

ORIGINAL

BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: A-00108155 Application of Central Transport, Inc.
A Corporation of the State of North Carolina, for
the right to transport, as a common carrier,
property, in bulk, in tank and hopper-type
vehicles, between points in Pennsylvania. Further
hearings.

November 9, 1988
10:00 a.m.

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CERTIFIED

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Stenographic report of hearing held in Hearing
Room No. 1306 State Office Building,
Philadelphia, Pennsylvania

Wednesday,
November 9, 1988
10:00 a.m.

- - - - -

BEFORE

MICHAEL SCHNIERLE, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

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24 Lines, Inc.

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Appearing on behalf of Protestant, Refiners
Transport and Terminal Corporation

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1 JUDGE SCHNIERLE: This is the time and place set
2 for a further hearing in the matter of the application of
3 Central Transport, Incorporated, Docket Number A-00108155.

4 I note the appearances of William A. Chesnutt for
5 Central Transport; James W. Patterson for Matlack; Henry
6 M. Wick for Refiners Transport and Terminal Corporation;
7 Kenneth A. Olsen for Marshall Service, Incorporated;
8 William J. O'Kane for Chemical Leaman Corporation; Dave H.
9 Radcliff for Oil Tank Lines; and Ronald W. Malin for
10 Crossett, Inc.

11 Is there anyone else who wishes to enter an
12 appearance at this time? I see no response. Do we have
13 any preliminary matters which we need to address this
14 morning?

15 MR. PATTERSON: Your Honor, I have only one. If
16 you recall, at the end of the last session of hearings,
17 counsel for the applicant and myself agreed to try to work
18 out an agreement on two still contested Matlack
19 interrogatories. We were successful in doing so.

20 I don't think that this ought to be made and do not
21 offer it as an exhibit for this record; but I would, since
22 Your Honor became involved in the -- in the controversy, I
23 thought it worthwhile to note that for the record to sort
24 of close off what we left open the time before and also to
25 hand up to you a copy of the -- of the agreed scope of

1 interrogatories 14 and 15.

2 I will, of course, supply copies of those. I've
3 already supplied copies to counsel for the applicant. I
4 will supply copies to counsel for the other parties
5 forthwith.

6 JUDGE SCHNIERLE: Thank you. Mr. Chesnutt, I take
7 it that you have no objection to the interrogatories as
8 phrased in this revised fashion.

9 MR. CHESNUTT: That's correct. We have -- we have
10 reached a stipulation on the scope of this -- on the scope
11 of this interrogatory.

12 JUDGE SCHNIERLE: Fine. I -- yes?

13 MR. PATTERSON: I'm sorry. I neglected to add we
14 also agreed tentatively and subject to your approval on
15 the time frame, which I'm not sure of right now, that is a
16 time frame within which they would attempt to answer.

17 MR. CHESNUTT: Twenty days from November 3 is my
18 perception of that agreement, which would be the 23rd of
19 November. Did I say November?

20 JUDGE SCHNIERLE: Yes.

21 MR. PATTERSON: Yes, correct.

22 JUDGE SCHNIERLE: Fine. I'm gratified that counsel
23 was able to work out an agreement on this particular
24 matter. If there's nothing further, would you like to
25 call your first witness, Mr. Chesnutt.

1 MR. CHESNUTT: Yes, but I will -- I will note for
2 the convenience of those counsel who are from out of town
3 something about the schedule here. We intend to call four
4 witnesses today, and we intend to conclude the
5 Philadelphia session of hearings at the termination of
6 these four witnesses.

7 And I would expect that we could conclude two of
8 the witnesses in this morning's session and then resume
9 perhaps with an hour and a half noon recess during which
10 those of us who have hotel accommodations may wish to make
11 arrangements in that regard.

12 JUDGE SCHNIERLE: As long as we're on that subject,
13 you had indicated during the last set of hearings that you
14 were expecting to call seven witnesses in Philadelphia and
15 ten in Pittsburgh. Do you know if the schedule in
16 Pittsburgh will be changed also?

17 MR. CHESNUTT: Yes, I think the schedule in
18 Pittsburgh might well. And based on what I know now --
19 and I don't think it's going to change -- that we can
20 conclude our Pittsburgh presentation in one day, and that
21 one day would be Friday, November 18th.

22 JUDGE SCHNIERLE: All right. Well, we'll discuss
23 that further at the end of this hearing. Please call your
24 first witness.

25 MR. CHESNUTT: I'd ask Mr. Thomas McGrath to stand

1 forward and be sworn and then take the seat at the end of
2 this table.

3 JUDGE SCHNIERLE: Please be seated.

4 MR. CHESNUTT: Your Honor, in connection with Mr.
5 Mr. McGrath's appearance on the stand, I have circulated
6 to you, to the reporter, and all counsel a series of
7 exhibits that I will ask be identified at this point. The
8 first is a seven page document entitled Prepared Testimony
9 of Thomas McGrath, The McCloskey Corporation.

10 JUDGE SCHNIERLE: I think we're up to your Exhibit
11 Number 15, if that's consistent.

12 MR. CHESNUTT: I don't know where we are, so that's
13 what I was asking you.

14 JUDGE SCHNIERLE: Oh, yes. The last exhibit I had
15 was 14, that being the service of various companies which
16 was sponsored by, I believe, Valjean Fry of Pennzoil.
17 This would be Central Transport Exhibit Number 15.

18 (Central Transport Exhibit No. 15 was produced and
19 marked for identification.)

20 MR. CHESNUTT: Thank you. The next is a single
21 sheet document entitled McCloskey Corporation Fiscal 1988
22 Shipping Information, to be marked as Exhibit 16 for
23 identification.

24 JUDGE SCHNIERLE: Yes.

25 (Central Transport Exhibit No. 16 was produced and

1 marked for identification.)

2 MR. CHESNUTT: And the final is a single sheet
3 document entitled McCloskey Corporation List of Late
4 Pickups, which I would ask be identified as Exhibit Number
5 17.

6 JUDGE SCHNIERLE: It will be so identified.

7 (Central Transport Exhibit No. 17 was produced and
8 marked for identification.)

9 THOMAS MCGRATH, called as a witness, having been
10 duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. CHESNUTT:

13 Q. Mr. McGrath, would you state your full name and
14 spell your last name for the record, please.

15 A. My name is Tom F. McGrath, M-c capital
16 G-r-a-t-h.

17 Q. What is your business address, Mr. McGrath?

18 A. McCloskey Corporation, 7600 State Road,
19 Philadelphia 19136.

20 Q. What is your position with the McCloskey
21 Corporation?

22 A. I'm the Corporate Traffic Manager.

23 Q. Mr. McCloskey, I've already asked for
24 identification --
25

1 MR. PATTERSON: He wishes he was, but he's Mr.
2 McGrath. I couldn't resist.

3 BY MR. CHESNUTT:

4 Q. Mr. McGrath, we already have Exhibit Number 15
5 identified. I would ask you whether the information
6 contained in that exhibit is true and correct to your
7 knowledge, information, and belief.

8 A. Yes, it is.

9 Q. And would you look at Exhibit Number 16 and
10 indicate what the purpose of that exhibit is.

11 A. This is just to give the participants an idea of
12 the size and scope of the corporation.

13 Q. And looking back at Exhibit 15, which was the
14 first document we discussed, you indicate on the third and
15 fourth pages of that exhibit some combinations of stop-off
16 shipments involving points in Pennsylvania. Is that the
17 only way in which you combine shipments for stop-off
18 delivery, that is where they are, where both portions of
19 the stop-off are destined in the same state?

20 A. Well, when we have an opportunity we also
21 combine shipments on interstate shipments, deliveries on
22 interstate shipments.

23 Q. And would you look at the fifth and sixth pages
24 of Exhibit 15 on which you've listed customers, identified
25 certain locations where those customers are in

1 Pennsylvania, both by listing and by map. And then look
2 back at the seventh page of Exhibit 15 which is a pattern
3 of distribution of shipment to these various customers.

4 I would note that Smith Paint at Harrisburg,
5 Pennsylvania is listed as a customer; but when one refers
6 to page 7, there are no shipments going there. Would you
7 explain the status of Smith Paint in the McCloskey's
8 traffic thinking.

9 A. Smith Paint was an active customer in 1987, in
10 fiscal 1987, and we still consider them as an active
11 customer even though we haven't had any shipments to date
12 this year.

13 Q. All right. Look at Exhibit 17, if you will,
14 please. Who compiled that exhibit?

15 A. I did, sir.

16 Q. Where did you get the information which is on
17 Exhibit 17?

18 A. From loading sheets that are maintained by our
19 manufacturing personnel at the time of loading.

20 Q. All right. And are those loading sheets
21 available for review by the opposing counsel in order to
22 verify that the information shown on here is accurate?

23 A. Yes, they are.

24 Q. With respect to the shipments that are discussed
25 in Exhibit 15, what is the product involved in the

1 shipments that you are making out of town from
2 Philadelphia?

3 . A. Industrial resins and solvents.

4 Q. What sort of customers do you attempt to solicit
5 for that product?

6 A. They're used for by manufacturers in the paint
7 and coatings industries.

8 Q. You indicated that your business address is 7600
9 State Road. Where is the shipping location for the
10 traffic that you're discussing?

11 A. It's also at that location.

12 Q. Could you explain briefly what the nature of the
13 manufacturing facilities the company has there in terms of
14 size or square footage or some other indication of
15 magnitude.

16 A. We have an administrative office which I think
17 there are approximately 24 employees housed in the
18 administrative office, and we also have a manufacturing
19 facility in a warehouse.

20 Q. Mr. McGrath, I've shown you before and I'll show
21 you now a supplemental Exhibit Number 5 which is a revised
22 scope of the authority being sought by the applicant here.
23 And it indicates there certain products that the applicant
24 has excluded from the scope of this application hearing.
25 Have you reviewed that to see whether those exclusions

1 would affect your use of the applicant if this application
2 were granted?

3 A. Yes, I have. That wouldn't restrict our
4 services at all.

5 Q. Now, with respect to the traffic that you ship
6 out down from Philadelphia, what sort of trailers do you
7 desire for the transport of this resin solution?

8 A. We require insulated tank trailers. Many of
9 those that we use are compartmentalized.

10 Q. Let me show you what's been received into
11 evidence in this proceeding as Exhibit 1-D, which is a
12 list of the trailers operated by applicant Central
13 Transport. Do you see on there the type of trailers that
14 would have interest to your company?

15 A. Yes, I believe the designation of the trailers
16 is MC-307.

17 Q. What -- you indicate the compartmentalized
18 trailers are of interest to you. Why do you seek the use
19 of compartmentalized trailers?

20 A. Well, we used compartmentalized trailers for
21 several reasons, one of which is when we ship more than
22 one product to one customer and also when we ship stop-off
23 shipments to more than one customer.

24 Q. And why are you interested in having trailers
25 that are insulated?

1 A. Because the product is usually shipped at a
2 temperature of somewhere in the range of 125 to 185
3 degrees, and that temperature has to be maintained until
4 it's delivered.

5 Q. What are the consequences if the temperature is
6 not maintained?

7 A. The product won't flow freely, and there are
8 problems in attempting to unload -- delays in unloading,
9 and sometimes it cannot be unloaded if it coagulates
10 enough.

11 Q. You've indicated in Exhibit 15 use of
12 applicant's service was down from Philadelphia. Have they
13 furnished the type of trailers that you need for your
14 service?

15 A. Yes, they have.

16 Q. How have you found the services of applicant
17 Central in other respects?

18 A. Excellent.

19 Q. There are a number of carriers that are opposing
20 this application, Mr. McGrath. You've mentioned two of
21 them in your testimony: Matlack and Chemical Leaman. Let
22 me ask you about some of the others. Have you any
23 familiarity with services that may be available from a
24 carrier by the name of Marshall Service Company?

25 A. No, I'm not.

1 Q. Have you -- to your knowledge, have you or
2 anyone in your company been solicited and made aware of
3 what services they may offer?

4 A. Not to my knowledge.

5 Q. I would ask you the same two questions with
6 respect to Oil Tank Lines.

7 A. No, sir.

8 Q. They have not solicited?

9 A. They have not.

10 Q. You're not aware of it?

11 A. No.

12 Q. What about Crossett, Inc.?

13 A. No, I haven't heard of them or they haven't
14 solicited our business.

15 Q. Finally, Refiners Transport and Terminal
16 Company. Any knowledge of that carrier?

17 A. No, on both counts.

18 Q. Now, look, if you will, at Exhibit 17 and tell
19 us why, first of all, you would bring this sort of
20 information to the Judge of the Public Utility Commission.
21 Why do you care whether a carrier is late or not?

22 A. Well, we make appointments with carriers for
23 loading our products. And our physical facilities are
24 very restricted and on occasion if a carrier is late in
25 making his pickup, he number one delays our unloading

1 procedures and oftentimes can create a situation where we
2 have to keep people on overtime to load the product and it
3 also quite probably would delay the delivery of the
4 shipment.

5 In addition to that, we oftentimes have dry freight
6 being delivered, raw materials being delivered, and the
7 times that a bulk shipment should be completing the
8 loading operation; and if the bulk carrier is delayed,
9 then it creates a backup kind of situation.

10 Q. You indicate on Exhibit 17 use of Matlack and
11 Chemical Leaman. Could you give any indications for us of
12 whether any other carrier is used on transportation to
13 points in Pennsylvania other than Chemical Leaman and
14 Matlack?

15 A. We had -- we thought we had identified a carrier
16 who could help us with our intrastate service, but as it
17 turned out he did not have the operating authority. That
18 was McNulty Bulk Transportation.

19 Q. In regard to Exhibit 17, an indication of use of
20 Matlack during May of 1988 but no indication of any missed
21 pickups since that time. Has Matlack been utilized on
22 Pennsylvania intrastate traffic since May of 1988?

23 A. We had so many missed pickups and late pickups
24 and late deliveries on the part of Matlack that we had to
25 discontinue their service as a result of customer

1 complaints and pressure from the sales department.

2 Q. Mr. McGrath, if the application of Central were
3 to be granted, how would you react to the availability of
4 that service with respect to the use of carriers to points
5 in Pennsylvania?

