

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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BTL

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 :
Fischer-Hughes Transport, Inc. :
 For amendment so as to permit the :
 transportation of tabulating machines, :
 calculating machines, computers, :
 copying machines, electronic equipment :
 and other business machines and :
 equipment, which because of their :
 unusual nature or value require the :
 specialized handling and equipment :
 usually employed in moving household :
 goods; and parts, materials and :
 supplies used in connection there- :
 with, (1) between points in the :
 Borough of Doylestown, Bucks County :
 and as more specifically described :
 therein. :

Docket No.

A-00103976,
F001, Am-B

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DEC 6 1990

SECRETARY'S OFFICE
Public Utility Commission

Further hearing.

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Pages 115 through 178

Hearing Room No. 1
State Office Building
Broad and Spring Garden Streets
Philadelphia, Pennsylvania

Wednesday, November 14, 1990

Met, pursuant to adjournment, at 10:00 p.m.

BEFORE:

HERBERT SMOLEN, Administrative Law Judge

APPEARANCES:

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C O N T E N T S

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Robert Hughes					
By Mr. Lavelle	118	---	---	---	---
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Steven McGary					
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Russell Taddei					
By Mr. Casey	157	---	---	---	---
Norman Clemmer					
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E X H I B I T S

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>Protestant's</u>		
No. 1 (Household Goods Tariff HGB 400-F, Section 1)	125	136
No. 2 (Tariff, Freight Pa. PUC No. 51)	125	136
No. 3 (Tariff, Freight Pa. PUC No. 50)	127	136
No. 4 (Letter, 5/15/86, Pa. Moving & Storage Asso. to PMSA members)	131	176

P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE HERBERT SMOLEN: This is
3 the further hearing in the matter of the application of
4 Fischer-Hughes Transport, Inc.

5 I think today we are ready for the testimony of the
6 Protestants.

7 Do we have any preliminary matters before we proceed?

8 MR. LAVELLE: We have one. I would like to reopen
9 the record for a very limited purpose, to recall Mr. Hughes
10 to address some testimony that first came out on cross-
11 examination yesterday. We have had a chance to go back and
12 get more precise information. It has to do with our Exhibit
13 No. 5 and the amount of transportation performed by Fischer-
14 Hughes that is of the type that we were talking about
15 yesterday.

16 JUDGE SMOLEN: Hearing no objection -- I don't hear
17 any -- we will grant your request.

18 MR. LAVELLE: Mr. Hughes is still under oath from
19 yesterday?

20 JUDGE SMOLEN: Yes, he is still under oath.

21 Whereupon,

22 ROBERT M. HUGHES

23 having previously been duly sworn, testified further as
24 follows:
25

1 DIRECT EXAMINATION

2 BY MR. LAVELLE:

3 Q Mr. Hughes, yesterday when you were testifying
4 do you recall questions that came out on cross and then
5 were addressed again on redirect examination having to do
6 with the extent to which the Applicant here may have been
7 transporting electronic equipment as we have defined it
8 here within the state of Pennsylvania?

9 A Yes.

10 Q Within the scope of the application?

11 A Yes, I recall that.

12 Q All right. You made on the record estimates
13 or guesstimates, I think you mentioned, as to the total
14 volume of traffic or revenue that you derived from that
15 transportation. Do you recall that?

16 A Yes, I do.

17 Q Did you overnight have an opportunity to go back
18 and review those records of the company and come up with
19 more precise information concerning that issue?

20 A Yes. This morning I went into the office early
21 and we pulled these files out and derived the precise
22 dollar amount of electronic shipping that we've done within
23 Pennsylvania.

24 Q For what period of time did you check those
25 records? How far back?

1 A. All of 1990.

2 Q. Did you find any shipments of electronic equipment
3 other than the ones that are shown on Exhibit 5?

4 A. No.

5 Q. As to the ones on Exhibit 5, were you able to
6 identify any of them that you believe would be subject to
7 that warehousemen's exemption that you referred to yesterday?

8 A. Yes. We found two shipments that we believe were
9 subject to the warehousemen's exemption.

10 Q. On Exhibit 5 which shipments were they?

11 A. The 9/15/90 Allentown, Pennsylvania to
12 Philadelphia, Pennsylvania. And the 6/11/90 Doylestown,
13 Pennsylvania to Bedminster, Pennsylvania.

14 Q. That is the third and the next to last shipments
15 on that sheet?

16 A. Right.

17 Q. All right. Did you run a dollar figure for all
18 of the shipments?

19 A. Yes.

20 Q. In terms of the revenue you received from all of
21 the shipments on Exhibit 5?

22 A. Yes.

23 Q. And what did that come to?

24 A. \$3,608.50.

25 Q. And then when you eliminate the revenue from those

1 two shipments that you say are warehouse-exempt shipments,
2 what was the net revenue?

3 A. \$3,388.50.

4 Q. Did your check indicate any shipment or either
5 of those shipments for a company called Intertech?

6 A. Inservtech?

7 Q. Inservtech, who testified yesterday.

8 A. Yes.

9 Q. And which shipments, if any, were for that
10 company?

11 A. The shipment on 6/11/90.

12 Q. One of the exempt shipments?

13 A. Yes.

14 MR. LAVELLE: Your Honor, I think that clarifies
15 the information that related to that point.

16 JUDGE SMOLEN: Cross-examination.

17 CROSS-EXAMINATION

18 BY MR. CASEY:

19 Q. Mr. Hughes, you don't ordinarily differentiate
20 these revenues, do you?

21 A. I'm not sure what you mean by that.

22 Q. Well, you had to go back and specifically pull
23 out these files that were related on Exhibit A-5 to
24 determine what revenues you received on these transportations,
25 correct?

1 A. Yes.

2 Q. So you don't ordinarily differentiate in your
3 balance sheet or in your financial records what revenue,
4 from which source, beyond your basic division of transporta-
5 tion revenue?

6 A. Well, the document that you have there is not the
7 in-house one we normally use. We collated the information
8 and put it in much broader categories than we normally use
9 on our monthly P&L. But I would say that this electronic,
10 so to speak, transportation is wrapped into, you know, what
11 we perceive to be local moving business in storage and
12 warehousing.

13 Q. It's not reflected on your monthly P&L?

14 A. As electronic? No, it's not.

15 Q. You didn't bring any of them? You don't have it
16 separately designated?

17 A. No, not on the monthly P&L, certainly not on an
18 intrastate basis. We do break it down on an interstate basis.

19 Q. You were asked did you find any others and your
20 response was, I believe, no. Did you look for any other
21 transportation?

22 A. Yes. We have a master roster of all our shipments
23 denoted by bill of lading number and we have this little
24 election here that tells us what we think the shipment was.
25 So based on -- I mean, I didn't go through 3,000 shipper

1 files that we have, but I did go through that master roster.

2 Q. You don't have any separate control in effect
3 to differentiate this revenue, and you don't have any
4 control in effect to differentiate the right to take the
5 transportation either, right?

6 MR. LAVELLE: I don't understand the last part of the
7 question.

8 JUDGE SMOLEN: All right.

9 BY MR. CASEY:

10 Q. In other words, you accept the transportation
11 requests from these shippers without regard to your authority
12 for electronics intrastate Pennsylvania, don't you?

13 A. Well, it's my opinion, sir, that this is a
14 confused matter, that we don't understand whether or not
15 I need the authority. And when I look at my interstate
16 commerce commodity description and find wording that is
17 duplicated by my intrastate commodity description tariffs,
18 you know, we are confused about it.

19 I had testified yesterday that we notified shippers
20 that we have a problem with this and turned shipments away
21 accordingly. As best as I can I try to make my people
22 aware of this uncertainty but, you know, stuff slips through.
23 We have 3,000 shipments and stuff slips through. They could
24 be split pickups, part of interstate shipments. We don't know.
25 It's a big company.

1 Q And the answer to the question, I guess, is yes,
2 you do not have any controls to make sure that that doesn't
3 happen. In fact, you disagree with it. You agree to
4 accept the transportation as requested, isn't that correct?

5 A Well, I would say that I agreed to accept the
6 transportation as requested because we're not sure whether
7 we need the authority for it. It seems to me that the
8 authority the Commission has authorized me to have covers
9 a lot of this. But, you know, I recognize there's a
10 question about it and that's why I'm here, to get this
11 clarified.

12 MR. CASEY: No further questions, Your Honor.

13 JUDGE SMOLEN: Mr. Petri.

14 CROSS-EXAMINATION

15 BY MR. PETRI:

16 Q You just indicated that the information in your
17 tariffs is similar. Let's go back to that. You had
18 mentioned that before.

19 What language are you quoting is similar in your
20 PUC tariff, that is similar to the tariff language in the
21 ICC provisions?

22 A May I see that, please?

23 (Document handed to witness.)

24 A I will read them, if you would like.

25 MR. LAVELLE: I don't think you want to read them.

1 It's pretty long and lengthy.

2 JUDGE SMOLEN: Then let him take a look at them.

3 MR. LAVELLE: It's to some extent a portion of what
4 I had agreed yesterday to provide. It's not everything.

5 JUDGE SMOLEN: The provisos?

6 MR. LAVELLE: Well, it's related to that issue.

7 JUDGE SMOLEN: All right.

8 MR. LAVELLE: Just so the record is clear on what
9 we're talking about, Counsel has just given two pages,
10 one of which is a sheet from the ICC tariff page indicating
11 Ex Parte MC-19, I believe it is, a case in which the
12 Commission defined the three provisos under the household
13 goods authority.

14 The second page is a comparable page from the PUC
15 Tristate Tariff Bureau publication for household goods
16 carriers, and it has virtually identical language in it.

