.

6 (Witness excused.)

7 MR. CAMPBELL: May exhibit P-1 be admitted?

8 JUDGE MELILLO: That was admitted because
9 there was no objection, and we just went ahead and admitted
10 that at the time. So Protestants' Exhibit 1 is already part
11 of the record. Do you have any additional witnesses, Mr.
12 Campbell?

13 MR. CAMPBELL: Yes, I would like to call Mr.
14 Treier.

15 JUDGE MELILLO: All right.

16 Mr. Treier, please take the stand. Please
17 stand and raise your right hand.

18 Whereupon,

19 STEPHEN P. TREIER,
20 having been duly sworn, testified as follows:

21 JUDGE MELILLO: Please be seated.

22 Continue counsel.

23 DIRECT EXAMINATION

24 BY MR. CAMPBELL:

25 Q. Mr. Treier, would you please give your full name and

1 business address for the record.

2 A. Stephen, with a P-H, middle initial P, Treier,
3 T-R-E-I-E-R, representing Jack Treier, Incorporated, address
4 1457 Manheim Pike Lancaster, Pennsylvania 17601.

5 Q. And what is your position with Jack Treier?

6 A. I'm the President of the company.

7 Q. And how long have you been with the company?

8 A. Full-time capacity, 22 years.

9 Q. And would you describe the business of Jack Treier,
10 Incorporated?

11 A. Full-service moving company, local moving,
12 intrastate, interstate, international, commercial moving;
13 and we call them commercial distribution accounts.

14 Q. And, as President of the company, is it fair to say
15 that you're familiar with its operations and facilities; and
16 you're here with authority to testify on its behalf?

17 A. Yes.

18 Q. Are you familiar with the present application?

19 A. I am.

20 Q. Were you present during the testimony of Mr.
21 Burkholder and his supporting witnesses this morning?

22 A. I was.

23 MR. CAMPBELL: Your Honor, may we have marked
24 for identification Exhibit P-2?

25 JUDGE MELILLO: All right. The document may

1 be marked as Protestants' Exhibit 2.

2 (Whereupon, the document was marked
3 as Protestants' Exhibit Number 2 for
4 identification.)

5 MR. WALTER: Once again, Your Honor, we have
6 no objection to the operating authority.

7 JUDGE MELILLO: This appears to be an A
8 docket for Jack Treier, Incorporated. I take it that's the
9 docket number for the Certificate of Public Convenience for
10 Jack Treier concerning their household goods movement, and
11 that will be admitted into the record without objection.
12 Protestants' Exhibit 2 is admitted.

13 (Whereupon, the document marked as
14 Protestants' Exhibit Number 2 was
15 received in evidence.)

16 JUDGE MELILLO: Please continue, Mr.
17 Campbell.

18 BY MR. CAMPBELL:

19 Q. Mr. Treier, does Exhibit P-2 accurately reflect your
20 operating authority?

21 A. Yes, it does.

22 Q. And from what terminal or facilities do you provide
23 service to the public in Lancaster County and Pennsylvania?

24 A. We have a facility at the Manheim Pike address, and
25 we have a facility in Reading, Pennsylvania.

1 Q. And approximately how many vehicles does your company
2 operate?

3 A. Approximately 25.

4 Q. And what type of vehicles are these? How do they
5 break down, approximately?

6 A. Approximately 10 straight vans, approximately 10 to
7 12 tractor-trailers, and three or four we call pack vans or
8 cube vans.

9 Q. How many employees does your company have?

10 A. Approximately 40.

11 Q. And are those all full-time, or does that include
12 part-time?

13 A. That's full-time.

14 Q. Do you operate from time to time with additional
15 part-time?

16 A. We will offer that in the summer.

17 Q. Is the summer the busy season within your experience
18 within Lancaster County?

19 A. Definitely.

20 Q. Do you provide interstate service as well as
21 intrastate? I believe you said that in your description of
22 what you do.

23 A. Yes, we do.

24 Q. Can you give the Judge and the Commission an idea of
25 how much of your business is intrastate versus interstate?

1 A. We represent United Van Lines. As an interstate
2 agent for them, our mix is pretty 50/50 between local and
3 interstate work.