6 A. Well, at the moment we feel that we are limited
7 to the services of basically one carrier, which would be
8 Chemical Leaman, and we would like to have the services of
9 other carriers available to us. And in the event that
10 chemical transportation was awarded --

11 Q. Central Transportation?

12 A. Central Transportation was awarded the operating
13 authority, we would determine some percentage share of the
14 business that they would be involved in and which has to
15 be determined at this time.

16 MR. CHESNUTT: Those are all the questions I have
17 of the witness. He's available for cross examination.

18 JUDGE SCHNIERLE: Mr. Patterson.

19 MR. PATTERSON: Your Honor, could we have about ten
20 to organize ourselves?

21 JUDGE SCHNIERLE: Certainly. There will be a ten
22 minute recess.

23 (Whereupon, a brief recess was taken.)

24 JUDGE SCHNIERLE: Mr. Patterson, the witness is
25 available for cross examination.

1 MR. PATTERSON: See if I can get myself in the
2 right position here, Your Honor, as they say. I think
3 this will be better for everybody. Is that okay for you,
4 Mr. McGrath?

5 THE WITNESS: Sure. I should warn you this is my
6 bad ear.

7 MR. CHESNUTT: If you want to turn a little away
8 from me, that's fine.

9 CROSS EXAMINATION

10 BY MR. PATTERSON:

11 Q. Tell me, Mr. McGrath, the names of the carriers
12 you've used in the last -- in 1988 for service in
13 connection with the same products outbound from your
14 facility in interstate commerce. Same two carriers,
15 Matlack and Chemical?

16 A. Not so much Chemical. It was -- we concentrated
17 the shipments with Matlack. We also used the services of
18 Tripamak or Liquid Transporters. Dana Transport Systems,
19 I believe it is.

20 MR. PATTERSON: Dana?

21 JUDGE SCHNIERLE: Mr. McGrath, you'll have to speak
22 up a little louder so that the court reporter --

23 THE WITNESS: D-a-n-a Transport Systems, Inc., it
24 is. Schwerrman and Quality. Those are the only ones I
25 can remember at the moment.

1 BY MR. PATTERSON:

2 Q. Did any of those carriers solicit your business
3 intrastate Pennsylvania, those extra carriers that you
4 named?

5 A. I'm sure we've talked about it, but I don't
6 think they -- I don't think they have the authority.

7 Q. Do you know?

8 A. I'm not certain, no.

9 Q. Let's take Quality Carriers, for example. Were
10 you aware that they were once a party in this proceeding?

11 A. No, I wasn't.

12 Q. Do you know what part of your products they can
13 handle intrastate, if any? If you don't know they don't
14 have authority, you couldn't tell me, come to think of it.

15 A. No, I couldn't.

16 Q. I withdraw the question. In any event, you
17 haven't asked them to bid on your intrastate business or
18 to indicate to you whether they can handle the business?

19 MR. CHESNUTT: Your Honor, I think it's
20 inappropriate for questions to be directed to witnesses
21 concerning non-protestant carriers. The Commission has
22 held that it is not going to deny applications on the
23 basis of service available from non-protestant carriers,
24 so the entire line of inquiry is irrelevant and doesn't
25 benefit this record at all.

1 JUDGE SCHNIERLE: What's the relevance of the
2 inquiry, Mr. Patterson?

3 MR. PATTERSON: Your Honor, we have a witness who
4 sat here and who submitted exhibits indicating he needs
5 more service. It seems to me in making any kind of valid
6 determination as to whether the witness needs -- his
7 company needs more service, you have to know what's
8 available to him and what he's tried to do.

9 Now, it may well be that injury to non-protestant
10 carriers is not a reason to deny this application, but I'm
11 not asking about injury to quality. I'm simply asking
12 about what he's done to find other carriers who may
13 currently be available to him in order to test the
14 credibility of his testimony that he needs additional
15 service.

16 MR. CHESNUTT: And I would suggest to His Honor
17 that there is no way this record is ever going to show the
18 quote availability close quote of non-protestant carriers.

19 The most what this record can show is that the
20 Commission records by taking official notice would reveal
21 the existence of certain authorizations to non-protestant
22 carriers, but that's a far cry from showing the quote
23 availability close quote of those carriers. There's many
24 certificates sitting out in the public domain that have
25 been issued to carriers that are not being utilized.

1 MR. PATTERSON: Perhaps I wasn't clear enough, Your
2 Honor. I thought I said something about the credibility
3 of this witness' testimony, and that's the purpose of
4 these questions.

5 JUDGE SCHNIERLE: I have some difficulty with
6 delving into the availability of non-protestant carriers.
7 I have serious reservations about the relevancy of that
8 line of inquiry. However, I will permit you to go a
9 little bit further.

10 I don't believe that an extensive, in-depth inquiry
11 in this area is relevant. What was the last question?
12 Please read it back.

13 MR. PATTERSON: Your Honor, I might -- since so
14 much has gone on, perhaps -- I think I know what it was.

15 JUDGE SCHNIERLE: All right.

16 BY MR. PATTERSON:

17 Q. I think I asked Mr. McGrath whether he had
18 inquired of Quality Carriers as to their availability in
19 terms of operating authority and general availability on
20 service on your intrastate Pennsylvania traffic.

21 A. I can't really remember. I make it a habit of
22 inquiring of all the carriers that call on me whether or
23 not they have intrastate service available.

24 I can say that Mr. Mindel, the vice president of
25 sales of Quality Carriers has called on me three or four

1 times since I've been with the company. He has given me
2 interstate rates that are available; but as I recall, I
3 believe Quality Carriers is more a long haul carrier and
4 not interested in short hauls.

5 Q. Your answer to my question is you don't remember
6 answering one way or the other. Is that right?

7 A. Yes, that's right.

8 Q. How many times have you used Central outbound in
9 the last year from your facility in interstate commerce?

10 A. I believe once.

11 Q. Once?

12 A. Yes.

13 Q. Do you know where that equipment was supplied
14 from?

15 A. No, I don't.

16 Q. Where is their facility closest to you?

17 A. I'm not sure of the exact location.

18 Q. What kind of equipment do they have stationed
19 there in service for you?

20 A. I believe they would have insulated tankers.

21 Q. Do you know what they have there and how many?

22 A. Not exactly.

23 Q. A general average basis, not right now.

24 A. No, I don't.

25 Q. The fact is speaking of local and long haul,

1 you've never used this applicant on a local basis, have
2 you?

3 A. No.

4 Q. You've used them only on a long haul basis. Is
5 that correct?

6 A. Well, they don't have authority for local
7 shipments.

8 Q. I guess New Jersey would be local, wouldn't it,
9 to you?

10 A. Yes, it would.

11 Q. But you've never used them, for example, to New
12 Jersey or Delaware or northern Maryland or southern New
13 York?

14 A. No, we used Chemical Leaman and Matlack for all
15 those shipments.

16 Q. What is the breakdown overall of your
17 interstate, interstate/intrastate volumes? Do you have a
18 sense of that?

19 A. The intrastate volume is about 30 percent of the
20 total volume.

21 Q. That's outbound?

22 A. Yes.

23 Q. And my questions will be relating to outbound,
24 just so we're clear just between us. Of your total
25 traffic about how much of it -- and I won't hold you to a

1 strict number -- is shipped in compartmented vehicles,
2 compartmented trailers rather than in non-compartmented
3 trailers?

4 A. Of the total inter and intrastate?

5 Q. Yes, sir.

6 A. I would say about 65 percent.

7 Q. Is --

8 A. Is comparmentalized.

9 Q. Comparmentalized?

10 A. Yes.

11 Q. And would that same percentage hold true with
12 respect to the intrastate or would it shift measurably?

13 A. I think the intrastate would probably be a
14 little higher because the intrastate coast for some reason
15 seemed to purchase smaller quantities. So this were more
16 -- probably 70, 75.

17 Q. Now, sir, you've given us an exhibit attached to
18 Exhibit 15, a list of stop-off shipments. Do you have
19 that handy, Mr. McGrath, about the third and fourth pages
20 of the exhibit?

21 A. Yes.

22 Q. Do you have a similar list of stop-offs going to
23 both intrastate points and interstate points?

24 A. No, I didn't compile that because the
25 transportation would be interstate in nature.

1 Q. Now, I'm talking about the in -- I'm talking
2 about a combination of both, sir.

3 A. No, I didn't.

4 Q. You have such shipments? Did you testify?

5 A. Occasionally, yes. Not often.

6 Q. Now, are the stop-off shipments shown in Exhibit
7 15 the only intrastate stop-off shipments during the
8 period you chose to make up that exhibit?

9 A. To the best of my knowledge, yes.

10 Q. What period is that, sir?

11 A. This period coincides with your fiscal year
12 which is December 1st, 1987 through the present time or
13 through October 27, actually, 1988.

14 Q. Now, sir, I believe you testified that you were
15 familiar with the restrictive amendments which have been
16 made to this application and have reviewed the application
17 in its amended form. Do you recall that testimony?

18 A. No, I haven't reviewed the application.

19 Q. I'm sorry. What I mean to say is the operating
20 authority requested, the authority sought by this
21 application. Have you reviewed that?

22 A. Not in detail, no.

23 Q. Mr. Chesnutt was kind enough to scoot across the
24 table to you, sir, a copy of the amended application which
25 is now, I think, supplemental Exhibit Number 5 in this

1 matter. And if you'll run your eye down the page for a
2 minute, let me know, if you would, if there are things
3 which you ship from your facility which are excluded by
4 the restrictive portions of that authority request.

5 (Pause.)

6 THE WITNESS: I don't see any that's restrictive
7 for our purposes.

8 BY MR. PATTERSON:

9 Q. So that those restrictions would not interfere
10 with any use that you might choose to make of Central
11 Transport if this operating authority were granted. Is
12 that your testimony?

13 A. That's correct.

14 MR. PATTERSON: Indulge me for a minute, Your
15 Honor.

16 (Pause.)

17 BY MR. PATTERSON:

18 Q. Mr. McGrath, in your one use of Central outbound
19 from your facility, I take it that's since you've been
20 with the corporation?

21 A. Yes.

22 Q. Do you have a copy of the loading sheet with
23 respect to that movement with you, sir?

24 A. No, I don't.

25 Q. So you -- would I be correct, then, that you

1 couldn't tell us number one, when Central was caused to
2 make that pickup which you mentioned in your -- in Exhibit
3 15 on June 2, 1988, on the first page of Exhibit 15?

4 A. That's right, it being an interstate shipment.
5 I didn't think it had any -- it wasn't relevant to this
6 proceeding.

7 Q. You don't know whether they were late or not, do
8 you?

9 A. No, I can't tell you that.

10 Q. The carriers get extra points for being early or
11 do they just get whacked for being late?

12 A. Well, they don't get whacked for anything, but
13 we prefer that they not be late.

14 Q. Do you like them to be early or do you like them
15 to be right on time?

16 A. We like them to be right on time.

17 Q. What do you record as right on time in your
18 business? Certainly they don't have to arrive at the
19 minute.

20 A. I think it's an accepted practice in the
21 industry; and we feel that a carrier should be within a
22 half an hour of his appointed time, either before or
23 after.

24 Q. What is the normal loading time, assuming the
25 carrier arrives at the appropriate -- within the

1 appropriate time frame? What's the the accepted time for
2 loading that you expect from your own people?

3 A. We don't really have an accepted time for
4 loading. The normal I would say would be approximately
5 two hours. However, at times we're loading right from the
6 batch that has been processed and at times may even still
7 be in the process and it does thin the loading
8 considerably.

9 Q. How is the equipment loaded, the bulk equipment,
10 tank equipment loaded at your facility?

11 A. For the most part it's loaded in the back of our
12 facility from pipes that extend from our storage tanks.
13 We have eight storage tanks in the back of the eight.

14 Q. Eight?

15 A. Eight, yes.

16 Q. And the loading occurs from above?

17 A. Yes.

18 Q. And it takes on the norm, assuming the load is
19 there and available, about two hours to load a trailer?

20 A. And at the right temperature, right, two hours.
21 Oftentimes it has to be heated before we can load it.

22 Q. And what time during the day do you load
23 outbound shipments, during what periods?

24 A. We can load any time during the 24 hour period.

25 Q. You have people there during that time, during

1 the 24 hour period?

2 A. Except for the weekends our shift ends, I think,
3 at midnight Saturday night and then doesn't open again
4 until 7:00 o'clock Sunday morning.

5 Q. But originally that hour loading?

6 A. Yes, and we will call people in, you know, if
7 it's necessary.

8 Q. What is the normal advance notice that you give
9 to a carrier to supply equipment for you?

10 A. We like to give 24 hours, but it's not always
11 possible. Generally I would say we don't give anything
12 less than 18 hours.

13 Q. Any less than 18?

14 A. Yeah.

15 Q. And that notice is given in what manner, sir?

16 A. Telephone.

17 Q. To carrier's terminal?

18 A. To a carrier's dispatcher, yes.

19 Q. Do you know where the closest Matlack terminal
20 to your facility is?

21 A. I do. I've been there. I'm not sure I can
22 remember the name of the town.

23 Q. About five miles away?

24 A. Yes. Bensalem, I believe.

25 Q. Bensalem?

1 A. Yes.

2 Q. That's -- you say you were there. Do you
3 recognize that that's what would be called perhaps a full
4 service terminal, that is it's not cleaning facilities,
5 dispatch facilities, fueling facilities, maintenance
6 facilities, et cetera?

7 A. I didn't remember that it had cleaning
8 facilities. I'm not sure.

9 Q. Was it a large building, large parking lot, lots
10 of equipment sitting there?

11 A. Yes, yes.

12 Q. Now, sir, when you came to McCloskey
13 Corporation, am I correct that it was one of your duties
14 to, if I understand, to reduce the rates charged by
15 carriers for transporting McCloskey's products?

16 A. That's a secondary consideration. The primary
17 consideration is to make sure that the services double.

18 Q. Isn't it a fact, sir, that you reduced your use
19 of Matlack before the period addressed by Exhibit Number
20 17 -- that's the list of latent pickups, for your
21 information -- as a result of an inability to get a
22 sufficient rate concession?

23 A. No, that's not true.

24 Q. Did you not seek rate concessions from each of
25 the carriers who was then serving you when you took over

1 the job?

2 A. My responsibility is to obtain the most
3 efficient service that I can find available at the most
4 economical costs, and so that any given time to any given
5 point or any customer's location I am always in posture of
6 trying to reduce our costs.