17 JUDGE SMOLEN: That's on the record.

18 MR. PETRI: Can we have these marked?

19 MR. LAVELLE: Yesterday I had agreed to give you
20 certain information pertaining to our position on this.
21 That was given to me this morning. There is a case, or
22 two cases, that are also going to be forwarded to you.

23 MR. PETRI: I would like to have these marked as
24 exhibits for the record since the witness is going to
25 testify about them.

1 JUDGE SMOLEN: You can have them marked. You don't
2 have enough copies here; we'll make copies at a break.

3 MR. LAVELLE: I have extra copies.

4 JUDGE SMOLEN: Off the record.

5 (Discussion off the record.)

6 JUDGE SMOLEN: Back on the record.

7 Let us mark as Protestant's Exhibit No. 1 the ICC
8 sheet entitled at the top Household Goods Carriers'
9 Bureau, and as Protestant's Exhibit No. 2 the Public Utility
10 Commission single page entitled Tristate Household Goods
11 Tariff Conference, Inc.

12 (Whereupon, the documents were marked
13 as Protestant's Exhibits Nos. 1 & 2
for identification.)

14 MR. LAVELLE: Just so it's clear, we have marked
15 those and presented them, or made copies available for
16 Counsel to use as exhibits.

17 JUDGE SMOLEN: Okay.

18 MR. LAVELLE: But I'm going to supplement this when
19 I get back to my office and copy both Protestants' Counsel
20 and a copy to yourself of the other information I was going
21 to provide having to do with the issue as well.

22 JUDGE SMOLEN: That's fine, and of course you may
23 want to make mention of it in your brief, in the argument
24 contained in the briefs which I assume will be filed.

25 Let's go off the record now.

1 (Discussion off the record.)

2 JUDGE SMOLEN: Back on the record.

3 BY MR. PETRI:

4 Q. Mr. Hughes, looking at items P-1 and P-2,
5 I guess Protestant's 1 and Protestant's 2, these are old
6 tariffs, are they not?

7 A. Yes. They are dated 1988 and 1984.

8 Q. And they have been replaced?

9 A. No.

10 Q. They are no longer in existence?

11 A. I don't know. Not to my knowledge.

12 Q. The one is Series 400-F and the current series
13 refers to 400-G, does it not?

14 JUDGE SMOLEN: Which one are you referring to?

15 MR. PETRI: P-1

16 JUDGE SMOLEN: All right, P-1. What's your question?

17 BY MR. PETRI:

18 Q. Has not P-1, the tariff stated herein, been
19 replaced by Series 400-G tariff?

20 A. 400-G tariff is in effect now. To my knowledge
21 the commodity description has not changed. Ex Parte MC-19
22 is a fundamental basis of our industry and I don't believe
23 it has changed. I guess I could have spent a little more
24 time this morning looking for an updated tariff, but I was
25 really rushed and I grabbed this one.

1 Q. Now, you use Tristate, of course?

2 A. Yes.

3 MR. PETRI: I'm going to mark a document as P-3,
4 Protestant's Exhibit 3.

5 (Whereupon, the document was marked
6 as Protestant's Exhibit No. 3
7 for identification.)

8 JUDGE SMOLEN: We have had marked for identification
9 as Protestant's Exhibit 3, P-3, one page entitled Tristate
10 Household Goods Conference, Inc. and at the bottom right
11 it has an effective date of October 1, 1984.

12 (Pause.)

13 JUDGE SMOLEN: In order to differentiate from P-2
14 I want to note that P-3 has at the top right an indication
15 which states Freight Pa. PUC No. 50, and on P-2 at the
16 top right it says Freight Pa. PUC No. 51.

17 Now that it has been marked for identification, do
18 you have a question on it?

19 MR. PETRI: Yes.

20 MR. LAVELLE: For further identification purposes,
21 can we have the witness, if he knows, identify more precisely
22 what is Exhibit No. P-2, which has in the upper right-hand
23 corner Freight Pa. PUC No. 51, which is a number referenced
24 to a tariff.

25 Do you know what that particular tariff has
application to?

1 THE WITNESS: Well, I can't speak with any certainty.
2 I would have to review this. But Tristate Household Goods
3 Tariff Conference publishes a number of tariffs. And I
4 publish some of my own tariffs under exception rules. There's
5 hourly tariffs for under 40 miles, there's tariffs for over
6 40 miles. I subscribe to the over 40 mile tariff and rules
7 and regulations. I'm not sure which tariff is which.

8 BY MR. PETRI:

9 Q So you're not sure whether Protestant's Exhibit
10 P-2 is for over 40 or under 40?

11 A I think it is.

12 JUDGE SMOLEN: You think it is what?

13 THE WITNESS: I think it's for over 40

14 BY MR. PETRI:

15 Q Now, looking at Protestant's Exhibit P-3, do you
16 see anywhere in there where it has the language that you
17 discussed today and yesterday, talking about a first,
18 second and third proviso?

19 A Well, yes, I do.

20 Q Where is that?

21 A "Works of art, furniture, music instruments,
22 displays, exhibits and articles requiring specialized
23 handling and equipment usually employed in moving household
24 goods."

25 It's my opinion that this type of shipping is done

1 almost 100 percent by household goods carriers and I am a
2 household goods carrier and we employ that special handling.

3 Q But where on Exhibit P-3 does --

4 A Obviously it does not refer to the proviso.

5 Q No, it does not.

6 A No, it does not. But the other one does, doesn't
7 it?

8 JUDGE SMOLEN: You just answer the questions. You r
9 Counsel can ask questions later on.

10 BY MR. PETRI:

11 Q Now, you had mentioned the master roster. Do you
12 have such a master roster with you?

13 A No, I don't.

14 Q What does the master roster contain?

15 A I'm not certain, but we list the bill of lading
16 numbers that we issue.

17 Q And does it provide breakdowns for you with
18 respect to interstate and intrastate movements?

19 A No. It just issues the bills of lading based
20 on order numbers.

21 Q Earlier you testified that you do keep a breakdown
22 of information -- I think you said, and I want to confirm
23 this. Did you not testify just a moment ago that you do
24 keep records on the differentiation for ICC purposes for
25 electronics movements?

1 A. Yes, primarily through the use of United Van
2 Lines' authority.

3 Q. And you don't do that with respect to PUC
4 intrastate movements?

5 A. No, I don't think we do.

6 Q. Who actually tallies those and makes those
7 differentiations within your company?

8 A. There are a couple people involved in that.

9 Q. Would they be primarily bookkeeping-type
10 functions?

11 A. Clerical people, yes.

12 Q. And is it your instructions to them that they
13 make these particular differentiations for ICC purposes and
14 not for PUC purposes?

15 A. Well, the way that our van line revenue is
16 distributed to us, it is classified that way accordingly.
17 So there is no differentiation that we have to do in-house
18 for interstate moves.

19 As far as intrastate moves go, we classify it on the
20 basis of over 40 and under 40.

21 Q. Now, are you a member of the Pennsylvania Moving
22 and Storage Association?

23 A. Yes.

24 Q. And how long have you been a member?

25 A. Two or three years.

1 Q. Have you been a member since 1984?

2 A. Possibly. I'm not very active in it.

3 Q. And do you receive regular mailings from the
4 Pennsylvania Moving and Storage Association?

5 A. Yes.

6 Q. Who receives those within your company?

7 A. The person who handles all the mail and distributes
8 the stuff to whoever is responsible for it.

9 Q. And who would be responsible for those mailings?

10 A. Joe Sandman.

11 Q. Does he then discuss pertinent matters with you?

12 A. If he feels it's important.

13 Q. Would you consider decisions that were made by
14 the Pennsylvania Public Utility Commission to be important
15 matters to be raised with you?

16 A. Yes.

17 (Whereupon, a document was marked as
18 Protestant's Exhibit No. 4
for identification.)

19 Q. I'm going to show you a document which has been
20 marked as Protestant's Exhibit P-4.

21 Looking at Exhibit P-4, can you tell us have you
22 ever received that document?

23 A. Not to my knowledge.

24 Q. Looking at it, can you tell what that document is?

25 MR. LAVELLE: Well, I don't think he has had a chance

1 to read it. I'm only through the second paragraph.

2 MR. PETRI: That's fine.

3 (Witness perusing document.)

4 A. Well, it appears to be a letter interpreting a
5 PUC order.

6 BY MR. PETRI:

7 Q. And in fact it's interpreting the very item
8 that we have been discussing here for two days now?

9 A. Yes. It seems to.

10 Q. And it reports two decisions, being Bekins and
11 being the case of J. C. Services, Inc. versus Centurion
12 Transport, Inc.

13 A. I've never seen these before. But that seems
14 to be what it is.

15 Q. Since that document, the first cover page of
16 that document is addressed to all members of that association
17 would you presume that you received it?

18 A. I can't say with any certainty that I received it.
19 I have never read this myself. Perhaps my office received
20 it. I don't know. But I've never read it.

21 MR. LAVELLE: Since this is Counsel's exhibit,
22 Your Honor, I'm going to ask if Counsel has evidence to
23 support the contention that this was in fact sent to and
24 received by all members of the association.

25 MR. PETRI: There will be testimony later today.

1 MR. LAVELLE: From somebody from the Pennsylvania
2 Moving and Storage Association?

3 MR. PETRI: There will be testimony later today.
4 We have a director here who is present who can testify to
5 that matter.

6 JUDGE SMOLEN: A director of the association?

7 MR. PETRI: That's correct, Your Honor.

8 MR. LAVELLE: Only if that individual is able to
9 prove the fact that it was received by all members of the
10 association --

11 MR. PETRI: I don't believe it's necessary that we
12 prove delivery from the U. S. Mail. The purpose of this
13 exhibit is to show that it was mailed to all members.