4 Q. Sir, do you presently have competition for your
5 services within Lancaster County?

6 A. Yes, we do.

7 Q. And who are your primary competitors?

8 A. Charles Groff, Shelly, Mertz's, up until the past
9 year Fritz Mayflower.

10 Q. There's been some discussion on this record of Fritz
11 Moving. How did you view that company as a competitor?
12 Were they a major player as you would say or minor
13 competition or what is your opinion?

14 A. In Lancaster County, I did not consider them a major
15 competitor, no.

16 Q. Did you notice any significant increase in business
17 when Fritz closed its doors?

18 A. Surprisingly, no.

19 Q. You've indicated, and I think all of the parties have
20 acknowledged, that moving is a somewhat seasonal business
21 with peaks and valleys.

22 A. That's correct.

23 Q. In the past, has your company had difficulty in
24 meeting the needs of the shipping public for residential
25 moves within your territory?

1 A. There will be selected periods of time, very select
2 periods of time, the last week of June, July, August we have
3 probably two or three weeks that present challenges for the
4 number of assets we have.

5 Q. Can you explain the reason for your opposition to
6 this application?

7 A. Our company mission is threefold in this order. We
8 serve the public or customers first. We serve our employees
9 second, and we serve our shareholders last. Hopefully all
10 three are satisfied within that order. Having another
11 carrier in the market I don't see would help us accomplish
12 our mission. It would not help our employees. It would not
13 help the benefits we provide to those employees, and it
14 would not help the shareholders.

15 I think the market is being met through the
16 players that are in the market currently. Pastor Long, I
17 think, was a good example. We were able to help. We rarely
18 say no to a customer. The services are there.

19 And, if I could add, Your Honor?

20 Q. Please.

21 A. I look at our authority as an investment. I look for
22 a return on that investment as an asset on my books. Adding
23 another player cannot enhance the value of that asset that's
24 been paid for and tried to establish over the past 25-plus
25 years.

1 Q. Mr. Treier, Mr. Martine testified that he is looking
2 to add to his list of available carriers. He's a person
3 that's engaged in the real estate business. Have you in the
4 past provided any service in response to the needs of his
5 agency?

6 A. Yes, I have.

7 Q. And frequently or infrequently or what has been your
8 experience?

9 A. Never frequent enough. I think he addressed her as a
10 managing partner. Don't quote me on that. I just gave a
11 referral yesterday for a client of theirs. I had moved her
12 personally, her household contents within the County. We
13 have served that agency.

14 Q. And do you stand ready, willing, and able to meet the
15 needs that were described by the supporting witnesses in
16 this case?

17 A. Yes.

18 MR. CAMPBELL: That's all that I have, Your
19 Honor.

20 JUDGE MELILLO: All right.

21 Is there any cross-examination, Mr. Walter?

22 CROSS-EXAMINATION

23 BY MR. WALTER:

24 Q. Mr. Treier, as to the vehicles that your company
25 operates, I think you said there were about 25. What's the

1 breakdown between the Lancaster Manheim Pike and those
2 located in Berks County?

3 A. In Berks is that?

4 Q. Yes.

5 A. One hundred percent of our facility operates -- is a
6 warehouse facility only. It is an unmanned facility. We
7 have no operating authority in Berks County.

8 Q. Do you have any idea what the value of your facility
9 on Manheim Pike is?

10 A. I don't understand the relevance. No, I don't. I
11 don't own -- I do not own that building.

12 Q. Is the facility then leased from another entity?

13 A. Yes, it is.

14 Q. Is it a family-related entity?

15 A. Yes, it is.

16 MR. WALTER: That's all I have, Your Honor.

17 JUDGE MELILLO: Any redirect?

18 MR. CAMPBELL: No, Your Honor. I believe
19 that the authority has been stipulated to by Mr. Walter.
20 I'd like to just, if I may at this time, excuse Mr. Treier.

21 JUDGE MELILLO: Mr. Treier, you are excused.

22 Thank you.

23 (Witness excused.)

24 MR. CAMPBELL: I would like to offer into
25 evidence as Protestants' Exhibit 3 the authority of Mertz's

1 and as Exhibit P-4 the authority of Charles Groff and Sons.