7 Q. My question, sir, was did you not seek rate
8 concessions from each of the carriers who was then serving
9 you at or near the time you took over the job 14 months
10 ago?

11 A. I'm sorry. I can't remember whether I --
12 whether I did with each of the carriers serving us or not,
13 and I can't specifically remember whether I did with
14 Matlack.

15 Q. You've been in the traffic field for a long
16 while, Mr. McGrath?

17 A. Too long, I think. About 27 years.

18 Q. Worked for a number of industrial shippers?

19 A. Yes.

20 Q. Have you ever utilized the technique of
21 threatening the infusion of another carrier, another
22 competitor in order to force existing carriers to reduce
23 their rate levels?

24 A. No.

25 Q. You're not familiar with that technique?

1 A. Certainly I am.

2 Q. Sir?

3 A. I certainly am, yes. That's not my practice.

4 Q. Sir, going back to your Exhibit 15 and to the
5 last page of it which is a -- looks like a computer
6 printout of sorts which says Customer Shipments to
7 Pennsylvania Destinations.

8 A. Yes.

9 Q. Am I to understand that that's the total number
10 of shipments to Pennsylvania points in the period December
11 1, 1987 to October 27, I think you said, 1988?

12 A. Yes, to the best of my knowledge, it is.

13 Q. And where it indicates a point 5 shipments, that
14 would be almost of necessity a compartmented tank that was
15 used for that traffic?

16 A. I hesitate to say that it would be a 100 percent
17 reflection of that; but for the most part, yes.

18 Q. Now, sir, you indicated -- strike that, please.
19 Of the shipments shown on Exhibit 17, sir, this is the
20 list of latent pickups. On which of those shipments did
21 you receive customer complaints?

22 A. I can't identify that. There may not have been
23 customer complaints with regard to any of them. Only if
24 it resulted in late delivery, and even then they may not
25 have complained.

1 Q. When you get a call from a customer that changes
2 the time when the customer wishes to receive product --
3 that is, either speeds it up or delays it because their
4 line is down -- and they are not using product at the rate
5 that they expected to or whatever other reason, how do you
6 reflect that on your loading sheet documentation, or is it
7 reflected on your loading sheet documentation?

8 A. No, that wouldn't normally be reflected on
9 there.

10 Q. Would you normally if a customer called and said
11 do you remember that shipment that I wanted at 9:00
12 o'clock tomorrow morning, I don't want it until 10:00
13 tomorrow night because of whatever reason, would you
14 normally call the carrier and let them know, let the
15 carrier know whoever the carrier chose for that movement,
16 that there was that kind of delay?

17 A. Well, the customers that we deal with 99 percent
18 of the time require their deliveries between 8:00 o'clock
19 in the morning and 4:00 o'clock in the afternoon.

20 Q. All right. Let me change my example. I'll make
21 it 8:00 o'clock in the morning. They wanted it 8:00
22 o'clock in the morning and then change to 4:00 o'clock in
23 the afternoon, so that it comports a little bit more with
24 the realities of life.

25 My question to you was: Under that hypothetical

1 situation, would you normally call the carrier and tell
2 him?

3 A. If the load's already been picked up?

4 Q. No, sir. He hadn't picked it up yet. The
5 customer calls you ahead of time and said remember the one
6 we had scheduled for tomorrow at 8:00 a.m., I don't want
7 it at 8:00 a.m. I want it at 4:00 in the afternoon.

8 It's due. The carrier is due to come in at 8:00
9 o'clock tomorrow morning. Would you call the carrier and
10 say forget about 8:00 o'clock in the morning, come in at
11 such and such a time because of the heat that you require
12 to be kept in the product?

13 A. Yes.

14 Q. Now, where is that reflected on these loading
15 sheets?

16 A. It --

17 Q. Where would that kind of a situation be
18 reflected?

19 A. It would not be. Those sheets only pertain to
20 the actual procedure of loading and what is -- and what is
21 put into the tank.

22 Q. So that the only use of those sheets is to
23 determine when the equipment is loaded and the carrier
24 departs or -- that's what they show?

25 A. Yes, including the information relating to the

1 pickup schedule.

2 Q. Yes, sir, but if that pickup schedule was varied
3 after the call to the carrier that is reflected on the top
4 of the loading sheet, would that amendment of schedule
5 show up on the loading sheet? I think your answer was no.
6 Maybe I'm asking you again. If I am, I apologize.

7 A. If I understand you correctly, you're asking if
8 the time of delivery of a load as changed would --

9 Q. Would that be reflected on the loading sheet?

10 A. Only if we change the time of the pickup.

11 Q. And let me -- let me -- if the time of the
12 pickup was changed as a result of a customer problem --

13 A. Yes.

14 Q. -- would that be reflected on the loading sheet?

15 A. Yes.

16 Q. And how many of those that you have -- how many
17 of the loading sheets that you have back up in Exhibit
18 Number 17 show that kind of change, if you know? Do you
19 want the --

20 A. I don't know.

21 Q. Do you want to look at them?

22 A. Fine.

23 (Pause.)

24 THE WITNESS: I only see one that looks like it
25 might have been changed.

1 JUDGE SCHNIERLE: Let the record reflect that the
2 witness has been examining the load sheets on which
3 Exhibit Number 17 is based.

4 THE WITNESS: However, this looks like the date was
5 changed more so than time; but I can't be sure.

6 MR. PATTERSON: All right, sir. Thank you.

7 (Pause.)

8 BY MR. PATTERSON:

9 Q. Who was Lazlo Lengyll? Let me try that
10 spelling.

11 A. The gentleman's name was Lazlo, L-a-z-l-o, I
12 believe, Lengyll, capital L-e-n-g-y-l-l, I think.

13 Q. Thank you. I never would have done it.

14 A. He was the traffic manager that proceeded me.

15 Q. Let me ask you one more time, Mr. McGrath, and
16 then I'm through. If you do not recall either by yourself
17 or with your assistants speaking to Matlack
18 representatives in terms of having to reduce their rates
19 or hire a new carrier or you would shift traffic to --
20 either you would bring a new carrier in or shift the
21 traffic to another of the protestants here.

22 MR. CHESNUTT: Is that a question?

23 MR. PATTERSON: Wasn't a great one, but yes, it
24 was.

25 MR. CHESNUTT: Could we have it read back, then?

1 (The question was read back by the court reporter.)

2 MR. PATTERSON: I think I asked if he remembered
3 such an occasion, but let me read it back.

4 JUDGE SCHNIERLE: Do you want to try to rephrase
5 it?

6 MR. PATTERSON: Yeah, I really would.

7 I want to ask you once again if you remember a
8 conversation which either you or you and your assistant
9 had with Matlack involving an attempt to require Matlack
10 to either lower their rates to give you rate concessions
11 or you would either support a new carrier, a new
12 competitor, or shift the traffic to an existing
13 competitor.

14 MR. CHESNUTT: I would object to the question
15 unless it's further confined to Pennsylvania intrastate
16 commerce.

17 MR. PATTERSON: My questions I can only ask one at
18 a time; and I suppose that's an appropriate followup
19 question, sir, if the first one is answered yes. I don't
20 think that right off the bat I need to do that.

21 JUDGE SCHNIERLE: I believe the question whether it
22 applies to inter or intra certainly is legitimate inquiry
23 on the -- into the credibility of the witness, and I'm
24 going to overrule the objection. Please answer the
25 question.

1 THE WITNESS: I had discussions with Mr. John
2 Orsini from Matlack, who is the representative who calls
3 on me, relating primarily to the horrendous service that
4 was being provided by Matlack at both our Philadelphia and
5 our Los Angeles locations.

6 That was a time when Matlack was increasing their
7 charges or suggesting that they were going to increase
8 their charges, primarily with the most impact at our Los
9 Angeles facility where Matlack provided a dedicated
10 service to us.

11 And I tried to persuade Mr. Orsini to reduce the
12 amount of the increase at Los Angeles. I did not attempt
13 to have him make any reduction from the Philadelphia
14 facility. Matlack, whether he used Orsini or the other
15 executives involved with Matlack, I suppose decided to go
16 ahead with what I felt was an unreasonable increase. And
17 I told them that if they pursued it, then I would have to
18 make the change.

19 BY MR. PATTERSON:

20 Q. Is that when you got McNulty in your traffic?

21 A. Yes.

22 Q. And how many loads did McNulty handle for you
23 intrastate?

24 A. Well, first I would like to make the statement
25 that I did not ask Mr. McNulty to reduce his rates under

1 Matlack.

2 Q. His rates were already considerably under,
3 weren't they?

4 A. I believe so.

5 Q. You really didn't have to ask him?

6 A. However, I didn't know that at that time.

7 Q. How many times did you use him intrastate?

8 A. You mean --

9 Q. McNulty.

10 A. Once.

11 Q. One. To what destinations?

12 A. I don't mean -- it may have been Pittsburgh.

13 Q. And then you found out that he didn't have any
14 intrastate operating authority?

15 A. Yes.

16 Q. And it's your testimony that that use was not
17 related to the Matlack level of rates, the use of McNulty?

18 A. It was primarily related to the need for
19 service.

20 Q. When was that use, approximately? Within the
21 last month? Six months ago?

22 A. I think it was toward the end of July.

23 Q. All right, sir. That's all I have. Thank you
24 very much.

25 JUDGE SCHNIERLE: Mr. O'Kane.

1 BY MR. O'KANE:

2 Q. Yes. Mr. McGrath, is your familiarity with
3 Central's ability to service your business made up of the
4 five loads mentioned in your testimony?

5 A. I beg your pardon?

6 Q. Is your familiarity with Central Transport's
7 ability to service your business comprising of five loads
8 mentioned in your testimony?

9 A. Aside from the fact that I'm aware of such
10 coverage and the fact that they are a stable carrier.

11 Q. Do you know where, how many terminals Central
12 has?

13 A. Not specifically.

14 Q. Do you know if they have any terminals that can
15 service your service facility? Do you know if they have
16 any terminals that can service your plant in Philadelphia?

17 A. No, I don't. I don't know the exact location.

18 Q. Do you know if they have any locations that can
19 service that plant?

20 A. No, I don't specifically.

21 Q. Do you know if any of the compartmented trailers
22 that you need for your service are --

23 A. Pardon me?

24 Q. Do you know if any of the compartmented trailers
25 that you need for your service are located at a terminal,

1 central terminal that can service your business?

237

2 A. No, I'm not that familiar with their operations.

3 Q. Was the load that you transported to Somerset,
4 Massachusetts using Central on June 2nd, 1988, was that
5 use a compartmented trailer?

6 A. I don't know.

7 Q. Do you know if you arranged for inbound loads
8 for Central?

9 A. No, I don't get involved with inbound
10 transportation. It's basically purchased from our
11 suppliers' FOB destination basis.

12 Q. I think that answers one of the prior questions.
13 You stated that you considered a half hour window as being
14 on time?

15 A. Yes, sir. Is that consistent with others in
16 your organization?

17 A. I believe so.

18 Q. Did your Exhibit Number 17 -- I think you stated
19 your Exhibit Number 17 was made up of an analysis of these
20 loading sheets?

21 A. Yes.

22 Q. Do these loading sheets purport to cover all the
23 items in your schedule Exhibit Number 17?

24 A. I'm not sure what you're saying.

25 Q. Okay. More specifically, I will hand you those

1 loading sheets; but as far as Chemical Leaman is mentioned
2 on this of late pickups, you have us down for 3/21/88
3 scheduled to arrive 6:00 a.m. and actual arrival 12:00
4 a.m. or 12:00 noon, I guess; and I wasn't able to uncover
5 a loading sheet covering that shipment.

6 A. Oh, is that right?

7 Q. Yes. Do you know --

8 A. Should be.

9 Q. Well, if you can see -- see if you can locate
10 that loading sheet supporting that.

11 MR. CHESNUTT: Might I inquire, have all the
12 loading sheets been returned to the witness?

13 MR. O'KANE: I believe -- I believe they are.
14 They're in about the same order in which they were handed
15 to this desk, and I believe they're all there. They were
16 handed to us.

17 MR. CHESNUTT: I realize they were handed to you,
18 but they've been handed about and among you.

19 MR. PATTERSON: I'm sure someone would speak up if
20 they had a loading sheet in front of them.

21 (Pause.)

22 THE WITNESS: Here it is, here.

23 JUDGE SCHNIERLE: Let the record reflect that the
24 witness has been examining the loading sheets and has just
25 picked one out as the sheet applying to the load of

1 3/21/88.

2 BY MR. O'KANE:

3 Q. Mr. McGrath, will you tell us who carrier was on
4 that particular load?

5 A. Oh, it's identified as Matlack.

6 Q. Is that the load supporting the item?

7 A. Pardon me?

8 Q. Is that the loading sheet supporting the item,
9 third item on your Exhibit Number 17?

10 A. Yes.

11 Q. Would you like to correct --

12 A. Well, there may have been changes in the
13 paragraph, though, which would be reflected on the
14 invoice.

15 Q. Based on the --

16 MR. CHESNUTT: It appears as though it was Matlack
17 rather than Chemical Leaman. But if I may, I would like
18 to refer to the invoices that I brought with me. See if
19 that's the case.

20 JUDGE SCHNIERLE: Let's go off the record for a
21 minute.

22 (Discussion off the record.)

23 JUDGE SCHNIERLE: During this period the witness
24 was examining our documents which he brought with him to
25 the hearing today.

1 Mr. McGrath, you were about to testify.

2 THE WITNESS: Yes, the document should be corrected
3 to read Matlack.

4 MR. CHESNUTT: I would move that Exhibit 17 be
5 marked to reflect Matlack for that entry.

6 BY JUDGE SCHNIERLE:

7 Q. Now, to be clear, this is the third entry on
8 Exhibit 17. The date is 3/21/88 and the bill of lading is
9 16762 and the carrier you're saying now is Matlack rather
10 than Chemical Leaman.

11 A. That's correct.

12 Q. And do your records show whether Matlack was the
13 carrier called as well as the carrier who ultimately
14 rendered the transportation?

15 A. No, I don't have the records with me that
16 indicate which carrier was called, but --

17 Q. But Matlack ultimately rendered the
18 transportation?

19 A. Yes.

20 Q. You don't know if Matlack --

21 A. It appears as though I transposed the names on
22 the document, which I prepared it.

23 JUDGE SCHNIERLE: I see. Thank you.

24 You may continue, Mr. O'Kane.

25 MR. CHESNUTT: If Your Honor please, do you want to

1 mark the official copy or should we allow the testimony to
2 reflect what the situation is?