14 MR. LAVELLE: But that doesn't prove that it was
15 actually mailed to all members.

16 JUDGE SMOLEN: It hasn't been offered yet so let's
17 wait. We will reserve determination on this until we have
18 the supporting testimony which Mr. Petri referred to.

19 MR. PETRI: I have no further questions of this
20 witness at this time, Your Honor.

21 MR. LAVELLE: I just have two quick questions here.

22 REDIRECT EXAMINATION

23 BY MR. LAVELLE:

24 Q Did I understand you to say that the differentiation
25 that has been mentioned about interstate shipments and

1 revenues between household goods moves and electronic
2 equipment-type moves, that breakdown is made by United
3 Van Lines?

4 A. On the interstate basis.

5 Q. On the interstate basis?

6 A. Yes.

7 Q. So that differentiation is not made in-house?

8 A. No.

9 Q. You get that from the van lines that you work
10 for?

11 A. Yes.

12 Q. And you only work for the van lines as an agent
13 on an interstate basis?

14 A. That's correct.

15 Q. All intrastate freight is handled under your
16 own operating authority or exemptions or what have you?

17 A. Yes.

18 Q. The other question I had was on Exhibit P-4 --
19 I'm sorry, P-3 -- is the tariff designation there Freight
20 Pa. PUC No. 50?

21 A. Yes.

22 Q. What does that number, when you look at P-2,
23 the P-2 -- one is No. 50 and one is No. 51. Do they come
24 from the same tariff?

25 A. No. They come from different tariffs.

1 Q. And on P-3 under the second category called
2 classification of property, is there a breakdown between
3 Class 1 shipments and Class 2 shipments?

4 A. Yes.

5 Q. Does that correspond to anything that you
6 previously testified about?

7 A. Yes. It seems to correspond to my testimony
8 relating to the three provisos of commodities that we
9 transport.

10 Q. At least as to two of the provisos?

11 A. At least as to two.

12 MR. LAVELLE: I have nothing further.

13 JUDGE SMOLEN: Anything further of the witness?

14 MR. LAVELLE: I have nothing further.

15 JUDGE SMOLEN: The witness is excused. Thank you
16 very much for appearing and testifying.

17 (Witness excused.)

18 MR. PETRI: Your Honor, can I presume that Applicant
19 has again closed its case?

20 MR. LAVELLE: That is all the supplemental evidence
21 we intend to present at this time.

22 JUDGE SMOLEN: It's now more than a presumption.
23 It's an expressed statement.

24 MR. LAVELLE: Subject to change.

25 JUDGE SMOLEN: As is everything.

DIRECT EXAMINATION

BY MR. PETRI:

1 Q Mr. McGary, who are you employed by?

2 A J. C. Services, Inc.

3 Q And how long have you been employed by J. C.
4 Services, Inc.?

5 A Full-time since 1984; part-time prior to that
6 going back to 1971.

7 Q And what is J. C. Services, Inc.? Is that a
8 Pennsylvania corporation?

9 A Yes, it is.

10 Q Does J. C. Services hold operating authority?

11 A Yes, it does.

12 Q What type of operating authority does J. C.
13 Services hold?

14 A ICC authority and also PUC authority.

15 Q And what type of ICC authority does J. C.
16 Services hold?

17 A I believe our ICC authority is for five states
18 which would include household authority and then I believe
19 there is 13 states which would specifically be authorized
20 for electronic authority.

21 Q And are you also associated with any particular
22 van lines?

23 A Yes, we are an agent for Bekins Van Lines.

24 Q And do you have certain arrangements with them
25 with regard to operating authority?

1 A. On an interstate basis we can use their authority
2 acting as an agent.

3 Q. How far does their authority extend on an
4 interstate basis?

5 A. The continental United States.

6 Q. And in that regard would it also include
7 electronics as well as household on the continental
8 United States basis?

9 A. I believe it does.

10 Q. Now, with respect to Pennsylvania Public Utility
11 Commission authority, do you hold authority particularly
12 with regard to electronic goods, tabulating machines and
13 the like?

14 A. Yes, we do.

15 Q. And how long have you held that authority?

16 A. I believe since 1971. It may have been 1970.

17 Q. And can you tell the Court a little bit about
18 the company, where it started and who originated this
19 particular company?

20 A. Well, Jules Cristinzio had started the company
21 in the latter part of 1970, 1971, I believe the time period
22 was. My wife, who worked for Jules at that time, became
23 very knowledgeable of the business and I also worked for
24 Jules and in time Jules decided to retire and my wife and
25 I are the owners now.

1 Q. And was Mr. Julius Cristinzio involved in any
2 predecessor company, are you aware?

3 A. He was a partner of ownership of Dominic
4 Cristinzio, Inc.

5 Q. Which is also one of the Protestants here?

6 A. That's right.

7 Q. And to your knowledge, D. Cristinzio, Inc., the
8 other Protestant in this case, do they have any authority
9 to make the type of moves that the witnesses yesterday
10 testified as needing?

11 MR. LAVELLE: Objection. This witness hasn't been
12 qualified to testify for that company.

13 MR. PETRI: I'm just speaking -- the question was
14 really does he have any personal knowledge of that.

15 JUDGE SMOLEN: That calls for a yes or no answer.

16 BY MR. PETRI:

17 Q. Do you have any personal knowledge as to whether
18 D. Cristinzio has such authority?

19 A. Yes.

20 MR. LAVELLE: I object to that for the same reason.
21 This witness is testifying for J. C. Services. He's not
22 qualified to testify about the authority or anything about
23 the other company.

24 JUDGE SMOLEN: Since the other company is here as a
25 Protestant I'm going to sustain the objection and you can

1 go on to the next question.

2 BY MR. PETRI:

3 Q Now, you perform certain services for companies
4 that require electronic goods to be moved intrastate?

5 A. That's right.

6 Q. And what type of customers do you have?

7 A. We have accounts, Pitney-Bowes, Kodak, A. B. Dick,
8 I-tech, Savin Corporation, AT&T and numerous others.

9 Q. And you heard certain witnesses yesterday
10 testifying that they required certain needs, and I think
11 one of the needs that was testified to yesterday was a
12 tractor-trailer. Do you have tractor-trailers?

13 A. Yes, we do.

14 Q. And in particular, one of the witnesses testified
15 that they needed the wide variety. I believe it's the 102
16 inches or 110 inches wide variety.

17 A. Yes. It is 102 and we have it.

18 Q. And you have those tractor-trailers?

19 A. Yes, we do.

20 Q. In addition, some of the witnesses yesterday
21 testified of the need for next-day service. Do you provide
22 next-day service for any of your customers?

23 A. Yes, we do.

24 Q. How many of your customers do you provide
25 next-day service for?

1 A. For all our customers if they ask for it.

2 Q. And one of the witnesses, I believe the witness
3 for Bell & Howell, testified that they had requirements for
4 late in the month Saturday and Sunday work. Does your
5 company provide such services?

6 A. Yes. I think they had worded it as an end of the
7 month dock sweep, and we have that also.

8 Q. Do you have existing customers that you do that
9 for?

10 A. Yes.

11 Q. Have you or any representatives of your company
12 contacted any of the witnesses who testified yesterday?

13 A. My sales people turned in reports stating that
14 they have contacted those people.

15 Q. And what do those --

16 JUDGE SMOLEN: You mean prior to yesterday's
17 hearing?

18 THE WITNESS: Prior to yesterday's hearing, yes.

19 BY MR. PETRI:

20 Q. Do those sales reports indicate which of the
21 particular witnesses or which of the particular witnesses'
22 companies that were represented yesterday you have contacted?

23 A. If I were to see the list I could probably tell
24 you which companies they were.

25 Q. Now, Mr. McGary, I'm going to show you two documents

1 which I showed to Applicant's Counsel. Does that
2 refresh your recollection as to who your company has
3 contacted?

4 A. Yes.

5 Q. Okay. Now, out of the witnesses that were here
6 yesterday and were represented, which of those companies
7 did you contact prior to yesterday?

8 A. Bell & Howell in Allentown, Pa.

9 Just of the witnesses from yesterday?

10 Q. Just from witnesses from yesterday. Was there
11 anyone else?

12 A. Of this list?

13 Q. Yes.

14 A. Yes, there was. The Sarano Baker Diagnostics
15 in Allentown.

16 Q. They didn't testify yesterday.

17 A. That's right.

18 Q. How about the plastics company?

19 MR. LAVELLE: Your Honor, he is showing him a list
20 and I asked the purpose of showing him the list and he said
21 to refresh his recollection. Now he can't even look at the
22 list and refresh his recollection and the witness' Counsel
23 is telling him who the witnesses were. That's not fair.
24 I don't think the witness knows who he actually solicited
25 or who was solicited for him. If he doesn't have that

1 information at hand, I would object to the testimony.

2 JUDGE SMOLEN: Mr. Petri, do you want to be heard?

3 MR. PETRI: No.

4 JUDGE SMOLEN: All right. With respect to the last
5 question and answer, that will be stricken. The prior
6 testimony will remain standing.

7 BY MR. PETRI:

8 Q Now, who on behalf of your company contacted
9 Bell & Howell?

10 A. John Sauers and Robert Hunt.

11 Q. And when would that have been?

12 A. Over the last year.

13 Q. And based upon their sales meeting do you have
14 an opinion as to whether your company can perform the
15 work?

16 MR. LAVELLE: Excuse me. Can I have that question
17 again?

18 MR. PETRI: I said based upon your sales meeting
19 does he have an opinion as to whether or not his company
20 can perform the work.

21 MR. LAVELLE: Then I object. I thought I heard that
22 right. I don't know what the sales meeting is all about,
23 but that doesn't tell us anything. There is no basis for
24 that question.