2 JUDGE MELILLO: All right. The authority
3 statement of Phillip J. Mertz and John M. Mertz, copartners
4 trading as Mertz's, will be marked as Protestants' Exhibit
5 3.

6 MR. WALTER: I have no objection.

7 JUDGE MELILLO: That will be admitted into
8 the record.

9 (Whereupon, the document was marked
10 as Protestants' Exhibit Number 3 for
11 identification and received in
12 evidence.)

13 JUDGE MELILLO: And the information
14 concerning the authority of Groff and Sons will be marked as
15 Protestants' Exhibit 4 and admitted into the record; is that
16 correct there's no objection to that?

17 MR. WALTER: Again, no objection.

18 JUDGE MELILLO: That will be admitted.

19 (Whereupon, the document was marked
20 as Protestants' Exhibit Number 4 for
21 identification and received in
22 evidence.)

23 JUDGE MELILLO: Anything further, Mr.
24 Campbell?

25 MR. CAMPBELL: Only one further matter and it

1 deals with the discussion that's been had with respect to
2 the authority of Fritz. It's my understanding that the
3 Fritz authority was transferred to a company whose correct
4 legal name I do not have, but I have the docket number of
5 the application proceeding as A-00122171. To the best of my
6 knowledge, that's accurate.

7 I'd like to be able to make that order
8 approving the transfer part of this record and by notice of
9 the Commission records would be, I think, appropriate; and I
10 will certainly endeavor to get a copy of the order itself
11 should Your Honor direct me to do that and get copies to
12 Your Honor and to Mr. Walter.

13 JUDGE MELILLO: All right. Well, I'll have
14 that marked as Protestants' Exhibit 5. It's my
15 understanding that, as a Commission order, technically it
16 does not have to be marked and moved into evidence. It can
17 be referenced, but it certainly is a help to the parties and
18 to me to have it done that way. So I have no objection to
19 having it marked as Protestants' Exhibit 5.

20 MR. WALTER: My only objection, Your Honor,
21 is that this is in a sense the creation of a fifth
22 protestant by entering their operating authority. If that
23 is the intended objective, the Commission orders are what
24 they are. That authority was, in fact, transferred. It's
25 not the order itself that I object to. It's the effect for

1 which it may be offered.

2 MR. CAMPBELL: The offer, if I may, Your
3 Honor, is not to establish it as a protestant but simply to
4 clarify the record as to whether this authority is dormant
5 or not dormant.

6 MR. WALTER: On that basis I do not object if
7 that's the purpose for which it's offered.

8 JUDGE MELILLO: Yes. The entity that we're
9 not aware of at this point that may have the Fritz authority
10 transferred to them has not filed a protest, and they will
11 not be considered a protestant. So with that explanation
12 and understanding, I'm going to admit Protestants' Exhibit
13 5.

14 (Whereupon, the document shall be
15 marked as Protestants' Exhibit
16 Number 5 for identification and
17 received in evidence.)

18 JUDGE MELILLO: Please supply two copies to
19 the court reporter -- the court reporter will give you
20 information on how to do that -- and also a copy to me and
21 to opposing counsel.

22 MR. CAMPBELL: I will try to do that, Your
23 Honor, within the next two days.

24 JUDGE MELILLO: Yes. Anything that's
25 supposed to be supplied for the record must be supplied by

1 the end of the week. That will give you a timeframe in
2 which to find these documents and supply them to myself and
3 the court reporter and the other parties.

4 All right. Would there be anything further
5 today? There's an opportunity for the Applicant to put on
6 rebuttal testimony with respect to the testimony that's been
7 supplied by the Protestants; and then also, if there's any
8 testimony supplied by the Applicant, in regard to the
9 Protestants' testimony on endangerment and impairment of
10 their operations, after that testimony is submitted, then,
11 of course, the Protestants would have the opportunity of
12 presenting rebuttal because they have the burden of proof on
13 that issue.

14 So will there be anything further today,
15 counsel?

16 MR. WALTER: I do not anticipate anything
17 further.

18 MR. CAMPBELL: No, Your Honor.

19 JUDGE MELILLO: All right. Then I take it,
20 Mr. Campbell, since no one is responding to your testimony,
21 will you have anything further to present?