3 JUDGE SCHNIERLE: Why don't we just let the
4 testimony reflect the error in the exhibit.

5 MR. CHESNUTT: Thank you.

6 JUDGE SCHNIERLE: Mr. O'Kane.

7 BY MR. O'KANE:

8 Q. I notice in one other loading sheet there was a
9 -- if you can take a look at that loading sheet. That's
10 not, as I understand it, something that is reflected on
11 the schedule. But that is a -- that reflects a load
12 carried by Chemical Leaman. I wonder if you would
13 indicate the reason why it was carried by Chemical Leaman
14 as indicated on the loading sheet.

15 A. From the document it appears as though the load
16 originally was tendered to McNulty Bulk Transport and that
17 the equipment was not available.

18 Q. And what was the date of that shipment?

19 A. 7/21/88.

20 Q. Does this exhibit purport to be a complete list
21 of all late pickups over one half hour?

22 A. No. I'm not sure that it's complete. I know
23 that there are many shipments, for example, where the
24 carrier came in two hours prior to the pickup time and I
25 didn't --

1 Q. Well, I'll let you take a look at that loading
2 sheet, if you would please, and what is the scheduled
3 arrival time on that particular shipment?

4 A. 9:00 a.m.

5 Q. And what was the arrival time?

6 A. 10:00 a.m.

7 Q. And I'd like you to take a look at Exhibit
8 Number 17. Could you indicate where that late pickup --

9 Q. Well, I purposefully didn't include this in the
10 exhibit because McNulty was the carrier and he doesn't
11 have the authority.

12 Q. I see. So that load was carried by McNulty?

13 A. That's the one load, yes.

14 MR. O'KANE: I have no further questions.

15 JUDGE SCHNIERLE: Mr. Wick.

16 MR. WICK: Yes, sir.

17 BY MR. WICK:

18 Q. Mr. McGrath, prior to your employment with
19 McCloskey Corporation, were you employed by another
20 shipper engaged in producing materials of moved in tank
21 vehicles?

22 A. I was employed for a previous period by Welch
23 Foods Corporation in Westfield, New York.

24 Q. And they moved food products?

25 A. Yes.

1 Q. But were you employed by any company which moved
2 products of the type that you're discussing here today?

3 A. No.

4 Q. As I recall your testimony, you indicated that
5 you had no knowledge of a carrier named Refiners
6 Transport. Is that correct?

7 A. Excuse me, sir. I'd like to expand on that
8 prior question. I was employed by other companies who
9 were involved in the types of materials, but I wasn't
10 responsible.

11 Q. You had no responsibility for the
12 transportation. Is that what you're saying?

13 A. With my other employers.

14 Q. Now, my question was did I hear your testimony
15 correctly? Did you state that you had no knowledge of a
16 carrier named Refiners Transport?

17 A. I may have heard the name.

18 Q. To your knowledge, have you made use of that
19 carrier since the time you've been with the company in
20 moving any product from your plant to points in
21 Pennsylvania?

22 A. Refiners Transport?

23 Q. Yes, sir.

24 A. Not to my knowledge.

25 Q. Prior to coming here, did you take a look at

1 your records of inbound shipments to determine what
2 carriers were providing intrastate service for you that is
3 from origins in Pennsylvania into your plant?

4 A. No, sir. I stated earlier that I'm not involved
5 with our inbound transportation of bulk products because
6 they're all purchased on a delivery basis.

7 Q. But my question was did you look at those
8 records and determine which carriers were providing
9 inbound transportation for you?

10 A. No, I did not.

11 Q. Do you have an assistant who has anything to do
12 with the movement of inbound products?

13 A. Well, I have a girl who works with me and she
14 also gets involved with the movement of inbound products
15 but not these types of products.

16 Q. I understood your testimony to indicate you
17 believed your company was limited to Chemical Leaman and
18 Matlack for outbound transportation to points in
19 Pennsylvania that is on a statewide basis. Is that a fair
20 summary?

21 A. In the past?

22 Q. Yes, sir.

23 A. Yes.

24 Q. What if any efforts did you make after coming
25 with McCloskey to determine what intrastate tank carrier

1 service was available for your company?

2 A. Well, I questioned the representatives of the
3 carriers who were already providing a service. And in
4 addition to that, I attempted to find the carriers that
5 might be available in the Philadelphia metropolitan area
6 who had terminals that could provide a service.

7 Q. You say you attempted to make that
8 determination. What did your attempt consist of, sir,
9 other than asking your existing carriers such as Chemical
10 Leaman and Matlack?

11 A. My first attempt was the yellow pages, yellow
12 pages.

13 Q. I see. Did you consult motor carrier
14 directories at all?

15 A. I don't have a motor carrier directory for tank
16 trucks, temporarily.

17 Q. Was that the extent, then, of your attempts to
18 locate intrastate carriers, examine the yellow pages and
19 in discussions with your existing carriers such as
20 Chemical Leaman and Matlack?

21 A. In addition to that, I made a contact with
22 someone who I have known in the industry for approximately
23 25 years and who is now a consultant in the industry and
24 asked his advice.

25 Q. And what advice did you receive from that

1 consultant?

2 A. He suggested that I make contact with McNulty
3 Bulk Transport.

4 Q. And was that the only carrier suggested by this
5 consultant?

6 A. Yes, he is.

7 Q. Is this person actually in the consulting, the
8 transportation consulting business?

9 A. Yes, he is.

10 Q. Would you be willing to identify him, sir?

11 A. His name is Jim Sherry.

12 Q. S -- how do you spell that?

13 A. S-h-e-r-r-y.

14 Q. And he consults on transportation parties
15 including determination of available transportation?

16 A. I'm not sure he offers that as service. As I
17 say, I've known him for 25 years and he is a consultant in
18 the base and so I asked the question.

19 Q. And that was the answer you got?

20 A. Yes.

21 Q. From McNulty. Are you aware that Refiners
22 Transport moves petroleum naphtha inbound to your plant on
23 a regular basis?

24 A. I may have seen your equipment or the equipment
25 on the property or noticed some of the invoicing or

1 delivery receipts coming through.

2 Q. Are you aware that this transportation was
3 performed from an intrastate origin in Pennsylvania to
4 your plant?

5 A. Well, when I first became employed by
6 McCloskey's, I had meetings with other managers within the
7 company and reviewed the services that were being used by
8 our suppliers on inbound raw materials of this type; and
9 that was -- it was at that time when we determined that
10 the supplier's responsibility was to provide us the
11 product when we wanted it.

12 And they incurred the expense for the
13 transportation, and there wasn't any sense of me being
14 involved in it from that point.

15 Q. But you say you may have seen Refiners' name on
16 shipping documents and you may have seen their equipment,
17 their tank truck equipment in your premises?

18 Q. I can't say that I have, but I might have.

19 Q. But the discussion of the inbound transportation
20 by a tank vehicle did not alert you to the possibility of
21 other carriers might have intrastate authority?

22 A. I'm not sure that we identified carriers at the
23 time.

24 Q. Your testimony indicates that you want to have
25 transportation from a carrier with appropriate authority

1 with insulated trailer equipment and presumably with
2 proper service.

3 If the facts show that Refiners has the state-wide
4 authority to serve your company, if it has the appropriate
5 equipment and can provide the service you want, are you
6 willing to make use of that carrier for your intrastate
7 transportation from your plant?

8 A. I prefer to use carriers who have a terminal in
9 the area of the plant. I don't know whether Refiners does
10 or not.

11 Q. How do you define the area of your plant?

12 A. Within 50, 75 miles.

13 Q. So that if a carrier has that terminal location
14 and the ability to serve, you would consider using
15 Refiners for your intrastate transportation?

16 A. I would consider it, yes.

17 MR. WICK: Thank you. That's all I have.

18 JUDGE SCHNIERLE: Mr. Olsen.

19 MR. OLSEN: Thank you.

20 BY MR. OLSEN:

21 Q. Sir, just so I'm clear, the basis of your
22 support today is only for the products you mentioned
23 outbound from your facility in Philadelphia. Am I
24 correct?

25 A. That's correct.

1 Q. And the -- are the industrial resins and
2 solvents petroleum based products, petroleum products?

3 A. I'm not a technical person. I mean, we use a
4 lot of different ingredients for the products; and I am
5 not sure what all of them are.

6 Q. When were you aware of your need to support this
7 application of Central Transport?

8 A. When did I first become aware of it?

9 Q. Yes.

10 A. In a meeting that I had with their sales manager
11 in my office.

12 Q. When was --

13 A. But I don't recall when it was.

14 Q. You don't recall a date?

15 A. No.

16 Q. Was it recent or a few months ago? Would you
17 recall that?

18 A. A few months ago.

19 Q. Are you the only person that carrier would call
20 upon for solutions for traffic and products of your
21 company?

22 A. That depends on the carrier's practices. I
23 don't know.

24 Q. Would there be other people in your company that
25 a carrier would call upon to solicit for the

1 transportation of your products?

2 A. We have three facilities in our company, and
3 they have people involved in shipping products. And all
4 three of those facilities aside from myself and if a
5 carrier were to call on someone on our shipping dock, I
6 would have probably no knowledge that he did it.

7 Q. Who pays for your freight charge on the outbound
8 movements of your products?

9 A. We do.

10 Q. I represent a carrier called Marshall Service,
11 Incorporated. Are you aware of their operating authority,
12 intrastate operating authority?

13 A. No, I'm not.

14 Q. If what I will represent to you on the record
15 would indicate in the future that Marshall Service has
16 intrastate operating authority to serve their company
17 needs out of the Philadelphia facility to points within 35
18 miles of Philadelphia County and they have the equipment
19 you required, would you consider utilizing Marshall
20 Service?

21 A. To points within 35 miles of Philadelphia?

22 Q. Yes.

23 A. That's rather limited authority. I probably
24 would not.

25 Q. Your customers and your service needs would be

1 beyond that 35 mile area?

2 A. Well, you have a copy of the map, I believe.

3 Q. I was just asking you. You were just saying
4 it's limited. Would you say most of your customers are
5 beyond the 35 limit?

6 A. I would say probably 75 percent of them are.

7 Q. Does your company transport any products to
8 facilities used or utilized by Sun Refining and Marketing
9 Company?

10 A. Do we utilize any pro --

11 Q. No, does your company ship or transport products
12 to facilities that are used or utilized by Sun Refining
13 and Marketing Company?

14 A. Not to my knowledge.

15 MR. OLSEN: I have nothing further. Thank you,
16 sir.

17 JUDGE SCHNIERELE: Mr. Radcliff.

18 MR. RADCLIFF: Your Honor, I have no questions.

19 JUDGE SCHNIERELE: Mr. Malin.

20 BY MR. MALIN:

21 Q. My name is Ron Malin, Mr. McGrath. I represent
22 Crossett. You indicated you weren't familiar with
23 Crossett. It's a petroleum haul -- or petroleum product
24 hauler located up in Warren, Pennsylvania. My question --

25 MR. CHESNUTT: Um --

1 MR. MALIN: I'm sure. I just want to give a
2 background.

3 MR. CHESNUTT: I object to the testimony of Mr.
4 Malin. He hasn't been sworn, and I don't see what it
5 technically adds to the record to have counsel testifying
6 about where Crossett is and what they do.

7 MR. MALIN: My next question, Your Honor, is going
8 to be related to whether or not these are petroleum
9 products; and I want the gentleman to know what my
10 interest was. I was just trying to be courteous.

11 MR. CHESNUTT: He can ask him in an assumed
12 hypothetical or frame his questions the way the other
13 counsel have framed theirs.

14 MR. PATTERSON: Your Honor, the last time around if
15 I recall last week, we were asked to identify, in fact, by
16 the operating witness of this witness who we represented.
17 Now, I think we'd be happy to go either way; but we can't
18 go both ways at the same time.

19 JUDGE SCHNIERLE: Well, I think Mr. Chesnutt's
20 objection went to the going beyond the identification
21 applying of client to the location. And I believe there
22 is some legitimacy to that objection. However, the harm
23 seems so slight that I'm going to overrule the objection
24 and permit the examination to continue.

25 BY MR. MALIN:

1 Q. Anyway, the products, industrial resins, and
2 solvents, you have eight storage tanks? I take it you
3 have eight products. Is that correct?

4 A. I can't tell you that. There may be thousands
5 of gallons of the same products are stored in more than
6 one tank.

7 Q. When you ship for transportation appearances,
8 how would they appear on a bill of lading? What would it
9 say? How would you identify your products specifically?

10 A. The products are identified by the chemical --
11 or by the product number that our company has assigned to
12 us.

13 Q. You have with you, sir, documents. Do you know
14 from your documents what the actual name of your products
15 are for shipping purposes or transportation purposes?

16 A. No. This is a trade name and I have difficulty
17 identifying what the product actually is, myself, from
18 these.

19 Q. You fill out bills of lading?

20 A. No.

21 Q. Your department fills out bills of lading?

22 A. No, our bills of lading are produced by the
23 computer.

24 Q. So you can't give me one shipping document name
25 under which your products are shipped in the State of

1 Pennsylvania. Is that correct?

2 A. Other than the generic term resin and solvents,
3 no.

4 Q. Do you have any reason to believe they are or
5 are not petroleum products?

6 A. For the most part they're alkyd resins.

7 Q. Pardon?

8 A. A-l-k-y-d resins and water soluble resins,
9 polyvinyl acetate.

10 Q. Okay.

11 A. PVA, polyvinyl acetate.

12 Q. Have you in your inquiries as to transportation
13 made any effort to determine whether or not a petroleum
14 product transported could all these products or could not?

15 A. What was that again?

16 Q. In your investigation of transportation you
17 talked about available carriers, that type of thing. Have
18 you made any determination as to whether or not these
19 particular products could or could not be transported by
20 somebody in the State of Pennsylvania who had petroleum
21 product authority?

22 A. I probably made the assumption that they could
23 be.

24 Q. Then to your best knowledge for your purpose,
25 your company, if the applicant was restricted against

1 transporting petroleum and petroleum products, that would
2 not affect you. Is that correct?