25 MR. PETRI: Let me get at the background.

1 JUDGE SMOLEN: The question is withdrawn and there is
2 nothing for me to rule on. We will have a new question.

3 BY MR. PETRI:

4 Q. Mr. McGary, what type of presentation is made by
5 your sales people when you go into a facility?

6 A. Our presentation is based upon what our company
7 can provide as a service and also legally provide with our
8 authority.

9 Q. There was a meeting sometime within the last
10 year, and at such a meeting would the requirements of the
11 customer be related to you and discussed?

12 A. Absolutely.

13 Q. And you, of course, heard the witness testify
14 yesterday as to their needs and their requirements?

15 A. Absolutely.

16 Q. And based upon what you heard yesterday do you have
17 an opinion as to whether or not your company can perform
18 the service?

19 A. Without question.

20 Q. You are a member of the Tristate Tariff?

21 A. Yes, we are.

22 Q. And how long have you been signed with Tristate
23 Tariff, or how long have they been doing your work?

24 A. I don't know specifically but I would believe since
25 our inception in the latter part of '70, the beginning of '71.

1 Q. You've seen the document that was admitted as
2 Protestant's Exhibit 3. Is that a copy of your PUC tariff
3 as prepared by Tristate?

4 A. Yes, it is.

5 Q. I think there was a number on that particular
6 document which describes it and apparently there has been
7 some discussion about what 50 versus 51 means. Do you have
8 an understanding of what those numbers designate?

9 A. P-3 says 40 miles or less for PUC No. 50. 51
10 would be over 40 miles.

11 Q. And on P-3, the one document you've been looking
12 at, are there any classifications with regard to provisos
13 one, two and three?

14 A. I see Class 1 shipments, I see Class 2 shipments.
15 I don't see the terminology proviso in there.

16 Q. Would you also have in your tariff book provisions
17 with respect to mileage over, in other words the 51
18 documentation, mileage over 50?

19 A. Over 40. Yes.

20 Q. Over 40?

21 A. Uh-huh.

22 Q. And does your current version of the tariff
23 include provisos first, second and third to your knowledge?

24 A. Here again, I don't think the terminology provisos,
25 but it has the classification as 50 does also.

1 Q. And what are those classifications based on?

2 A. I think they just list them as one, two and
3 three.

4 JUDGE SMOLEN: Are you talking about commodity
5 descriptions?

6 THE WITNESS: Yes.

7 BY MR_ PETRI:

8 Q. Do you have any knowledge with respect to your
9 company's filings in 1983 with regard to protests or
10 actions before the Public Utility Commission?

11 A. I believe that was the time period when we
12 protested Centurion.

13 Q. At the time that you protested Centurion Transport,
14 do you know whether a decision was made by the Pennsylvania
15 Public Utility Commission in that regard?

16 MR. LAVELLE: Excuse me. I have no idea what this is
17 all about or what the relevance of this line of questioning
18 is.

19 JUDGE SMOLEN: Let's ask for an offer of proof.

20 MR. PETRI: The relevance, Your Honor, is that this
21 particular decision is the one reported in the item that
22 is referened in P-4 and happens to be a decision directly
23 on point with regard to a reaffirmance by the PUC of the
24 Bekins decision.

25 JUDGE SMOLEN: Is that information necessary to be

1 brought out through a witness?

2 MR. PETRI: I'm sorry?

3 JUDGE SMOLEN: Is that information necessary to be
4 brought out through a witness?

5 MR. PETRI: No. The other way I can introduce that
6 evidence is to hand up a copy of the decision. My only
7 purpose in bring this witness forward in that regard is to
8 demonstrate the time period that this case was decided in,
9 namely, April of 1983.

10 MR. LAVELLE: That is in Exhibit P-4 and I think it
11 is a legal matter. If he wants to introduce a case and
12 make reference to it, that's fine. But I don't think the
13 witness should testify about that.

14 JUDGE SMOLEN: I agree. Let's go on.

15 BY MR. PETRI:

16 Q Mr. McGary, do you have any understanding with
17 regard to the warehouseman's exemption?

18 A I believe I understand it.

19 Q What's your understanding of the warehouseman's
20 exemption?

21 A I believe if you pick up a commodity from a
22 shipper's manufacturing facility and bring it in to your
23 warehouse it is exempt presuming it goes from your ware-
24 house back to the same shipper's warehouse or another
25 warehouse designated by that shipper.

1 Q. What if the shipment goes to a consignee or a
2 customer? Is that an exemption?

3 A. I don't believe that that is an exempt shipment.

4 MR. PETRI: I have no further questions of this
5 witness.

6 CROSS-EXAMINATION

7 BY MR. LAVELLE:

8 Q. Mr. McGary, in connection with that last answer
9 you gave, are you absolutely certain that the way you
10 phrased it is the way the warehouseman's exemption applies?

11 A. No. I said that is the way I understood it.
12 I'm not absolutely certain.

13 Q. Do you know what case that particular warehouse-
14 man's exemption was developed in?

15 A. Not from memory, no.

16 Q. When you were referring to Exhibit P-3 -- that
17 was the No. 50 tariff. Do you have that?

18 A. Yes.

19 Q. You took some exception to the use of the word
20 proviso, first, second and third proviso. In the household
21 good business isn't the word proviso a commonly used and
22 understood term?

23 A. Well, I guess on an ICC shipment it is. But you
24 have to differentiate in your thinking as to ICC and PUC,
25 don't you?

1 Q. My question is general. There is a term in the
2 household goods industry, or a terminology, referring to
3 first, second and third provisos, isn't that correct?

4 A. I have read it in the ICC tariffs, yes.

5 Q. Now, when you look at the No. 50 tariff, and you
6 referred to the fact that there are references to Class 1
7 and Class 2 shipments, isn't that equivalent to the proviso
8 one and proviso two that we are talking about?

9 (Pause.)

10 Q. Don't they have reference in the case to shipments
11 from relocations of residential household goods property?
12 Isn't that what a Class 1 shipment means?

13 A. That is the way I'm reading it, yes.

14 Q. And Class 2 shipments has reference to the
15 relocation of what I'll term non-residential property or,
16 to use the more specific terminology, that which originates
17 at stores, offices, museums, institutions, hospitals or
18 other establishments?

19 A. That is the way I'm reading it also.

20 Q. And that's the same terminology that is used under
21 the first and second proviso, isn't it?

22 (Witness nodding head.)

23 Q. The same commodities are involved?

24 A. Without reading the first and second proviso I
25 couldn't guarantee that.

1 Q. Would you look at your own copy of Protestant's
2 Exhibit 1? Do you have that?

3 MR. CASEY: I think they speak for themselves as
4 exhibits. It's right there in writing.

5 JUDGE SMOLEN: Well, this is cross-examination. I
6 think he has some freedom.

7 BY MR. LAVELLE:

8 Q. Do you have Exhibit P-1?

9 A. No, I don't.

10 (Document handed to witness.)

11 A. Could you repeat the question?

12 Q. My question is doesn't the language and the way
13 that Class 2 shipments are referred to on Exhibit P-3,
14 doesn't that correspond to the second proviso language in
15 Exhibit P-1?

16 (Pause.)

17 Q. Namely the relocation of certain types of property
18 when you're talking about business-type establishments,
19 museums and institutions?

20 A. The second proviso seems to be written in the
21 same fashion as Class 2 shipments. The others don't seem
22 to really match.

23 Q. How long has J. C. Services been an agent of
24 Bekins Van Lines?

25 A. I believe we went into an agreement last March.

1 That would be March of '90.

2 Q. Did you actually become a Bekins agent in March
3 or was that effective in a more recent time period?

4 A. I believe it became effective in March.

5 Q. And you said under the interstate operating
6 authority of Bekins you are able to handle so-called
7 electronic equipment shipments on a nationwide basis?

8 A. That's right.

9 Q. Does Bekins have specific authority to handle
10 electronic equipment? Is the authority worded that way?

11 A. I don't know that for a fact. I don't have that.

12 Q. So you don't know whether it's under a specific
13 grant of authority or whether it's under household goods
14 authority issued by the ICC --

15 A. No.

16 Q. -- and an interpretation of the third proviso
17 provisions of that authority that gives rise to that ability?

18 A. I don't know that for a fact under Bekins' authority.

19 Q. You have never looked at it?

20 A. No, I have not.

21 Q. Have you handled any electronic equipment shipments
22 on an interstate basis under that authority?

23 A. Bekins' authority?

24 Q. Right.

25 A. No.

1 Q. You never had occasion to do that?

2 A. No.

3 Q. But if a shipment were tendered to you of
4 electronic equipment going to a point beyond your own
5 individual authority, you would handle it? It is your
6 understanding you could handle it?

7 A. It is my understanding that Bekins has the proper
8 authority that we could handle it as an agent, yes.

9 Q. How many trailers does your company operate that
10 are 48 feet long and 102 inches wide?

11 A. That specific size would be two trailers that we
12 own.

13 Q. Do you have anything with you here to indicate
14 your company's ability to provide a next-day delivery service?

15 (Pause.)

16 Q. Do you have a transit time exhibit, in other words?

17 A. No. I didn't bring anything of that sort, no.

18 Q. Do you have anything here in the nature of a
19 salesman's report concerning this solicitation of Bell &
20 Howell?

21 A. Not with me.

22 Q. Do you know which of the two individuals that
23 you named, either John Sauers or Robert Hunt, participated
24 in that solicitation?

25 A. They both did.

1 Q Do you know when it occurred?

2 A At different time periods.

3 Q Do you know specifically when they solicited
4 that Bell & Howell account for intrastate shipments?

5 A I would be going by my memory, but I would say
6 three or four times over the last year individually.

7 Q You don't know when the last one was?

8 A Bell & Howell specifically, I would say probably
9 two months ago by John Sauers.

10 Q You were here when the witness indicated she had
11 never had any solicitation calls?

12 A I heard that.

13 Q Do you know who these two individuals talked to?

14 A I believe she was the contact and I believe I was
15 told by my sales person that he contacted Karen Herzog, I
16 believe her last name is.