22 MR. CAMPBELL: I have nothing further. The
23 Protestants rest, and I would request the opportunity to
24 file a brief in this case.

25 JUDGE MELILLO: Yes. Briefs will be

1 permitted. My practice is to wait until the transcript is
2 received. There is a 21-day turnaround. It's possible it
3 may be received earlier. I don't know. At the time that I
4 receive a transcript which is usually on the 21st or 22nd
5 day, I issue a briefing order. All parties will get a copy.
6 The briefing order will spell out the deadlines. My
7 practice has been to allow 14 days for main brief and 10
8 days for reply brief.

9 Is there any disagreement with that? Does
10 anyone want to ask for more time at this point?

11 MR. WALTER: I think that would be fine, Your
12 Honor. I think you're indicating that they would be
13 simultaneous main briefs?

14 JUDGE MELILLO: Simultaneous main briefs and
15 also simultaneous reply briefs. I follow the Commission
16 regulations with respect to briefs; however, I do not
17 require proposed findings of fact, conclusions of law, nor a
18 proposed order. That's obviously for me to do. If the
19 parties want to, however, supply that for me, I certainly
20 will take a look at that.

21 I do request, if possible, that the parties
22 supply me with an E-version of their briefs in Word 2003,
23 which is what the Commission uses. I will consider for
24 myself that, if someone supplies me a copy of their brief
25 through e-mail, that satisfies my in-hand requirement. The

1 Commission, however, would have its own requirements with
2 respect to what they consider to be timely filed. I don't
3 know what the parties want to work out.

4 Do the parties have any disagreement with
5 using e-mail for service, or can that be considered to be
6 enhanced service?

7 MR. WALTER: My only request is that your
8 briefing order provide the address for the copy.

9 JUDGE MELILLO: For me? I can give you that.
10 It's initial K Melillo -- it's my last name, M-E-L-I-L-L-O
11 -- at state dot P-A dot U-S. And I hope everyone includes
12 their e-mail addresses. It looks like they did. Once I
13 send you an e-mail, you will have my e-mail address.

14 Also, if a party does cite to an unreported
15 decision in their briefs, I do require that they submit a
16 copy of that. The Commission has on their web site some
17 orders. They go back as far as it might be 2000, 2002; but
18 I don't think they have anything prior to that. Sometimes a
19 decision is reported on Lexus or it's in the PaPUC reporter.
20 If that's the case, then you just need to provide a cite.
21 But, if it's not reported, I do require a copy. I'll be
22 putting out a briefing order that will state these things as
23 well.

24 Does anyone have any questions at this point
25 with regard to briefs?

1 (No response.)

2 JUDGE MELILLO: Am I correct that both
3 parties will be submitting a brief?

4 MR. WALTER: That is correct, Your Honor.

5 JUDGE MELILLO: You will cite to the
6 transcripts so everybody will be getting the transcript or
7 have access to a transcript because you will need to put
8 down transcript cites in your brief.

9 MR. CAMPBELL: I'm not going to order a copy,
10 but I will be using the Commission's copy.

11 JUDGE MELILLO: All right. Very well.

12 Does anybody need to order a copy at this
13 point?

14 MR. WALTER: I am going to, yes.

15 JUDGE MELILLO: All right.

16 Is there anything further then today? Does
17 anybody have anything further for my attention?

18 MR. WALTER: I do not, Your Honor.

19 JUDGE MELILLO: All right.

20 Mr. Campbell, anything further?

21 MR. CAMPBELL: No.

22 JUDGE MELILLO: Then our proceeding will be
23 closed today. However, I will not close the record until I
24 receive reply briefs. After that, I have 90 days to issue a
25 decision. Everyone will get a copy, and you'll have an

1 opportunity to file exceptions if you so desire.

2 Thank you very much.

3 (Whereupon, at 1:28 p.m., the
4 hearing was adjourned.)

5 ***

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15 C E R T I F I C A T E

16 I hereby certify, as the stenographic
17 reporter, that the foregoing proceedings were taken
18 stenographically by me and thereafter reduced to typewriting
19 by me, or under my direction, and that this transcript is a
20 true and accurate record to the best of my ability.

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