3 A. If the applicant were restricted against
4 transporting petroleum and petroleum products?

5 Q. Yes.

6 A. That would not affect me?

7 Q. That would not affect you.

8 A. To the best of my knowledge, that's correct.

9 Q. So to the best of your knowledge, these are not
10 petroleum products?

11 A. Yes.

12 MR. MALIN: I have nothing further, Your Honor.

13 EXAMINATION

14 BY JUDGE SCHNIERLE:

15 Q. I have a couple of questions that really are
16 more educational than anything else.

17 You said you have to ship the stuff a particular
18 temperature so that it stays liquid?

19 A. Yes, sir.

20 Q. I gather that if you put enough of this stuff
21 into a tank trailer at a high enough temperature and the
22 trailer is insulated, it will stay warm for a long time.
23 Is that correct?

24 A. As I say, I -- my knowledge of the technical
25 aspects of the business is kind of light, having been with

1 the company for 14 months and not being an engineer or
2 that type person. But my understanding is that unless the
3 weather conditions are extremely severe, that the
4 temperature will not vary in an insulated tank within say
5 a 10, 24 hour period more than one or two degrees.

6 Q. Oh, all right. What I was leading up to, you
7 said if it solidifies you can't get it out. And I wonder
8 if you -- I was curious if you knew if that ever happened?

9 A. It did happen to me last December or January,
10 yes. We had a product delivered to a customer in
11 Massachusetts and I believe the delivery was late and they
12 had to lay over with the equipment over a weekend and the
13 product solidified. Or I don't know to what degree it
14 solidified but --

15 Q. Do you know what they did with the truck? I
16 mean --

17 A. They have to take it -- they have to run stream
18 through the trailer, yes.

19 Q. But they can get it out ultimately?

20 A. Yes.

21 JUDGE SCHNIERLE: Okay. That's -- I was trying to
22 imagine that.

23 MR. MALIN: It's not a big can, what you have
24 there.

25 JUDGE SCHNIERLE: Do you have any questions on

1 redirect?

2 MR. CHESNUTT: I do not, Your Honor. I offer the
3 exhibits.

4 JUDGE SCHNIERLE: Any objections to Central
5 Exhibits 15, 16 and 17?

6 MR. PATTERSON: I have no objection.

7 MR. O'KANE: Your Honor, I would just suggest that
8 Exhibit Number 17 be amended in pen and ink to indicate
9 that Chemical Leaman was not the carrier on the third
10 item. We covered it in the testimony. I think a pen and
11 ink change on the exhibit would be appropriate.

12 JUDGE SCHNIERLE: All right. That's fine. We'll
13 make that change. Exhibit 17 is being amended in pen and
14 ink to show that Matlack and not Chemical Leaman was the
15 carrier on the third with the shipment listed. With that
16 change, Central Exhibits 15, 16 and 17 are admitted into
17 evidence.

18 (Central Transport Exhibits No. 15 through 17 were
19 admitted in evidence.)

20 JUDGE SCHNIERLE: Mr. Chesnutt, do you wish to call
21 your next witness?

22 MR. CHESNUTT: May we have a ten minute recess,
23 please?

24 JUDGE SCHNIERLE: There will be a ten minute
25 recess.

1 MR. WICK: May we ask who is the next witness?

2 MR. CHESNUTT: Mr. William F. Dahms, D-a-h-m-s.
3 I'll hand out his statement prior to the recess.

4 (Whereupon, a brief recess was taken.)

5 JUDGE SCHNIERLE: Mr. Chesnutt, do you wish to call
6 your next witness at this point?

7 MR. CHESNUTT: Yes, Your Honor. I have asked Mr.
8 William F. Dahms, Sr. to assume the witness chair and
9 would ask him now to stand and be sworn, please.

10 WILLIAM F. DAHMS, SR. called as a witness,
11 having been duly sworn, was examined and testified as
12 follows:

13 JUDGE SCHNIERLE: Please be seated.

14 Excuse me, Mr. Chesnutt. Do you have prepared
15 testimony for this witness?

16 MR. CHESNUTT: I do, and I apologize for not having
17 --

18 JUDGE SCHNIERLE: Thank you.

19 MR. CHESNUTT: -- furnished a copy to Your Honor.

20 JUDGE SCHNIERLE: I trust you'd like this marked as
21 Central Exhibit Number 18.

22 MR. CHESNUTT: That's correct, Your Honor.

23 JUDGE SCHNIERLE: It will be so marked.

24 (Central Exhibit No. 18 was produced and marked
25 for identification.)

DIRECT EXAMINATION

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BY MR. CHESNUTT:

Q. Would you state your name and spell your last name, sir.

A. My name is William F. Dahms, D as in David a-h-m-s as in sugar.

Q. And Mr. Dahms, what is your business address?

A. Valley Forge, Pennsylvania, Madison and Van Buren Avenues.

Q. The Judge has identified Exhibit Number 18 which is the previous single sheet prepared testimony. Do you swear to the truthfulness of the information contained in that document?

A. Yes.

Q. Mr. Dahms, where is the facilities -- well, there is mention in Exhibit 18 of the facility of your company at Fogelsville, Lehigh County, Pennsylvania. Is that the facility we are concerned with here?

A. Yes.

Q. All right, and do you -- would you indicate what sort of business the company conducts at that facility?

A. We're in the manufacturing and distribution of oils and greases.

Q. And are shipments of those products made from that facility to points in Pennsylvania?

1 A. Yes.

2 Q. Do you have available for reading into the
3 record a list of points in Pennsylvania to which shipments
4 are made by your company?

5 A. Yes, I do.

6 Q. Would you indicate what, reading slowly, to what
7 points shipments are made and how many shipments are made
8 over some period of time?

9 A. Well, Emigsville, Pennsylvania; Marietta,
10 Pennsylvania, M-a-r-i-e-t-t-a; Steelton, Pennsylvania;
11 York, Pennsylvania. These are all Pennsylvania points,
12 all right. Frazer, F-r-a-z-e-r, Red Lion, Ransom.

13 MR. WICK: Would you mind reading that again?

14 THE WITNESS: Ransom, like you're holding somebody
15 for ransom. Mahoopny, M-a-h-o-o-n-p-y; Downingtown;
16 Hanover; Jenkintown; Corry, C-o-r-r-y; Lancaster;
17 Harrisburg; Reading; Oil City; and Erie.

18 BY MR. CHESNUTT:

19 Q. Now, could you indicate over a year's period of
20 time, a month's period of time, whatever position you
21 take, how many shipments have made it to points in
22 Pennsylvania.

23 A. About 80 to 90 in a period of a year.

24 Q. Every year?

25 A. In a period of a year.

1 Q. In a period of a year. And what type of
2 customers to you does -- does your company seek at the
3 locations you've indicated?

4 A. We deal strictly with industrial firms. We
5 don't deal with any consumer commodity firms.

6 Q. And --

7 A. I'm sorry.

8 Q. Go ahead.

9 A. U.S. Steel, Bethlehem Steel, Hammermill Paper
10 Company, et cetera.

11 Q. Now, from what points in Pennsylvania does the
12 Fogelsville facility receive inbound products?

13 A. We receive from Bradford, Pennsylvania; Oil
14 City; Petrolia; and Marcus Hook.

15 Q. And what are the freight of the inbound products
16 that you receive?

17 A. Chemicals and raw materials and oils.

18 MR. OLSEN: I'm sorry. What was that last --

19 THE WITNESS: Oils, chemicals, raw materials for
20 manufacture of products.

21 MR. OLSEN: Thank you.

22 BY MR. CHESNUTT:

23 Q. There's been identified in this proceeding, Mr.
24 Dahms, a document, supplemental Exhibit Number 5, which
25 lists in three paragraphs that begin with the word

1 provided a list of products that applicant Central would
2 exclude from any grant of authority that's made in this
3 matter. Have you reviewed those?

4 A. Yes.

5 Q. If the application were granted excluding those
6 products, would that adversely impact your ability to use
7 this carrier?

8 A. Not at all.

9 Q. In the outbound transportation that occurs from
10 Fogelsville to points in Pennsylvania, what type of
11 trailers do you require for bulk shipments?

12 A. Single shell stainless steel insulator.

13 Q. Do you know where in the area of Fogelsville
14 Central Transport maintains and operates the terminal
15 facility?

16 A. Yes, I do.

17 Q. Where is it?

18 A. Paulsboro, New Jersey.

19 Q. And in your use of Central Transport on the
20 inbound traffic and your awareness of the company, do they
21 have the type of trailer equipment that you desire for
22 your transportation services?

23 A. Yes, they do.

24 Q. To the extent that your company has utilized the
25 services of Central, how have you found that service to

1 be?

2 A. Plenty. No problem.

3 Q. In conducting transportation services to -- or
4 the utilizing of transportation services from Fogelsville
5 to points in Pennsylvania, what carriers has your company
6 been utilizing up to the present time?

7 A. Matlack and Chemical Leaman.

8 Q. In addition to those two carriers who are
9 proposing this application, there is a carrier by the name
10 of Marshall Service, Incorporated that is proposing this
11 application. Are you familiar at all with the services
12 that may be available from that carrier?

13 A. No, sir.

14 Q. Have they solicited your company for traffic?

15 A. No, sir.

16 Q. What is the fact with respect to a carrier by
17 the name of Crossett, C-r-o-s-s-e-t-t? Are you familiar
18 with that carrier?

19 A. They do bring material into our plant. I am
20 familiar with them.

21 Q. All right. Has anyone from the Crossett
22 organization called upon your company seeking to perform
23 outbound services?

24 A. No.

25 Q. With respect to two other protesting carriers,

1 Oil Tank Lines and Refiners Transport and Terminal, would
2 you indicate what knowledge you have about those two
3 carriers?

4 A. Oil Tank Lines has limited authority, and we
5 have utilized them in reference to movements out of Marcus
6 Hook, M-a-r-c-u-s H-o-o-k, Pennsylvania; and Refiners
7 Transport. I am familiar with them and they solicit my
8 business but I did not realize they had intrastate
9 authority.

10 Q. All right. In light of your knowledge of
11 existing carriers and of Matlack and Chemical Leaman, why
12 would you come to this hearing room today to testify in
13 support of an application by Central Transport to provide
14 services between points in Pennsylvania?

15 A. Well, we're even an additional carrier who could
16 service our account in Fogelsville, our business is such
17 that we supply the industry with oils and greases to keep
18 their engines and machines running.

19 And at times we do get last minute placement of
20 calls for equipment, and we think there is a need to have
21 an extra carrier to be on to furnish the equipment to do
22 the job.

23 Q. If they were granted the authority to provide
24 services between points in Pennsylvania, what would your
25 responsibility be in the way of utilizing those services?

1 I break in with a couple of questions here. I --
2 something that wasn't dealt with on direct that maybe if I
3 ask him now will clarify things for everybody.

4 BY JUDGE SCHNIERLE:

5 Q. Who covers the carrier on inbound shipments to
6 your plant typically?

7 A. I do.

8 Q. You do?

9 A. Yes.

10 Q. And the same thing for outbound shipments?

11 A. Yes.

12 Q. And do you pay the carrier on inbound shipments
13 typically?

14 A. We pay inbound shipments. A lot of our outbound
15 shipments are collect.

16 Q. Okay. Thank you.

17 BY MR. PATTERSON:

18 Q. If I understand the basis of your support of
19 this application, Mr. Dahms, it's to have a carrier
20 available to fill in primarily on last minute calls for
21 service. I think that's how I interpret your testimony.
22 Am I correct?

23 A. Not necessarily.

24 Q. Well, explain to me --

25 A. Well, we recollect to have an additional carrier

1 on call.

2 Q. On call. Have you brought any shipment records
3 with you?

4 A. No.

5 Q. Bills of lading and that kind of thing?

6 A. No.

7 Q. You indicate you are aware of the location of
8 Central's most local facility in Paulsboro, New Jersey.

9 A. Yes.

10 Q. Are you aware of what they have there in terms
11 of equipment and buildings and whatever?

12 A. All I know is they have equipment available for
13 me when I need it. They've had -- but it's in reference
14 to the number and types, I do not know.

15 Q. How about the facility itself? Is it an actual
16 terminal or is it the proverbial shack equipped with a
17 phone?

18 A. All I know -- I do not know what it is. I mean, as
19 far as I'm concerned, it's a place where you can call,
20 they answer, and they supply equipment.

21 Q. But if I understand, they haven't handled any
22 loads outbound from your facility in Fogelsville ever, to
23 your knowledge?

24 A. No. At this point, no.

25 MR. PATTERSON: That's all I have, sir. Thank you.

1 JUDGE SCHNIERLE: Mr. O'Kane.

2 MR. O'KANE: I have no questions.

3 JUDGE SCHNIERLE: Mr. Wick.

4 BY MR. WICK:

5 Q. Mr. Dahms, you indicated that you weren't aware
6 until today that Refiners Transport has intrastate
7 authority from your plant to points in Pennsylvania?

8 A. Yes.

9 Q. Have you met within the last year let's say with
10 the representative of Refiners to discuss their service
11 and rates?

12 A. Yes, but it was strictly on an interstate basis.

13 Q. And how long ago was that?

14 A. I would say within the last couple of months.

15 Q. Do you recall the name of the Refiners
16 representative who met with you?

17 A. It could have been Richard Reisan.

18 Q. Was that meeting in your office at your request?

19 A. Yes, sir. Well, he was soliciting. He was out
20 making a sales call. He called on me.

21 Q. And as a result of that meeting did you ask
22 Refiners Transport to quote you some rates?

23 A. Yes.

24 Q. And did you give them a list of points?

25 A. Yes.

1 Q. That were in both Pennsylvania and outside of
2 Pennsylvania?

3 A. I don't recall, sir, whether intrastate -- I
4 don't recall Pennsylvania points. I don't recall putting
5 Pennsylvania points on that list, no.

6 Q. There could have been Pennsylvania points?

7 A. There could have been, but I don't recall at
8 this point whether there were.

9 Q. Do you recall any discussion of service at that
10 time that Refiners could provide to points in
11 Pennsylvania?

12 A. No, sir.

13 Q. As a result of that meeting did Refiners then
14 send to you by letter --

15 A. Yes.

16 Q. -- a list of rates?

17 A. Yes.

18 Q. To the points you'd given them?

19 A. Yes, yes.

20 Q. As a result of that, did you tender to Refiners
21 any business to points in Pennsylvania?

22 A. No, sir.

23 Q. And your testimony is that today is the first
24 time you realized that Refiners legal authority --

25 A. Yes.

1 Q. -- to points in Pennsylvania?

2 A. Well, the last few days, yes.

3 Q. How did you learn it a few days ago?

4 A. You were one of the protestants.

5 Q. I see. You discussed it with your counsel?

6 A. Oh, yes. Pretty obvious.

7 Q. You say that was a surprise to you to learn
8 that?

9 A. Yes, it was.

10 Q. That meeting that you say was in the last couple
11 of months, was that the only meeting which you recall a
12 representative of Refiners soliciting your business
13 intrastate?