17 Q So you're saying that you'r people contacted her
18 as recently as two months ago?

19 A Yes.

20 Q And have done so maybe four times in the last year?

21 A Uh-huh.

22 Q And she testified to the contrary, that she did
23 not?

24 A That's what I heard yesterday.

25 Q And you don't have anything here to document your

1 recollection of that circumstance?

2 A. My testimony.

3 Q. You have nothing in writing, though?

4 A. Not with me.

5 Q. No letters, no notes of telephone calls?

6 A. Not with me.

7 MR. LAVELLE: I have no further questions of this
8 witness.

9 MR. PETRI: I just have a little redirect.

10 REDIRECT EXAMINATION

11 BY MR. PETRI:

12 Q. Counsel asked you a question about the ICC
13 authority for Bekins. You answered that you hadn't
14 utilized that authority for interstate electronic moves?

15 A. That's right.

16 Q. Do you have specific -- does J. C. Services have
17 ICC authority for interstate electronic moves?

18 A. Yes.

19 Q. And is that why you haven't utilized Bekins?

20 A. Absolutely.

21 Q. You have your own?

22 A. That's right.

23 Q. With regard to leases and the like, do you have
24 the ability financially as well as through contacts to lease
25 a tractor-trailer if you need one at any time?

1 A. We have lease arrangements right now with companies.

2 Q. What type of companies do you have lease arrangements
3 with?

4 A. Austin Truck Rental, Rollins and Ryder.

5 Q. And do these companies have available tractor-
6 trailers in the nature of 40 feet and long and 102 inches
7 wide?

8 A. Yes.

9 MR. PETRI: No further questions.

10 RE-CROSS-EXAMINATION

11 BY MR. LAVELLE:

12 Q. Didn't you indicate that you have electronic
13 equipment authority from the ICC covering the 13 state area?

14 A. Approximately 13, yes.

15 Q. My question to you was do you know under what
16 authority you would be able to handle electronic equipment
17 shipments beyond the scope of your own ICC authority
18 should you have to rely on Bekins. And you said to me you
19 have not have occasion to call on them, you have had no
20 shipments in that territory, right?

21 A. That's right.

22 Q. So the fact that you haven't operated under Bekins
23 is because you haven't had any shipments, not because your
24 company already has its own authority nationwide?

25 A. It's not that we don't have any shipments. Our

1 company chose not to go outside our own authority and we
2 acted as an agent for Bekins and they provided that
3 transportation.

4 Q. What I'm trying to point out is your authority only
5 covers 13 states?

6 A. Approximately.

7 Q. If those electronic equipment shipments moved
8 beyond those 13 states you have to rely on Bekins?

9 A. That's right.

10 MR. LAVELLE: I'll leave it at that.

11 JUDGE SMOLEN: Anything further of the witness?

12 (No audible response.)

13 JUDGE SMOLEN: The witness is excused. Thank you
14 very much for appearing and testifying.

15 (Witness excused.)

16 JUDGE SMOLEN: Do you have any other witnesses,
17 Mr. Petri?

18 MR. PETRI: No.

19 JUDGE SMOLEN: All right. Mr. Casey?

20 MR. CASEY: I will call Mr. Russell Taddei first.

21 Whereupon,

22 RUSSELL TADDEI

23 having been duly sworn, testified as follows:

24 JUDGE SMOLEN: State your full name and business
25 address

1 THE WITNESS: Russell P. Taddei, T-a-d-d-e-i, 1700
2 Thomlinson Road, Philadelphia.

3 JUDGE SMOLEN: Mr. Casey.

4 DIRECT EXAMINATION

5 BY MR. CASEY:

6 Q. Mr. Taddei, by whom are you employed?

7 A. Dominic Cristinzio, Incorporated.

8 Q. And what is your position with that company?

9 A. President.

10 Q. What is Dominic Cristinzio, Inc.?

11 A. Dominic Cristinzio is a transportation Pennsylvania
12 corporation providing interstate and intrastate movements,
13 electronics, household.

14 Q. Can you briefly describe your interstate authority?

15 A. Well, our interstate authority, since we are
16 agents for Allied Van Lines, as they regard the household
17 goods are surrendered and given up due to our affiliation with
18 Allied Van Lines. We do have an ICC authority for contract
19 carriage and general commodities which is unrelated to
20 household goods. But most of our authority is PUC in nature.

21 Q. Will you briefly describe the PUC authority?

22 A. Yes. We have several folders. Many of them
23 address themselves specifically to household goods:
24 Philadelphia and 100 miles; Philadelphia and points in
25 Pennsylvania, et cetera. And we have several other folders

1 or authorities which deal specifically with the electronics,
2 computers, copiers, hard to handle items.

3 Q. What areas do they cover?

4 A. Philadelphia, surrounding counties, points in
5 Pennsylvania and vice-versa, and a group of counties in
6 northeastern Pennsylvania.

7 Q. How long have you had those rights? The electronics

8 A. The corporation has had the electronic authority
9 probably back to the '50's. The first electronics authority
10 was supported by IBM Corporation. As a matter of fact,
11 IBM is listed in the authority. And subsequently there were
12 several other applications for authority over the years
13 which were granted. The most recent was only two years ago.

14 Q. Where is your location, your facilities?

15 A. 1700 Thomlinson Road in Philadelphia. It's
16 northeast Philadelphia.

17 Q. Is that your only location?

18 A. Well, we have a location in north Jersey. But
19 as far as Pennsylvania goes, that is our only location.

20 Q. Can you describe the facilities there?

21 A. Yes. We have 85,000 square foot building with
22 ten back-up bays for tractor-trailers, and about a 5,000
23 square foot office.

24 Q. What about equipment? What type of equipment do
25 you have?

1 A. We have straight trucks, packing vans, tractors,
2 trailers and some specialty items used in rigging and
3 hard to handle type of work.

4 Q. Do you have these 48 by 102 sized trailers?

5 A. Yes. We have five of them, five trailers in that
6 category.

7 Q. And do you have access to others if needed?

8 A. Yes. We do. They are available.

9 Q. Or other vehicles and equipment of any kind?

10 A. Yes. We do have 12 tractors and 18 trailers,
11 but we have five of that size.

12 Q. Do you have air-ride vans?

13 A. Yes, we do.

14 Q. How many employees do you have?

15 A. Seventy-five to 80.

16 Q. And can you differentiate between drivers and
17 in-house employees?

18 A. In people?

19 Q. Yes.

20 A. Yes. Approximately 55 people in the street between
21 the two locations and about 20 people inside.

22 Q. Now, do you advertise your services publicly?

23 A. Yes, we do.

24 Q. Briefly, what type of advertising do you do?

25 A. Well, we have the telephone ads in the various

1 counties. We have brochures and mailers that we send out.
2 We have sales people who are knocking on doors and leaving
3 proposals, cards, letters.

4 Q And in 1990 are you fully utilizing your facilities
5 and your equipment?

6 A No, not really. No. We have space available and
7 we have equipment available.

8 Q Were you informed about some testimony from
9 yesterday at the hearing regarding Bell & Howell by myself?

10 A Yes, I was.

11 Q And did I describe to you that you were referred
12 to as a, quote, rigger --

13 A Yes.

14 Q -- by the traffic manager?

15 A Yes.

16 Q What is your understanding of a rigger?

17 A Well, a rigger is a company that would handle
18 deliveries that are very difficult, units that have to go
19 through windows, up and down stairs, be up-ended, be put
20 inside of elevators, on top of elevators, which we do a lot
21 of that. And we also provide normal inside delivery,
22 uncrating, unskidding as well.

23 Q Do you presently do work for Bell & Howell?

24 A Yes, we do.

25 Q What type of transportation?

1 A. Inside delivery of their larger, hard to handle
2 items.

3 Q. Which would require that rigging or whatever?

4 A. Well, sometimes they do and sometimes they don't.

5 On many occasions it simply requires the uncrating, unskidding,
6 the use of special equipment, roll lists, dollies, things
7 like that, load the vehicle, take it to the customer's
8 site. Sometimes two lift-gate trucks are necessary if there
9 is no dock because of the size of the items. You have to
10 lower it down with two lift gates and then inside delivery.
11 There are occasions, however, where the customer has a dock
12 and the inside delivery is a lot simpler, you just take it
13 through the hallways and place it where it has to go and level
14 it and we're finished.

15 Q. Do you have authority to move electronic equipment
16 for Bell & Howell from Allentown to Philadelphia and to
17 these customers?

18 A. Yes. Our authority would include that service.

19 Q. Now, did I also advise you about testimony from
20 a witness named Iverson regarding some service performed
21 by Cristinzio for Girard Bank?

22 A. Yes, you did.

23 Q. In which the witness testified that she encountered
24 problems with your company. Did you make an inquiry regarding
25 her and that issue within your organization?

1 A. Yes, I did. I spoke to a couple of the girls who
2 handle that account, a couple of the sales people who
3 dealt with Girard and Mellon quite a bit, and that
4 particular name did not ring a bell. We don't think she
5 ever worked with the ATM -- I think you specifically said
6 ATM -- we don't recall her working specifically in the ATM
7 department. Now, whether she was from a branch or some
8 other position, I don't know. It kind of caught me by
9 surprise because we have delivered and installed or picked
10 up and disassembled or discontinued several thousand ATMs
11 for Mellon Bank.

12 Q. Mellon is the successor to Girard?

13 A. Yes. And I know of no particular problem.

14 Q. Are you still doing business for Mellon?

15 A. Yes, we are.

16 Q. And finally, did I tell you about testimony about
17 the transportation of systems to Scranton that is proposed
18 for later this year from Ivyland, Pennsylvania?

19 A. Yes, you did.

20 Q. Would you have the authority to make that move?

21 A. Yes, we do. We have the Philadelphia and
22 surrounding counties to points in Pennsylvania and vice-
23 versa.

24 Q. Mr. Taddei, in your experience in this industry,
25 is there any confusion in your mind about the household

1 rights of a PUC holder regarding electronic equipment?

2 A. No, there is not. It's always been -- the
3 requirement has always been to have specific authority for
4 the computer or hard to handle commodities, which is
5 why our firm has both.

6 Q. And this phrase, specialized equipment and
7 handling, does that authorize electronic carriage?

8 A. Yes, computers, copiers, duplicators. There is
9 terminology that includes about 15 categories and types of
10 equipment which are listed in that classification.

11 MR. CASEY: No further questions, Your Honor.

12 MR. LAVELLE: I have no questions on cross-examination,
13 Your Honor.

14 JUDGE SMOLEN: Then the witness is excused. Thank
15 you very much for appearing and testifying, sir.

16 (Witness excused.)

17 MR. CASEY: I call Mr. Norman Clemmer.

18 Whereupon,

19 NORMAN CLEMMER

20 having been duly sworn, testified as follows:

21 JUDGE SMOLEN: State your full name and business
22 address for the record.

23 THE WITNESS: Norman C. Clemmer, 425 Schoolhouse
24 Road, Telford, Pennsylvania.

25

1 DIRECT EXAMINATION

2 BY MR. CASEY:

3 Q Now, Mr. Clemmer, what is your occupation?

4 A I'm president of Clemmer Moving & Storage.

5 Q Is that a household mover?

6 A Yes.

7 Q And does Clemmer have separate electronic rights?

8 MR. LAVELLE: Excuse me. I'm going to object to this.

9 May I take the witness on Voir Dire?

10 MR. CASEY: Your Honor, the witness is not a
11 Protestant but he has offered to testify in rebuttal to some
12 testimony yesterday about him and his service, and he is
13 lawfully allowed to do that.14 MR. LAVELLE: I would like to ask a couple of
15 questions.

16 JUDGE SMOLEN: All right. Go ahead.

17 VOIR DIRE

18 BY MR. LAVELLE:

19 Q Sir, are you here objecting to the approval of
20 this application?

21 A Yes.

22 Q Did you file a protest to this application?

23 A Yes. But we had a confusion. I was a little
24 late, I believe, in our correspondence.

25 Q So no protest was filed?

1 MR. CASEY: That's right.

2 MR. LAVELLE: Your Honor, Section 3.381 of Title 52
3 of the Pennsylvania Code, referring to applications for
4 the transportation of property and persons, subsection (c)
5 (1), says: "a person objecting to the approval of an
6 application shall file with the Secretary of the Commission
7 and serve upon the Applicant and Applicant's attorney, if
8 any, a written protest."

9 And Section 5.52, subsection (b), entitled 52
10 Pennsylvania Code, says, "a person objecting to the approval
11 of an application shall file with the Secretary and serve
12 upon the Applicant and Applicant's attorney, if any, a
13 written protest to the application," conforming to the
14 requirements of the section I just referred to.

15 The witness is here admittedly objecting to the
16 approval of the application. He did not file a protest. And
17 I would move that we disallow this witness to testify any
18 further.

19 MR. CASEY: Your Honor, there are different ways to
20 object. He asked my client if he was objecting to the
21 approval and my client answered yes. He's not legally
22 objecting. He admits he did not file a protest. He's
23 here for another purpose. But does he agree with it? No.

24 JUDGE SMOLEN: State the purpose.

25 MR. CASEY: The purpose is to rebut the testimony of

1 witnesses that mentioned his transportation service for them.

2 MR. LAVELLE: Your Honor, that is not a reasonable or
3 permissible basis for coming in here.

4 JUDGE SMOLEN: I wonder what the relevancy is of
5 rebuttal to the testimony of the witnesses.

6 MR. CASEY: Your Honor, I think it's quite clear
7 in this case that quite a bit goes on veracity and the
8 character of the presentation both from the Applicant and
9 the witnesses. This testimony will go to show that that
10 testimony was also incorrect.

11 MR. LAVELLE: Your Honor, if this company had an
12 interest in opposing this application there are procedures
13 well know to it and its counsel to do so. They have not
14 followed those procedures and in any other case if you don't
15 get into a case in the proper fashion you're not admitted
16 into the proceeding and you have no right to come in at this
17 point and testify in effect as a protestant rebutting
18 evidence that has been put into the record even though you're
19 not an official party.

20 This is just an improper procedure. I had no idea
21 whatsoever that this witness was going to be here today.

22 MR. CASEY: You didn't request any witnesses.

23 MR. LAVELLE: I don't have to request any witnesses.
24 But this witness is here in the shoes of a protesting company
25 without following the normal procedures, and that's not

1 fair.

2 MR. CASEY: Well, it has been done before. Secondly,
3 the Applicant's witness raised the issue. We did not
4 raise the issue. The Applicant's witness mentioned service
5 by Clemmer. We are entitled to contest that testimony and
6 Mr. Clemmer is the expert who can do it. He doesn't have
7 to be a protestant to defend himself before a witness'
8 testimony.

9 JUDGE SMOLEN: The purpose of your testimony, the
10 offer on the testimony, is not to defend himself -- that is
11 what you stated before -- but to challenge the testimony
12 of the other witness. And therefore this witness -- what
13 you're telling me -- what I presume you're telling me --
14 is here not as a protestant on behalf of Clemmer but merely
15 to rebut the testimony presented by Applicant's witnesses.

16 MR. CASEY: Yes, Your Honor.

17 JUDGE SMOLEN: Let me ask the Applicant, suppose
18 Mr. Clemmer, this witness, were not affiliated or
19 connected to or president of a carrier and were an
20 ordinary witness called by the Protestant to rebut
21 testimony presented by Applicant? Would your same
22 objection -- and had not filed a protest. Would your
23 objection be the same?

24 MR. LAVELLE: I would not necessarily be able to
25 rely on the regulations of the Commission for that. But I

1 think I would have a right to object to it --

2 JUDGE SMOLEN: You have a right to object.

3 MR. LAVELLE: -- based on the circumstances. I don't
4 know what testimony this witness is attempting to rebut.
5 I don't know what they are referring to. I have no idea
6 what evidence they are talking about.

7 JUDGE SMOLEN: Well, I'm going to permit the witness
8 to testify, not as a protestant in this case. I believe
9 Mr. Lavelle is absolutely correct. To be a protestant in a
10 case you have to file a protest or otherwise obtain the
11 permission of the Administrative Law Judge or the Commission
12 to participate as an intervenor or a late-filed protestant.
13 Therefore, this witness is not appearing as a protestant.

14 The sole purpose, as I understand it, for the
15 testimony of this witness is to contradict certain testimony
16 presented by Applicant. For that purpose only he will be
17 permitted to testify.

18 Proceed, Mr. Casey.

19 DIRECT EXAMINATION (Resumed)

20 BY MR. CASEY:

21 Q. Now, Mr. Clemmer, are you aware of a company
22 called HPI Plastics in Hatfield?

23 A. Is that within your certificated territory?

24 A. Yes.

25 Q. Have you done any transportation work for that

1 company?

2 MR. LAVELLE: Objection.

3 JUDGE SMOLEN: Well, I'm going to sustain the
4 objection. The witness is here to testify only to rebut
5 the testimony of witnesses presented by Applicant.

6 MR. CASEY: That's what I'm getting to.

7 JUDGE SMOLEN: All right.

8 BY MR. CASEY:

9 Q. Did I inform you of testimony given by Galen Bold,
10 who is the traffic manager of HPI Plastics, regarding
11 service by your company for that company?

12 A. Yes.

13 Q. And consisting of an alleged price increase two
14 years ago and damaged or late deliveries?

15 A. I believe what you showed me was an interstate
16 move.

17 MR. LAVELLE: Objection. Showed him what? We
18 don't have any documentary evidence of interstate moves.

19 JUDGE SMOLEN: I will sustain the objection.

20 BY MR. CASEY:

21 Q. Did I inform you that this witness, Galen Bold,
22 stated that Clemmer had had a price increase two years
23 ago and that therefore that encouraged them to leave you and
24 go to Fischer-Hughes?

25 A. Yes. That is what you told me.

1 Q. Was there a price increase two years ago? Do
2 you recall the loss of this customer?

3 A. There has been a tariff increase, yes.

4 Q. Tariff?

5 A. Yes.

6 Q. Did the salesman who worked for you -- does he
7 now work for Fischer-Hughes?

8 A. Yes.

9 Q. And did that --

10 MR. LAVELLE: Objection. That goes beyond any
11 rebuttal. He asked him whether he had a tariff increase and
12 he said yes.

13 JUDGE SMOLEN: And you did not object to that.

14 MR. LAVELLE: The witness testified that there was
15 a price increase and he said he took a tariff increase.
16 That's not rebuttal testimony. That is confirmation of what
17 the witness testified to. Now, to go on to a salesman,
18 that is something totally off the mark, off that point.

19 JUDGE SMOLEN: Let Mr. Casey respond.

20 Mr. Casey?

21 MR. CASEY: The price increase coincidentally occurred with the
22 transfer of customer and at the same time a transfer of
23 salesmen?

24 A. I believe so. Approximately --

25 JUDGE SMOLEN: Wait a minute. There is no question.

1 I'm going to permit the question. Go ahead.

2 BY MR. CASEY:

3 Q. Did your loss of the customer, HPI Plastics,
4 coincide with the movement of one of your salemen to
5 Fischer-Hughes?