14 A. You even --

15 Q. Or interstate?

16 A. You mean forever and ever?

17 Q. Well, let's take the last year.

18 A. Yes.

19 Q. That's the only meeting?

20 A. I've had Refiners representatives call me over
21 the year, of course, but, you know, never discussed
22 intrastate applications.

23 Q. Are you aware that Refiners had a terminal in
24 Allentown, Pa.?

25 A. Honestly, yes. I submit I was not aware that

1 they had a terminal in Allentown.

2 Q. How far is Allentown from your plant, sir?

3 A. About eight miles west from Fogelsville. It's
4 eight miles east of Fogelsville.

5 Q. And do you think it would be a fair conclusion
6 to make that a carrier with a terminal eight miles away
7 could supply equipment to you much more readily than
8 points in Paulsboro, New Jersey?

9 A. I would say.

10 Q. Do you know how far Paulsboro, New Jersey is?

11 A. Yes, sir. I'd say it's roughly about 60 miles.

12 Q. That is from your plant to Paulsboro?

13 A. (No audible response.)

14 Q. And you're saying that's the point from which
15 this applicant would provide you with --

16 A. Yes, sir.

17 Q. If you learn as you have that Refiners has the
18 proper authority to provide statewide service to your
19 company, has proper equipment, a terminal, service, would
20 you think that would meet your needs for this additional
21 carrier you're speaking of?

22 A. I would say it could.

23 Q. Sir, do you know that Refiners is moving
24 products inbound to your plant today from intrastate
25 origins?

1 A. I do not know that.

2 Q. You say you route the traffic, however.

3 A. Yes.

4 Q. Would you have --

5 A. I should say I route it, but there's certain
6 rates that I didn't -- certain amounts that I don't route
7 to. It's not 100 percent.

8 Q. So that as of today you say you're unaware --

9 A. -- of any intrastate handling of Refiners --

10 Q. Products inbound?

11 A. -- product inbounds.

12 Q. Let me finish. So the record is clear as I
13 understand it, you're unaware of any product that Refiners
14 is moving inbound for you from a Pennsylvania origin to
15 your plant in tank vehicles?

16 A. (No audible response.)

17 Q. Your answer is --

18 A. No.

19 MR. O'KANE: No. Thank you, sir.

20 JUDGE SCHNIERLE: Mr. Olsen.

21 MR. OLSEN: Thank you.

22 BY MR. OLSEN:

23 Q. When did you first become aware of this
24 application, sir?

25 A. When?

1 Q. Yes.

2 A. I guess about a couple months ago.

3 Q. Does your company receive any record from or
4 ship any products to Sun Refining and Marketing Company?

5 A. We do receive products from Sun Refining and
6 Marketing, yes.

7 Q. Receives from, and who pays the freight on those
8 movements?

9 A. We do.

10 Q. And you've mentioned on some of your inbound
11 freight you don't pay the freight charges?

12 A. Inbound?

13 Q. Yes, on your inbound.

14 A. I would mention outbound, but inbound we pay
15 most of it.

16 Q. On your outbound you do not pay most of it?

17 A. That's correct.

18 Q. That's mostly collect?

19 A. Collect, right.

20 Q. You would agree with me, then, your customers on
21 your outbound freight had obtained for the freight would
22 have the ultimate or the final say in choosing a carrier?

23 A. Yes.

24 Q. Am I correct?

25 A. Yes.

1 Q. And that practice would continue despite the
2 outcome of this application?

3 A. Of course we do get requested routes from
4 carriers sometimes -- from the customers sometimes, but --

5 Q. Would you agree with me that Fogelsville is 35
6 -- is beyond 35 miles of Philadelphia limits?

7 A. Very much aware of that.

8 Q. If I was to represent to you that a carrier
9 represents Marshall Service, Incorporated authority in
10 Pennsylvania is limited to 35 miles between points in
11 Philadelphia and 35 miles thereof, would you agree with
12 me, then, that there could be no -- there would be no
13 basis for them to transport your products?

14 A. That's correct, yes.

15 Q. Are you the only person that carriers call upon
16 to solicit?

17 A. Yes.

18 Q. On the basis of your testimony today, is
19 products moving into the facility of Fogelsville and out
20 of your facility in Fogelsville?

21 A. Yes, sir.

22 Q. So if this application -- if there was a grant
23 of authority in this proceeding and if it was restricted
24 against products moving between points in Philadelphia
25 County and 35 miles thereof, that would not have any

1 adverse effect or your company's provisions, would it?

2 A. No, sir.

3 MR. OLSEN: I have no further questions. Thank
4 you.

5 JUDGE SCHNIERLE: Mr. Radcliff.

6 BY MR. RADCLIFF:

7 Q. Thank you, Your Honor. Mr. Dahms, is John
8 Skeich a traffic manager or plant manager for you?

9 A. He just handles most of the tank trucks in our
10 facility in Fogelsville.

11 Q. Does he schedule inbound deliveries?

12 A. Yes, him and the production manager.

13 Q. And are you familiar with Jeff Davis at my
14 client Oil Tank Lines?

15 A. I'm familiar with the lines.

16 Q. Do you know Mr. Davis or his father, Dick Davis?

17 A. I've heard of them, yes. They have never
18 solicited business from me.

19 JUDGE SCHNIERLE: Please try to speak up.

20 THE WITNESS: I'm sorry.

21 BY MR. RADCLIFF:

22 Q. From Sun Oil or Sun Refiners you receive a
23 product known as One Hundred N?

24 A. (No audible response.)

25 Q. What that?

1 A. That's an oil, special refined oil.

2 Q. And 930 material. Is that --

3 A. That's a special refined oil for our products.

4 Q. The bulk of that material arrives at your
5 facility by rail, doesn't it?

6 A. From where?

7 Q. From Marcus Hook?

8 A. I would say.

9 Q. You're presently using Oil Tank Line's
10 supplemental rail services?

11 A. Yes.

12 Q. Approximately two tank loads a week to
13 supplement the rail?

14 A. Yes.

15 Q. You have no complaints concerning the service
16 that you receive from Oil Tank Lines?

17 A. Not a bit.

18 Q. You would anticipate that the service from
19 Marcus Hook on those materials from the Sun Refinery by
20 Oil Tank Lines would continue as a supplement to rail
21 service even if this application were approved?

22 A. Yes.

23 Q. And is it your testimony today that your company
24 rather than Sun Oil pays the freight on those inbound
25 deliveries?

1 A. We pay the freight.

2 Q. At your --

3 A. I'm sorry.

4 Q. If you're not finished, go ahead, sir.

5 A. I'm finished.

6 Q. At your facility the tank truck is unloaded by
7 an air pressure procedure. Is that correct?

8 A. Sometimes.

9 Q. When oil tank line delivers these two products,
10 is it always unloaded by air pressure?

11 A. That product probably is.

12 Q. And that requires special equipment on the tank
13 trailer that's making the delivery?

14 A. A pump, yes.

15 Q. A pickup for air pressure delivery?

16 A. Yes.

17 Q. An air pump on trailer is what you're -- what
18 you're saying an air pressure device to blow it off?

19 A. Yes.

20 Q. I was referring to a particular valve
21 arrangement that might be known as a Christmas tree as an
22 item that's required on those tanks also.

23 A. Yes.

24 Q. You have the air pressure available at your
25 facility if the tank truck doesn't come equipped with

1 that?

2 A. Yes.

3 MR. RADCLIFF: I have no further questions. Thank
4 you, Mr. Dahms.

5 JUDGE SCHNIERLE: Mr. Malin.

6 BY MR. MALIN:

7 Q. Mr. Dahms, I represent Crossett. You mentioned
8 Crossett brought materials into your plant. Do you recall
9 that?

10 A. Yes.

11 Q. What material did they bring into your plant?

12 A. They bring raw materials, oils from Texas.

13 Q. Oil from Texas?

14 A. Yes.

15 Q. I say do you have any complaints about Crossett?
16 Do you have any problems with their service?

17 A. No, I haven't had so far.

18 Q. If I understand correctly, do you pay for the
19 freight?

20 A. Yes.

21 Q. That Crossett brings in?

22 A. Yes.

23 Q. How long has Crossett served you?

24 A. I can't truthfully answer that.

25 Q. Does Crossett serve you from points within the

1 State of Pennsylvania?

2 A. No, no.

3 Q. To your knowledge.

4 A. Not to my knowledge, sir, no.

5 Q. Have you ever called on Crossett, talked to
6 them?

7 A. No, sir.

8 MR. MALIN: I have nothing further.

9 JUDGE SCHNIERLE: Mr. Chesnutt, any redirect?

10 REDIRECT EXAMINATION

11 BY MR. CHESNUTT:

12 Q. Mr. Dahms, on the outbound traffic you indicate
13 that in your response to the middle of the five gentlemen
14 at the table that the customers have an opportunity to
15 exercise the right to designate the carriers. Could you
16 indicate on what percentage of the outbound traffic from
17 Fogelsville the customers exercise that right.

18 A. I'd say about 10 percent.

19 MR. CHESNUTT: That's all I have on redirect
20 examination.

21 JUDGE SCHNIERLE: Any cross examination, Mr.
22 Patterson?

23 MR. PATTERSON: I have nothing further, Your Honor.

24 MR. WICK: Nothing further.

25 JUDGE SCHNIERLE: You may step down.

1 MR. CHESNUTT: I offer Exhibit 18.

2 JUDGE SCHNIERLE: Any objection?

3 MR. OLSEN: No objection.

4 JUDGE SCHNIERLE: Exhibit 18 is admitted into
5 evidence.

6 (Central Transport Exhibit No. 18 was admitted
7 into evidence.)

8 MR. CHESNUTT: I would like to request that we
9 recess till 2:00 p.m.

10 JUDGE SCHNIERLE: For lunch.

11 MR. CHESNUTT: Yes, at which time I will present
12 two witnesses for the afternoon.

13 JUDGE SCHNIERLE: It's so ordered. Be back at 2:00
14 o'clock.

15 (Whereupon, at 12:35 p.m. the hearing recessed, to
16 recovene at 2:00 p.m.)

17 JUDGE SCHNIERLE: After the luncheon recess it
18 appears that everyone is present and that we're prepared
19 to resume.

20 Mr. Chesnutt, will you please call your next
21 witness.

22 MR. CHESNUTT: I ask Miss McKay to stand forward
23 and be sworn. You want to stand there and raise your
24 right hand.

25 BETTY MCKAY, called as a witness, having been
duly sworn, was examined and testified as follows:

1 JUDGE SCHNIERLE: Please be seated.

2 DIRECT EXAMINATION

3 BY MR. CHESNUTT:

4 Q. Would you state your name, please.

5 A. Betty McKay.

6 Q. What is your address, Ms. McKay?

7 A. Fourth and Bristol Streets.

8 Q. And by whom are you employed at that location?

9 A. Harry Miller Corporation.

10 Q. And where in the Harry Miller Corporation do you
11 work?

12 A. The order department.

13 MR. CHESNUTT: If Your Honor please, I've
14 distributed a single sheet document entitled Prepared
15 Testimony of Betty McKay, Harry Miller Corporation, that I
16 request be marked for identification as Exhibit 19.

17 JUDGE SCHNIERLE: It will be so marked.

18 (Central Transport Exhibit No. 19 was produced and
19 marked for identification.)

20 BY MR. CHESNUTT:

21 Q. Ms. McKay, I notice in the third line of what's
22 been marked as Exhibit 19 there is an indication of First
23 and Bristol Streets. Should that be corrected to read
24 Fourth and Bristol Streets?

25 A. Yes, it should.

1 Q. And in the 6th line of the first paragraph
2 there's a reference to a Mr. Juniec. And should that be
3 spelled J-o-n-e-i-c rather than J-u?

4 A. J-o.

5 Q. With those corrections, Ms. McKay, is the
6 information contained in Exhibit 19 true and correct to
7 your knowledge and belief?

8 A. Yes, it is.

9 Q. And you adopt it as a portion of your testimony
10 in this proceeding?

11 A. Yes, I do.

12 Q. Ms. McKay, does the shipping that Harry Miller
13 Corporation does to points in Pennsylvania occur from the
14 Fourth and Bristol Streets location?

15 A. Yes, they do.

16 Q. And what, to what points in Pennsylvania are
17 shipments made?

18 A. Okay. We ship to Reading, Pennsylvania;
19 Allenport, Pennsylvania.

20 Q. And what product is shipped to Reading
21 Pennsylvania, first of all?

22 A. Cleaning compound and petrolubes.

23 Q. And what product is shipped to Allenport?

24 A. Petrolubes.

25 Q. What -- with what frequency are shipments made

1 to Reading?

2 A. Reading is about one every two months.

3 Q. What's the frequency of shipments to Allenport?

4 A. Allenport is maybe one every three months.

5 Q. And what -- when you make a shipment of these

6 products to those locations, what sort of trailer

7 equipment do you expect a carrier to supply for the

8 movement of those products?

9 A. Well, the tanker has to have at least be able to
10 hold a 5,000 gallon amount.

11 Q. All right. And what carrier have you been
12 utilizing on service to Allenport and to Reading?

13 A. Well, we've had to use Matlack.

14 Q. And why did you say you had to use Matlack?

15 A. Well, for one thing, they have the rights in
16 Pennsylvania, to shipping and from Pennsylvania and
17 delivering in Pennsylvania.

18 Q. All right. You are familiar with services
19 rendered by Central Transport to points outside of
20 Pennsylvania. Is that correct?

21 A. Yes, I am.

22 Q. And if this application were granted that would
23 allow Central to perform service from Philadelphia to
24 points in Pennsylvania, how will that change the handling
25 of the shipments to Reading and Allenport?

1 A. Well, I think we would use them because we have
2 customers who call in and they want an immediate shipment
3 and a lot of times Matlack might not have -- be able to
4 cover that but we have to keep the customer happy, and
5 Central -- he would have a choice then.