6 A. Yes.

7 Q. And was that salesman the one who had a relationship
8 with HPI Plastics representing your company?

9 A. Yes.

10 Q. Are you aware of any damaged or late delivery
11 complaints from HPI from around that time?

12 A. No.

13 Q. Are some of the moves that you had performed for
14 HPI in interstate commerce?

15 A. Yes.

16 Q. And who would undertake those moves?

17 A. Allied Van Lines.

18 Q. You were not actually performing those moves?

19 A. No.

20 Q. So is it correct that there could have been a
21 damaged or late delivery through Allied that you would have
22 had no responsibility for?

23 A. That's correct.

24 MR. LAVELLE: Objection. He has no knowledge of that.

25 JUDGE SMOLEN: I'm going to sustain the objection and

1 strike the question and the answer.

2 BY MR. CASEY:

3 Q. Did you perform any damaged or late deliveries
4 for HPI Plastics?

5 A. I don't know. I can't answer that. Not to the
6 best of my knowledge.

7 Q. Now, Mr. Clemmer, are you under any confusion
8 about the electronics rights for transportation under
9 household goods?

10 MR. LAVELLE: Objection.

11 JUDGE SMOLEN: State the basis.

12 MR. LAVELLE: Now we're bringing this witness in as
13 an expert, supposedly to give us the interpretation of the
14 Commission's rules and regulations and that is not proper
15 for this witness to come in to do that.

16 JUDGE SMOLEN: Let's hear Mr. Casey.

17 MR. CASEY: He's a certified household mover under
18 the PUC. He can state his knowledge of the rights. And the
19 issue in this case is the Applicant is a mover and he's
20 confused. But we are showing by rebuttal that he may be the
21 only one who's confused. Everyone else fully realizes that
22 you need separate rights.

23 MR. LAVELLE: Your Honor, that can't possibly follow.
24 We have one Applicant's witness here. We have two witnesses
25 for the Protestant carriers. We have a third now on the

1 stand who said he works for a storage company. But there
2 are hundreds of carriers in this Commonwealth and you cannot
3 make the claim that this witness now is going to clear up
4 whether or not there is any confusion. This becomes a legal
5 argument now as to whether or not the company operated in
6 the scope of its authority or exemptions or outside based
7 on cases. We've got referenced now on the record by
8 Protestant's Counsel, reference to cases and tariff
9 provisions. I think that matter is now fully explored.
10 This witness' testimony isn't going to add anything to that.

11 JUDGE SMOLEN: Let's hear from Mr. Casey.

12 MR. CASEY: Your Honor, this witness was a director
13 of the Pennsylvania Moving & Storage Association, which
14 was instrumental in petitioning the PUC for clarification
15 of that very issue and disseminating information to all of the
16 members of the association, one of whom was the Applicant.

17 JUDGE SMOLEN: Is that what you're going to, this
18 P-4?

19 MR. CASEY: That's what I'm going to.

20 JUDGE SMOLEN: I will let you address questions on
21 P-4, but not that his testimony is applicable to -- his
22 knowledge of the matter at issue is applicable to everyone
23 in the industry. So I will sustain that objection and let's
24 go on to the next topic.

25

1 BY MR. CASEY:

2 Q. Mr. Clemmer, can you identify that exhibit, P-4?

3 A. Yes.

4 Q. What is that?

5 A. It's an exhibit that was sent out to all
6 Pennsylvania Moving & Storage Association members in
7 reference to the PUC's interpretation of electronic tariffs.

8 Q. And were you a member or a director of the
9 association at that time?

10 A. I was a member of the association since its
11 inception, a charter member.

12 Q. And when was that?

13 A. That goes back maybe ten years or more.

14 Q. And what's the date of P-4, the letter?

15 A. May 15, 1986.

16 Q. Did you hold a position with the association at
17 that time?

18 A. I was the director.

19 Q. Is your name stated on P-4?

20 A. Yes.

21 Q. Was the Applicant a member of the association at
22 that time?

23 A. I believe so.

24 Q. And this letter clarifies that you require
25 separate rights for that kind of carriage?

1 witness.

2 JUDGE SMOLEN: Any redirect?

3 MR. CASEY: No, Your Honor.

4 JUDGE SMOLEN: All right. The witness is excused.

5 Thank you very much for appearing and testifying.

6 (Witness excused.)

7 MR. CASEY: I would offer P-4.

8 MR. LAVELLE: I won't object to it.

9 JUDGE SMOLEN: All right. It's received into
10 evidence.

11 (Whereupon, the document marked as
12 Protestant's Exhibit No. 4
was received in evidence.)

13 JUDGE SMOLEN: Any further witnesses?

14 MR. CASEY: No, Your Honor.

15 JUDGE SMOLEN: Any further testimony or matters to
16 be brought before we go off the record for a moment to
17 discuss a briefing schedule?

18 (No audible response.)

19 JUDGE SMOLEN: Hearing no response, let's go off the
20 record.

21 (Discussion off the record.)

22 JUDGE SMOLEN: In an off the record discussion it
23 was agreed among the parties that main briefs are to be
24 filed January 8, 1991, and reply briefs are due January 25,
25 1991. That is contemporaneous filing by all parties.

1 I want to thank all the counsel and the parties for
2 their gentlemanly, well-prepared and thorough presentation
3 of their cases, and therefore I will expect scholarly
4 briefs on the issues involved.

5 Thanks very much.

6 The record will be closed as of the reply brief
7 filing date, January 25, 1991.

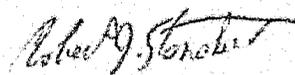
8 (Whereupon, at 11:50 a.m., the hearing was concluded.)
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C E R T I F I C A T E

1
2 I hereby certify, as the stenographic reporter,
3 that the foregoing proceedings were taken stenographically by me and
4 thereafter reduced to typewriting by me or under my
5 direction; and that this transcript is a true and accurate
6 record to the best of my ability.
7
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9

10 COMMONWEALTH REPORTING COMPANY, INC.

11 By: _____
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Robert J. Stonaker

HOUSEHOLD GOODS CARRIERS BUREAU

ICC HGB 400-F

HOUSEHOLD GOODS TARIFF HGB 400-F

Original Page 52

SECTION 1 - RULES AND REGULATIONS GOVERNING THE TARIFF

(40018)

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DEC 6 1988

SECRETARY'S OFFICE
Public Utility Commission

ITEM 100

CLASSIFICATION OF ARTICLES
(COMMODITY DESCRIPTION)

The description of property to which rates, rules and regulations apply is that class of property designated by the Interstate Commerce Commission in Ex Parte No. MC-19 as a commodity under the following commodity description:

- (a) HOUSEHOLD GOODS. The term "household goods" means,
 - 1st Proviso (1) PERSONAL EFFECTS AND PROPERTY USED OR TO BE USED IN A DWELLING when a part of the equipment or supply of such dwelling;
 - 2nd Proviso (2) FURNITURE, FIXTURES, EQUIPMENT AND THE PROPERTY OF STORES, OFFICES MUSEUMS, INSTITUTIONS, HOSPITALS, OR OTHER ESTABLISHMENTS when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments;
 - 3rd Proviso (3) ARTICLES INCLUDING OBJECTS OF ART, DISPLAYS, AND EXHIBITS, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods.

(b) INTERPRETATION OF THE DEFINITION IN PARAGRAPH (a) OF THIS ITEM.

- Subsection (1) shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is transported at the request of, and the transportation charges paid to the carrier by, the householder.
- Subsection (2) shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as an incident to the removal of the establishment, or a portion thereof, from one location to another.
- Subsection (3) shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.

DOCKETED
DEC 10 1988

DOCUMENTS

P-1
B-103976
11/14/90
Phila RJS

ISSUED: JUNE 13, 1988

EFFECTIVE: JULY 13, 1988



ISSUED BY: JOSEPH M. HARRISON, PRESIDENT, 1811 DUKE STREET, ALEXANDRIA, VA 22314

SEE ITEM 10000 FOR ABBREVIATIONS AND REFERENCE MARKS NOT EXPLAINED HEREIN.

ICC - A02 (8-88)

P-2 A-103976 PMA DRS
11/14/90

TRISTATE HOUSEHOLD GOODS TARIFF CONFERENCE, INC.

A P P L I C A B I L I T Y

ITEM 100

COMMODITY DESCRIPTION

The description of property to which rates, rules and regulations apply is that class of property designated by the Pennsylvania Public Utility Commission in Released Valuation Rate Docket No. 46, as a commodity under the following commodity description:

- (1) PERSONAL EFFECTS AND PROPERTY USED OR TO BE USED IN A DWELLING when a part of the equipment or supply of such dwelling;
- (2) FURNITURE, FIXTURES, EQUIPMENT AND THE PROPERTY OF STORES, OFFICES, MUSEUMS, INSTITUTIONS, HOSPITALS, OR OTHER ESTABLISHMENTS when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals, or other establishments.
- (3) ARTICLES INCLUDING OBJECTS OF ART, DISPLAYS, AND EXHIBITS, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods.

All property transported under the commodity description as set forth above, shall be subject to minimum weight and rates as set forth in this tariff, or as amended.

GENERAL RULES AND REGULATIONS

RULE 1

BILL OF LADING AND RATES

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JUL 19 1990
SECRETARY'S OFFICE
Public Utility Commission
- (a) Unless otherwise provided in this tariff, when property is transported subject to the provisions of this tariff, or as amended, the acceptance and the use of the Uniform Household Goods Bill of Lading as described herein is required.

If the bill of lading is issued on the order of the shipper, or his agent, in exchange or substitution for another bill of lading, the shipper's signature to the prior bill of lading as to the statement of value or otherwise, or election for common law or bill of lading liability, in or in connection with such prior bill of lading, shall be considered a part of the original bill of lading as fully as if the same were written or made in connection with the original bill of lading.

Any alteration, addition or erasure on a bill of lading which shall be made without the special notation thereon of the agent of the carrier issuing the bill of lading shall be without effect and the bill of lading shall be enforceable according to its original tenor.

- (b) The rates and charges shown herein are reduced rates conditioned upon the use of the Uniform Household Goods Bill of Lading. Consignor at his option, may elect not to accept the terms of the Uniform Household Goods Bill of Lading, and in lieu thereof to have the carrier transport the property with carrier's liability limited only as provided by common law and by the laws of the United States and the several States insofar as they apply, but subject to the terms and the conditions of the Uniform Household Goods Bill of Lading insofar as such terms and conditions are not inconsistent with such common carrier's liability; the rate charged therefor will be 100 percent higher than the transportation rate contained in this tariff as would apply for such shipment if offered for transportation at a released value not exceeding 30 cents per pound, per article.

When the consignor elects not to accept any of the terms of such bill of lading he must give notice to the initial carrier of such election. The initial carrier must indicate the receipt of such notice by writing or stamping thereon a clause signed by the carrier reading:

"In consideration of the higher rate charge, the property herein described will be carried, and the services to be rendered hereunder will be performed, with the carrier's liability limited only as provided by law; but subject to the terms and conditions of this bill of lading insofar as they are not inconsistent with such common carrier's liability."

- (c) All rates and charges herein are dependent upon the shipment being released in accordance with the provisions of Item 3 of this tariff.

Abbreviations, Reference Marks and Symbols are explained on last page of Tariff.

ISSUED: August 31, 1984

EFFECTIVE: October 1, 1984

ISSUED BY:

KENNETH D. SATALOFF, EXECUTIVE SECRETARY
410 NORTH GOVERNOR PRINTZ BLVD. - P.O. BOX 9023
LESTER, PENNSYLVANIA 19113

TRISTAR HOUSEHOLD GOODS TARIFF COMMISSION, INC.

SECTION II - GENERAL RULES AND REGULATIONS

ITEM 3

COMMODITY DESCRIPTION AND CLASSIFICATION OF PROPERTY

Commodity Description

The classification of property to which these rates, rules and regulations apply is that class of property designated by the Pennsylvania Public Utility Commission in Released Valuation Rate Docket No. 46, as a commodity under the following commodity description:

The term "household goods" means property usual to use in a household when a part of such household equipment or supply; furniture, fixtures, equipment and property usual in a store, office, museum, institution, hospital or other establishment when a part of the stock, equipment or supply of such store, office, museum, institution, hospital or other establishment; works of art, furniture, musical instruments, displays, exhibits and articles requiring specialized handling and equipment usually employed in moving household goods.

All property transported under the commodity description as set forth above shall be subject to the following classification and minimum weights and rates as set forth herein.

Classification of Property

RECEIVED

CLASS 1 SHIPMENTS are personal effects and property usual in a dwelling, when a part of the equipment or supply of such dwelling; and articles, including displays and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods which are not described in Class 2 shipments of a gross cubic measurement of 150 cubic feet or less are excluded).

SECRETARIES OF PUBLIC UTILITY COMMISSION

CLASS 2 SHIPMENTS are furniture, fixtures, equipment and property of stores, offices, museums, institutions, hospitals and establishments other than dwellings (shipments of a gross cubic measurement of 150 cubic feet or less are excluded).

APPLICABILITY -- DEFINITION OF TERM "40 MILES OR LESS"

The rates, rules and regulations named herein shall apply to shipments:

- (a) Where there is only one point of origin and one point of destination and the distance between such points is 40 miles or less; or
- (b) Where there is more than one point of origin or destination, or both, and the distance between first point of origin and final point of destination is 40 miles or less.

(Where, on shipments with more than one point of origin or destination, or both, the distance between first point of origin and final destination is more than 40 miles, rates for transportation of the entire shipment shall be computed from carriers' tariffs applicable for distances of more than 40 miles.)

DOCUMENT FOLDER

Abbreviations, Reference Marks and Symbols are explained on last page of Tariff.

ISSUED: August 31, 1964

EFFECTIVE: October 1, 1984

ISSUED BY:

KENNETH D. CATALOFF, EXECUTIVE SECRETARY
410 NORTH GOVERNOR PRINTZ BLVD. - P.O. BOX 9023
LESTER, PENNSYLVANIA 19113

(P-4)

Pennsylvania Moving and Storage Association

May 15, 1986

RECEIVED

JULY 1986

SECRETARY'S OFFICE
Public Utility Commission

President
ROBERT MORGAN
Morgan Moving & Storage, Ltd.
Spring City, PA

Vice President
BARTON B. WILLIAMS
Park's Moving & Storage, Inc.
Warrendale, PA

Secretary
THOMAS SEIBERT
Werner-Donaldson Transfer
Pittsburgh, PA

Treasurer
ROBERT S. FOWLER
John F. Fowler Co.
Philadelphia, PA

TO: PMSA MEMBERS

As you may be aware, the Pennsylvania Moving and Storage Association filed a petition with the Pennsylvania Public Utility Commission for a declaratory order seeking to eliminate confusion as to whether broad form coverage includes the right to transport business machines, new or used.

A copy of the Commission's ruling is attached. I would call your attention to the last paragraph on page two which indicates that broad form coverage does not include the right to transport business machines, new or used. Additional authority is needed for the hauling of same.

The PMSA Board of Directors discussed this ruling at a recent Board meeting in Seven Springs. It was felt that this ruling may affect many members of PMSA and subsequently result in a number of applications to the PUC for expanded property coverage.

As an Association, PMSA does not have the ability from a legal standpoint to file for expanded property coverage for its members. This would mean that each individual member would have to file separately and incur the normal expenses. However, we have asked legal counsel to research the possibility of filing joint applications as an independent group outside the Association's venue.

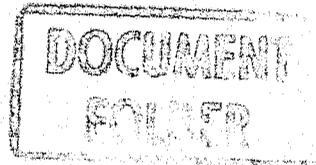
The question simply put is this: Do you have any interest in participating in such a joint filing group (if legally permissible)? Please complete the attached indicating your interest or non-interest. Please mail to the management office as quickly as possible. We will keep you advised as to whether or not such a plan is feasible.

Thank you for your cooperation.

Sincerely,

Jere D. Lawrence

Jere D. Lawrence
Executive Director



JDL/sab

Executive Offices: P.O. Box 181, Richboro, PA 18954
215-322-9839

Executive Director
JERE D. LAWRENCE
Richboro, PA

P-4
A-103876
11/14/86 PMSA

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held March 20, 1986

Commissioners Present:

Linda C. Taliaferro, Chairman
Frank Fischl
Bill Shane

Pennsylvania Moving & Storage Association;
Petition for Declaratory Order

Docket No.
P-850090

O R D E R

BY THE COMMISSION:

On January 24, 1986, Pennsylvania Moving & Storage Association (Petitioner) filed a Petition for Declaratory Order. Petitioner is an association of approximately 100 common carriers who are certificated by the Commission to, inter alia, transport articles, including objects of art, furniture displays, musical instruments and exhibits, which because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods. Petitioner seeks to eliminate the carriers' confusion or uncertainty as to whether such authority includes the right to transport business machines, new or used. Specifically, the carriers desire to transport business machines such as computers and electronic equipment under their current operating authority.

Petitions for declaratory orders are governed by Section 331(f) of the Public Utility Code, 66 Pa. C.S. §331(f) and the Commission's regulations at 52 Pa. Code §5.42. Inasmuch as the instant Petition satisfies the requirements set forth therein and raises a legitimate question concerning the interpretation of certificates issued by the Commission, the Petition is properly before the Commission at this time.

In Application of Bekins Moving & Storage, A-00075976, F. 3, Am-D (Order entered February 15, 1978), the Commission was confronted with the same issue which is raised by Petitioner here. The carrier in that case also held the authority to transport articles, which because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods. In Bekins, the Commission concluded that the carrier's authority did not include the right to transport business machines. In so ruling, the Commission explained that its policy has been to enumerate in specific detail the rights conferred upon a carrier by a certificate of public convenience. The Commission noted that to interpret the carrier's authority as including the rights to transport business machines would constitute an unwarranted and extensive expansion of the carrier's authority. Furthermore, such an interpretation might adversely affect those carriers who have obtained

the specific authority to transport business machines. The Commission's conclusion and rationale in Bekins were reaffirmed in J. C. Services, Inc., t/a J.C. Van Service v. Centurion Transport, Inc., A-00100196C821 (Order entered on June 6, 1983 adopting Initial Decision of Administrative Law Judge).

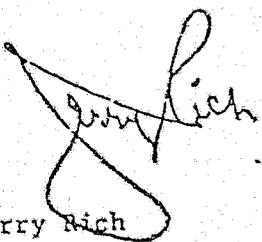
It appears that the Commission's decision in Bekins is dispositive of the issue presented by Petitioner. The carrier in Bekins held the same authority as that held by the carriers involved in this case, and Petitioner has made no attempt to distinguish Bekins from the present case. Moreover, the rationale utilized by the Commission in Bekins is persuasive and should be applied to the instant case. Accordingly, we conclude that the transportation of business machines, new or used, is not within the scope of a carrier's authority to transport articles which require specialized handling and equipment usually employed in moving household goods; THEREFORE,

IT IS ORDERED:

1. That the Petition for Declaratory Order filed by Pennsylvania Moving & Storage Association at P-850090 is granted.

2. That the authority to transport articles, including objects of art, furniture displays, musical instruments and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, does not include the right to transport business machines, new or used.

BY THE COMMISSION,


Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 20, 1986

ORDER ENTERED: APR 2 1986