6 Q. All right. There are other carriers that are
7 represented by the gentlemen across from me that are
8 opposing this application. Are you familiar with a
9 carrier by the name of Crossett?

10 A. No.

11 Q. What about Marshall Service?

12 A. No, not with them, no.

13 Q. Oil Tank Lines. Is that a carrier whose name is
14 familiar to you?

15 A. No.

16 Q. What about Chemical Leaman?

17 A. I've heard of them. I can't recall ever using
18 them myself, though.

19 Q. All right. And when you say using Matlack,
20 you're using Matlack now, you can't recall having used
21 Chemical Leaman, who is responsible for making the calls
22 to request the tank trailers that you used for Reading and
23 Allenport shipments?

24 A. You mean scheduling them?

25 Q. Yes.

1 Q. A true partnership?

2 A. True partnership.

3 Q. What have you done -- you have indicated that
4 one of the reasons you're here is because you don't have a
5 choice of carrier. What have you done to find out what
6 other carriers are available to you for the ten movements,
7 approximately ten movements per year that you have to
8 Pennsylvania points?

9 A. Okay. What we usually do is we get down --
10 well, we know that a lot of them don't deliver from
11 Pennsylvania, pick up and deliver. But in the beginning
12 when we didn't know it, we would go to the rolodex and
13 look at the different tank lines to see if that was a
14 point they could deliver to.

15 Q. How long ago was this?

16 A. Well, every now and then we refresh it. You
17 know, we try just to see if they've gotten rights to it.
18 But that's how we do it.

19 Q. Who have you called in that regard?

20 A. Matlack is one. I don't recall ever calling
21 Chemical Leaman. Kate might have.

22 Q. You're aware -- I beg your pardon?

23 A. Kate might not, but I don't recall.

24 Q. You're aware of Chemical Leaman's existence as a
25 tank carrier?

1 A. Right.

2 Q. Any others that you can think of that she may
3 have contacted? None that you can think of that you've
4 contacted?

5 A. Maybe A&R, but that's about it; and Central.
6 Mason & Dixon. That's about it.

7 Q. Do you know what a back haul rate is?

8 A. I'm familiar with it. She works more with the
9 role rates.

10 Q. In your definition, what's a back haul rate?
11 Just give me an idea of what you -- since we're talking on
12 the same wavelength.

13 A. All right. From what I understand from her,
14 it's if they are coming back they have one compartment
15 that's empty, they'll give you a different rate for
16 bringing it in. Am I correct?

17 Q. Higher?

18 A. No, lower.

19 Q. A lower rate. Back haul rate is -- I think we
20 agree a back haul rate, then, is a lower rate which a
21 carrier uses to get its equipment back to the area where
22 it wants it?

23 A. Right.

24 Q. Now, to the extent that Central has provided
25 service for you as you indicate in your prepared testimony

1 which has been marked as Exhibit 19, those -- that service
2 has been provided for you on a back haul rate, has it not?

3 A. I believe -- I'm not sure of that. Like I said,
4 she handles the -- when these freight bills come in she
5 handles them.

6 Q. Have you brought any documentation with you
7 regarding your shipments either to Pennsylvania or
8 elsewhere, bills of lading, that kind of thing?

9 A. No, I didn't.

10 Q. Were you asked to?

11 A. No, I didn't know I had to.

12 Q. You don't. Don't feel badly.

13 A. Okay.

14 (Pause.)

15 BY MR. PATTERSON:

16 Q. Do you know where Central's closest terminal to
17 your facility is?

18 A. It's in Jersey.

19 Q. Do you know where?

20 A. It's upstate Jersey.

21 Q. Paulsboro. I'll help you out. Paulsboro, New
22 Jersey. Does that sound familiar to you?

23 A. Uh-huh.

24 Q. Do you know how much equipment they base there?

25 A. No, I don't, but it's -- no, not really.

1 MR. PATTERSON: That's all I have, Ms. McKay.

2 Thank you.

3 JUDGE SCHNIERLE: Mr. O'Kane.

4 BY MR. O'KANE:

5 Q. Miss McKay, could you give me an idea of the
6 number of interstate shipments originating out of your
7 plant.

8 A. Well, it's basically two customers. And what
9 would be the one in Reading would be like one every two
10 months.

11 Q. No, I have that. I'm just as a matter of
12 interest you're quoting Central does some interstate from
13 out of state?

14 A. Oh, okay.

15 Q. Just interested to get an idea of the percentage
16 of your interstate shipments that Central is now doing.
17 Just approximately.

18 A. That's hard to answer in a way because they're
19 sporadic.

20 Q. Both out-of-state shipments and in?

21 A. Yeah, I thought of 12 right offhand that are
22 every month, but the other ones --

23 Q. Twelve a month?

24 A. No, 12 like every month for the year, on the
25 average of a year; but the other ones are sporadic.

1 MR. O'KANE: I have no further questions.

2 BY MR. WICK:

3 Q. Miss McKay, what's the name of that product
4 Pennsylvania moved to Allenport?

5 A. That was a petrolube oil.

6 Q. Petrolube oil. Does the name Refiners Transport
7 ring a bell with you?

8 A. No, not with me.

9 Q. Never heard of them?

10 A. No, I haven't.

11 MR. WICK: Thank you very much.

12 JUDGE SCHNIERLE: Mr. Olsen.

13 MR. OLSEN: Thank you.

14 BY MR. OLSEN:

15 Q. Ms. McKay, just so I'm clear, the basis of your
16 support and testimony today is the movement from your
17 Philadelphia facility of the cleaning compound and
18 petrolube oils to Reading and also the petrolube oils to
19 Allenport. Am I right?

20 A. Uh-huh.

21 Q. And you're interested in the applicant going as
22 a backup carrier when it's needed?

23 A. Yes, when it's needed, yes.

24 Q. Who pays the freight charges on the outbound
25 movement?

1 A. Most of them are prepaid by our companies so far
2 as we go for rates.

3 Q. Are there times when your company is not paid
4 the freight charges outbound?

5 A. Yes.

6 Q. Do the customers pay the freight charges then?

7 A. They're collect shipments.

8 Q. So during those times your customers would have
9 a final say-so if they so desire in a selection?

10 A. Oh, yeah.

11 MR. OLSEN: I have no further questions. Thank
12 you.

13 JUDGE SCHNIERLE: Mr. Radcliff.

14 BY MR. RADCLIFF:

15 Q. Ms. McKay, have you seen the equipment of Oil
16 Tank Lines at your facility making deliveries any time in
17 the past year?

18 A. Yeah, we've seen them come in, yes.

19 Q. You don't schedule that inbound service?

20 A. No, not inbound.

21 MR. RADCLIFF: I have no further questions. Thank
22 you.

23 JUDGE SCHNIERLE: Mr. Malin.

24 MR. MALIN: I have no questions, Your Honor.

25 JUDGE SCHNIERLE: Do you have any redirect, Mr.

1 Chesnutt?

2 REDIRECT EXAMINATION

3 BY MR. CHESNUTT:

4 Q. Yes. Miss McKay, who pays the freight charge on
5 the shipments to Reading?

6 A. On the shipments to Reading, my company.

7 Q. Who pays the freight charge on the shipments to
8 Allenport?

9 A. My company.

10 MR. CHESNUTT: Thank you. Those are all the
11 questions I have on redirect examination.

12 JUDGE SCHNIERLE: I have no questions of this
13 witness. You're excused. Thank you.

14 Mr. Chesnutt, I believe you have one more witness.

15 MR. CHESNUTT: I do. I'd ask Mr. Hansbury to stand
16 forward and be sworn, please.

17 WILLIAM M. HANSBURY, called as a witness, having
18 been duly sworn, was examined and testified as follows:

19 JUDGE SCHNIERLE: Please be seated.

20 DIRECT EXAMINATION

21 BY MR. CHESNUTT:

22 Q. Would you state your full name and spell your
23 last name, please.

24 A. My name is William M. Hansbury. Spelling is
25 H-a-n-s-b-u-r-y.

1 Q. Mr. Hansbury, what is your business address?

2 A. Ontario and Rorer Streets, Philadelphia.

3 Q. And by whom are you employed at that location?

4 A. Para-Chem Southern, Incorporated.

5 MR. CHESNUTT: If Your Honor please, I have
6 distributed a single sheet document entitled Prepared
7 Testimony of William M. Hansbury, Para-Chem Southern,
8 Inc., that I request be marked for identification as
9 Exhibit Number 20.

10 JUDGE SCHNIERLE: It will be so marked.

11 (Central Transport Exhibit No. 20 was produced and
12 marked for identification.)

13 BY MR. CHESNUTT:

14 Q. Mr. Hansbury, is the information contained in
15 Exhibit 20 true and correct to your knowledge and belief?

16 A. Yes, sir.

17 Q. And do you adopt it as a portion of your
18 testimony here?

19 A. Yes, sir.

20 Q. Does the shipping that Para-Chem Southern, Inc.
21 does to points in Pennsylvania occur at the Ontario and
22 Rorer Streets location?

23 A. Yes, sir.

24 Q. Does it receive products at that location as
25 well as from points in Pennsylvania?

1 A. Yes, sir.

2 Q. Let's talk about the outbound traffic first. To
3 what points in Pennsylvania are shipments made from
4 Ontario and Rorer Streets?

5 A. Within the State of Pennsylvania we go to
6 Hazleton, Pennsylvania and also within the city of
7 Philadelphia.

8 Q. And with respect to those shipments, what is the
9 product that is being shipped from Philadelphia to
10 Hazleton?

11 A. They're liquid latex.

12 Q. And what is the fact with respect to traffic
13 moving into that location? Where does it come from?

14 A. Material coming in reserves in Philadelphia or
15 Pennsylvania is Neville Island or the Pittsburgh area.

16 Q. And what's the product coming in from Neville
17 Island?

18 A. A resin solution.

19 Q. What is the frequency with which you receive
20 products from the Neville Island location?

21 A. Presently it's five loads a month.

22 Q. And what is the frequency with which you make
23 shipments to points in Philadelphia, first of all?

24 A. About once every five weeks.

25 Q. And what's the frequency with which you make

1 shipments to Hazleton, Pennsylvania?

2 A. Two a week.

3 Q. What sort of trailer equipment do you require
4 for the inbound transportation, first of all?

5 A. An insulated 5,000 gallon single hold container.

6 Q. What type of equipment do you require for the
7 outbound transportation?

8 A. The same.

9 Q. All right. What -- how -- in the last year
10 during 1988, how have the shipments that you've just
11 described, those inbound from Neville Island and those
12 outbound to Philadelphia as well as Hazelton, by what
13 means have those loads been transported?

14 A. The inbound shipments coming out of Neville
15 Island/Pittsburgh area, we're presently going through a
16 company called Backhaul or Beeline, which is out of
17 Newark, Jersey. The outbound material, we run our own
18 equipment in those areas.

19 Q. How much equipment do you run into those areas
20 -- I mean, how much equipment do you have available to run
21 into areas such as that?

22 A. In the Philadelphia location we keep two power
23 units in our location running two tank trucks on a
24 trailer.

25 Q. All right, and in view of that situation, why

1 would you come here today to support an application by
2 Central Transport in which it seeks authority to provide
3 transportation services between points in Pennsylvania?

4 A. Well, our equipment is not only used for those
5 to deliveries in Pennsylvania. We have customers in the
6 New England area running into down into the Baltimore
7 area, New York.

8 So our equipment always isn't available to run on
9 those jobs. And with our experience with Chemical Leaman
10 supplying us out of our South Island location, we feel
11 that if we have an opportunity to be able to use them for
12 interstate movements, we'd like to use them.

13 As our experience also with Central has been, our
14 Simpsonville location, you know, we usually had three or
15 four tankers in our yard at a time down there and we used
16 them.

17 Q. When you spoke of the South Carolina location,
18 you used the name Chemical Leaman. Do you mean --

19 A. Central. I'm sorry.

20 Q. So the experience that you've had with Central
21 Transport leads you to believe that they had the type of
22 equipment that you utilize in your own fleet for those
23 transportation?

24 A. Yes, sir. Yes, sir.

25 MR. CHESNUTT: Those are all the questions I have

1 of the witness. He's available for cross examination.

2 JUDGE SCHNIERLE: Are you prepared?

3 MR. PATTERSON: I wonder if we might have five. I
4 have a couple of pieces of investigation to do.

5 JUDGE SCHNIERLE: There will be a five minute
6 recess.

7 (Whereupon, a brief recess was taken.)

8 JUDGE SCHNIERLE: The witness is available for
9 cross examination.

10 MR. PATTERSON: Thank you, sir.

11 CROSS EXAMINATION

12 BY MR. PATTERSON:

13 Q. Mr. Hansbury, up to the present time have you
14 used your own equipment exclusively on the outbound
15 movement of liquid latex in bulk to Hazelton and to
16 Philadelphia?

17 A. Philadelphia, yes. The Hazleton I would say 95
18 percent of the time it's off. I can't remember recently
19 that we've used someone else, but maybe a couple years or
20 the past two or three years possibly we may have used one
21 or two carriers. But most of the time it's on our own
22 equipment.

23 Q. But for conversation you'd say it's all your own
24 equipment?

25 A. Yes, sir.

1 Q. And with respect to the movement inbound to your
2 facility from Neville Island in the transportation of
3 resins, did I understand you to say have you controlled
4 that movement? Do you pick the carrier in that regard?

5 A. Yes, sir.

6 Q. And who pays the freight on that movement?

7 A. Para-Chem Southern, Incorporated.

8 Q. And I lost the names of the players in
9 connection with that -- the carriers, carrier in
10 connection with that movement. Can you fill me in on
11 that?

12 A. Beeline and Backhaul.

13 Q. Which one is the carrier, or are they both
14 carriers?

15 A. They're both carriers.

16 Q. Do you use Backhaul Transport as an ICC property
17 broker?

18 A. Yes.

19 Q. It's a broker?

20 A. Yes.

21 Q. It's not a carrier?

22 A. Guess you would be a broker.

23 Q. And Beeline is the underlying carrier that the
24 broker uses, that Backhaul uses?

25 A. Okay.

1 Q. Am I correct?

2 A. Yes, you're correct. Or Beeline or whoever
3 they've available to --

4 Q. But in your recollection it's been Beeline on
5 the Neville Island?

6 A. Not always, no.

7 Q. Most of them?

8 A. Not in the last three or four months no,
9 Beeline's equipment has not been available.

10 Q. Who's been used?

11 A. To tell you the truth, we don't -- I don't
12 really deal with the carrier. The billing is all done
13 through Backhaul. So as far as being listed, that's
14 what's the paperwork's written out for; so I don't get
15 involved with which carrier they use exactly.

16 Q. You're aware of the need of the carrier to have
17 intrastate operating authority, operating authority issued
18 by this Commission in order to provide service within the
19 State of Pennsylvania, are you not?

20 A. Sir?

21 Q. Part of the reason you're here, I guess.

22 A. Right.

23 Q. Are you aware of whether Beeline has any?

24 A. Yeah. Well, all the information I've got from
25 them it has they've given us information on authority.

1 Q. Beeline has or Backhaul has?

2 A. Backhaul has, the carrier that they use. They
3 are told to use carriers that have authority to use within
4 the state.

5 Q. Would that make a difference to you, whether the
6 carrier had PUC operating authority or not?

7 A. I would say sure. If something should happen on
8 the line, I don't know how it would affect the legal
9 situation.

10 Q. Now, sir, you testified with regard to the
11 supply of service by this applicant, Central Transport
12 from South Carolina to your plant in Philadelphia?

13 A. Yes, sir.

14 Q. Does your company have a plant in South
15 Carolina?

16 A. Yes, sir.

17 Q. And the service is, therefore, from your is it
18 Simpsonville, South Carolina plant to your Philadelphia
19 plant?

20 A. Yes, sir.

21 Q. And the tanks that they use are what kind of
22 tanks?

23 A. Well, we use 5,000 gallon insulated tankers
24 because they're hauling latex or rayon, which has to be
25 kept at a certain temperature at unloading or kept for

1 freezing.

2 Q. Are they tight fill tanks? Do you know? Do you
3 recognize that term?

4 A. I'm not sure what you mean by tight fill. As
5 far as full loads, if that's what you mean, if that's what
6 you mean far as -- if to explain the term, I can probably
7 answer that.

8 Q. What do you regard as -- does resin -- I beg
9 your pardon. Does liquid latex have any particularly
10 difficult transportation characteristics?

11 A. No.

12 Q. Anything to make it difficult to transport?

13 A. No, sir.

14 Q. And after the -- after the movement of liquid
15 latex, do you normally just use the tank again or must it
16 be cleaned first?

17 A. All tankers have to be cleaned after use. It's
18 all important which type of property was in there. If
19 they're going to load latex, it's their discretion. If
20 they're going to load someone else's product, it's up to
21 them.

22 Q. But generally speaking, liquid latex would be
23 the kind of product that would have to be cleaned out of a
24 tank before you loaded anything else into it?

25 A. Sure, definitely.

1 Q. Is that a difficult cleaning process with liquid
2 latex?

3 A. No. A cold water rinse is normally required for
4 liquid latex.

5 Q. Do you know where the Central Transport tanks
6 are cleaned in the Philadelphia area, those that have
7 arrived from South Carolina?

8 A. I'm not sure if they have a cleaning service in
9 Paulsboro, or they may clean at Quality or Matlack. I'm
10 not sure where they clean.

11 Q. Do you know where Central's most local facility
12 is?

13 A. Paulsboro.

14 Q. Yes, sir. Do you know what they have based
15 there?

16 A. I don't know the contact equipment that they
17 have there, no, sir.

18 Q. Do you know whether they have cleaning
19 facilities there?

20 A. No, sir.

21 Q. Where do you clean your -- where do you get your
22 equipment cleaned that transports this liquid latex?

23 A. We presently have our equipment to clean in
24 Philadelphia with Quality and sometimes Matlack.

25 Q. Right. Which Matlack terminal do you have?

1 A. Bensalem.

2 Q. Bensalem. And I suspect they're cleaned after
3 every trip that they take, handle liquid latex?

4 A. Definitely.

5 Q. And your equipment again, I'm sorry. I didn't
6 quite catch it.

7 A. It was one tractor trailer units. We have two
8 power units in Philadelphia. We have a straight truck;
9 and we also, you know, we keep one or two tank trucks open
10 in the Philadelphia area and 45 through there.

11 MR. PATTERSON: That's all I have, sir. Thank you.

12 JUDGE SCHNIERLE: Mr. O'Kane.

13 MR. O'KANE: I have no questions.

14 JUDGE SCHNIERLE: Mr. Wick.

15 BY MR. WICK:

16 Q. Mr. Hansbury, just a question or so. How long
17 have you been receiving this resin solution from Neville
18 Island?

19 A. We started manufacture probably for about I'd
20 say about nine months now, nine or ten months.

21 Q. And the only carrier that you can recall that
22 may have participated in that transportation of this
23 company you referred to as Beeline?

24 A. No, I didn't say that was the only carrier that
25 participated in. That's the one we're presently using

1 now.

2 Q. Can you -- are you able to identify any other
3 carriers that have participated in the transportation?

4 A. Originally we were asking Philadelphia for some
5 help for getting the material to us, and I believe they
6 might have been using something like an old boil or
7 something. A name like that sounds familiar, but no, not
8 exactly sure.

9 It's an FOB product. We can figure out, we can try
10 to get some rates for their own benefit. We have the
11 material delivered on carriers that we want to try to find
12 because of the cost of freight.

13 Q. But you relied on this outfit named Backhaul?

14 A. Yes, sir.

15 Q. You didn't make any independent research
16 yourself of intrastate carriers from Neville Island to
17 your plant?

18 A. No.

19 Q. How long have you operated your own trucks
20 transporting the latex?

21 A. Well, we've operated our own trucks probably
22 since 19 -- at least 1965 or '67, in that area -- before
23 my time -- starting with trucks been there that long.

24 Q. So you're going to continue that operation of
25 your own trucks?

1 A. Presently we plan on continuing that operation.

2 MR. WICK: Thank you. That's all I have.

3 JUDGE SCHNIERLE: Mr. Olsen.

4 MR. OLSEN: Thank you.

5 BY MR. OLSEN:

6 Q. Mr. Hansbury, does your company utilize the
7 service of property procedures and selecting and obtaining
8 carriers to move your freight or shipments?

9 A. To move your shipments in tankers, no, no.

10 Q. Other than Backhaul Transport are there any
11 other brokers that your company utilizes?

12 A. Not for tankers.

13 Q. Are you the person in your company who carriers
14 will call upon or solicit for the transportation of your
15 product?

16 A. Tank truck and truckload, yes, sir.

17 Q. On your outbound freights who pays the freight
18 charges on that?

19 A. Para-Chem basically. Our latex customers, all
20 our freight is shipped pre-paid.

21 Q. Is this liquid latex and resins, are they
22 petroleum products?

23 A. The resin solution, is a resin -- is a resin
24 dissolvent oil, a resin solution.

25 Q. Liquid latex is not a petroleum product?

1 A. No.

2 Q. And just so I'm clear, my notes are clear, the
3 basis of your testimony to support today is from your
4 Philadelphia facility to Hazleton and Philadelphia and
5 from Neville Island to your Philadelphia facility?

6 A. Yes, sir.

7 Q. You desire to utilize the applicant if authority
8 is granted just as a backup to your carrier operation?

9 A. To our private fee for outbound Philadelphia;
10 but because of the service we have gotten inbound if
11 they're granted authority, we may use it from inbound in
12 Pittsburgh or Neville Island.

13 Q. If I were to represent to you that as a carrier
14 protesting this proceeding of Marshall Service, Inc. that
15 has authority to transport petroleum and petroleum
16 products between points in Philadelphia County and within
17 35 miles thereof, would you consider utilizing them?

18 A. I've never heard of Marshall.

19 Q. If they were to call upon you representing that
20 they had the authority to perform services required,
21 would you consider utilizing them?

22 A. We'd have to maybe find out who they are, what
23 things they've done in the past. I guess you can say that
24 about anyone. Of course we would consider anyone.

25 MR. OLSEN: I have no further questions. Thank

1 you.

2 JUDGE SCHNIERLE: All right. Mr. Radcliff.

3 MR. RADCLIFF: Thank you, Your Honor. I have no
4 questions.

5 JUDGE SCHNIERLE: Mr. Malin.

6 BY MR. MALIN:

7 Q. I represent Crossett. It hauls petroleum
8 products. Your testimony was that this resin you believe
9 is a petroleum product?

10 A. No. He asked if it was, and I said it's a resin
11 solution. So I'm not sure if you consider that a
12 petroleum product. I don't.

13 Q. From a shipping document point of view, would it
14 be a petroleum product or not?

15 A. I believe on the paperwork it has a resin
16 solution, not petroleum.

17 Q. Not petroleum. So as far as you're concerned,
18 none of your products are petroleum products that you're
19 talking about here today?

20 A. No.

21 Q. Oil is resin?

22 A. Right.

23 Q. So if, for example, there is an exclusion in
24 this application that eliminated petroleum and petroleum
25 products, that wouldn't affect -- that would be your

1 judgment?

2 A. Yes.

3 Q. As I understand it, as far as Neville Island is
4 concerned, you've been using Backhaul Transport broker?

5 A. Yes, sir.

6 Q. You would plan on continuing using Backhaul
7 Transporter broker for this movement?

8 A. Presently, yes, sir .

9 MR. MALIN: I have nothing further.

10 BY JUDGE SCHNIERLE:

11 Q. I have one question. Do you know if Backhaul
12 has a PUC broker license?

13 A. I have to say I'm sure they do. I haven't, you
14 know, seen an exact license, you know, given to me by
15 Backhaul.

16 Q. Do you have -- you think they do?

17 A. Yes, sir.

18 JUDGE SCHNIERLE: Mr. Chesnutt, do you have any
19 redirect?

20 MR. CHESNUTT: I have no redirect, Your Honor, and
21 I offer the exhibits.

22 MR. RADCLIFF: No objection.

23 JUDGE SCHNIERLE: I also believe you had not
24 offered Exhibit 19.

25 MR. CHESNUTT: I had not?

1 JUDGE SCHNIERLE: Yes, I don't believe you offered
2 19.

3 MR. CHESNUTT: I will do so now.

4 JUDGE SCHNIERLE: Any objection to Exhibit 19 and
5 20? Those are admitted

6 (Central Transport Exhibits No. 19 through 20 were
7 admitted in evidence.)

8 MR. RADCLIFF: Your Honor, I would note for the
9 record I don't believe it was on the record in Harrisburg
10 last week that the hearings in Pittsburgh next week, our
11 office had an agreement with applicant's counsel that we
12 would not be present at that hearing and that evidence
13 concerning our carrier would not be presented as part of
14 his applicant's case at that set of hearings.

15 JUDGE SCHNIERLE: Yes.

16 MR. CHESNUTT: I think Mr. Radcliff and I have an
17 understanding. I represented that I would not call
18 witnesses who would clearly fall within the operating
19 authority of Oil Tank Lines as it was set forth in the
20 protest to this application.

21 If he's asking me for assurance that the name Oil
22 Tank Lines will not be spoken at the hearing because of
23 cross examination by other counsel, I cannot give him that
24 assurance.
25

1 JUDGE SCHNIERLE: Is that also your understanding,
2 Mr. Radcliff?

3 MR. RADCLIFF: Your Honor, I have found Mr.
4 Chesnutt's letter of the 27th of September and where he
5 states that he will present no witnesses who will testify
6 to a need for service in conflict with the well-defined
7 interest of Oil Tank Lines, Inc., and I think that is what
8 he has just stated.

9 MR. CHESNUTT: And that is what I would continue to
10 represent.

11 JUDGE SCHNIERLE: I recall that letter. As long as
12 everyone's clear on that understanding, I have no problem
13 with that. At this point I would like to pin down the
14 Pittsburgh thing. Essentially you're saying we can go
15 ahead and cancel the hearings set for Wednesday and
16 Thursday?

17 MR. CHESNUTT: That's correct.

18 JUDGE SCHNIERLE: And you will leave the hearing
19 presently scheduled for Friday. And do you know
20 approximately how many witnesses you intend to present at
21 this point?

22 MR. CHESNUTT: I will expect that there will be
23 five witnesses presented during that day.

24 JUDGE SCHNIERLE: Five witnesses.

25 MR. MALIN: One quick inquiry. You have sent us a

1 list of those potential witnesses for Pittsburgh. The
2 five will be five of those that are on that Pittsburgh
3 list?

4 MR. CHESNUTT: That's right.

5 MR. PATTERSON: Do you know which five or at least
6 those that won't be there?

7 MR. CHESNUTT: I will try to give you an indication
8 of that by mail sent on Friday of this week.

9 MR. PATTERSON: Might save us a little trouble.

10 JUDGE SCHNIERLE: And at that point, at the
11 conclusion of the hearing a week from Friday, at that
12 point we can make the attempt to schedule further hearings
13 for the protestants and -- or do you want to put that off
14 further?

15 MR. CHESNUTT: No. I think it would be an
16 appropriate time to do that. And I think to the extent
17 that we can look at our calendar and begin to address the
18 conflict situation, I think we shall do that.

19 JUDGE SCHNIERLE: I would appreciate that. I would
20 also appreciate if by that time I guess you won't have the
21 witnesses back to the interrogatories yet, so we won't
22 know by that point.

23 MR. CHESNUTT: Well, I think Mr. Patterson and I
24 agreed that if necessary we could present a witness to
25 open the protestant's session of the hearing, so to speak,

1 that would clarify any outstanding interrogatories.

2 JUDGE SCHNIERLE: Interrogatories. All right.

3 That's fine. All right. If there's nothing else today, I

4 will see you gentlemen a week from Friday in Pittsburgh.

5 (Whereupon, at 2:40 p.m. the hearing was
6 adjourned.)

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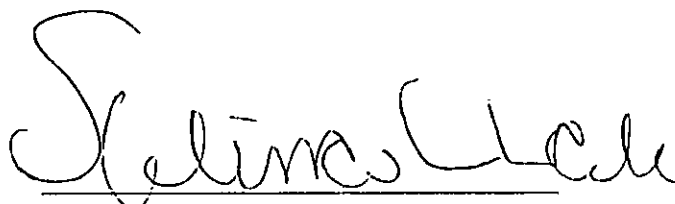
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1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by
3 me during the hearing of the within cause, and that this
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