

RECEIVED

BEFORE

FEB 27 1989

SECRETARYS OFFICE
Public Utility Commission

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In re: A-00108155 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 hearing.

Pittsburgh, Pennsylvania
February 14, 1989

DOCUMENT
FOLDER

Pages 445 to 510, inclusive

DOCKETED
MAR 02 1989

HOLBERT ASSOCIATES
LISA J. BERKEY
Suite 401, Kunkel Building
301 Market Street
Harrisburg, Pennsylvania 17101

CERTIFIED ORIGINAL

BEFORE
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

- - - - -

In re: A-00108155 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 hearing.

- - - - -

Stenographic report of hearing held at the
State Office Building, 300 Liberty Avenue,
Pittsburgh, Pennsylvania

Tuesday,
February 14, 1989
1:00 p.m.

BEFORE
MICHAEL SCHNIERLE, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

WILLIAM A. CHESNUTT, ESQUIRE
McNees, Wallace & Nurick
P.O. Box 1166
Harrisburg, Pennsylvania 17108
Appearing on behalf of Applicant

RONALD W. MALIN, ESQUIRE
Key Bank Building, 4th Floor
Jamestown, New York 14701
Appearing on behalf of Protestant Crossett, Inc.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES CONTINUED:

HENRY M. WICK, ESQUIRE
1450 Two Chatham Center
Pittsburgh, Pennsylvania 15219
 Appearing on behalf of Protestant Refiners Transport
 and Terminal Corporation

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO WITNESSES

<u>PROTEST.CROSSETT</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Gary Wallin	449	484	504	507

INDEX TO EXHIBITS

<u>PROTESTANT CROSSETT</u>	<u>IDENTIFIED</u>	<u>ADMITTED</u>
----------------------------	-------------------	-----------------

Ex. No. 1	455	508
Ex. No. 2	458	508
Ex. No. 3	461	508
Ex. No. 4	470	508
Ex. No. 5	474	508
Ex. No. 6	476	508
Ex. No. 7	477	508

APPLICANT CENTRAL

Ex. No. 28	494	509
Ex. No. 29	495	509

1 JUDGE SCHNIERLE: This is the time and place set for
2 further hearing in the matter of the application of Central
3 Transport, Incorporated, Docket No. A-108155. I note the
4 appearances of William Chesnutt for the applicant Central
5 Transport; Ronald Malin for the protestant Crossett,
6 Incorporated; and Henry Wick -- and you're representing --

7 MR. WICK: Refiners Transport Terminal.

8 JUDGE SCHNIERLE: -- Refiners Transport Terminal, as I
9 recall. I understand the purpose of this hearing is to permit
10 Crossett to provide testimony in support of its case as a
11 protestant. Are you ready to proceed, Mr. Malin?

12 MR. MALIN: Yes, I am, Your Honor.

13 JUDGE SCHNIERLE: Are there any preliminary matters
14 before we start with that testimony?

15 MR. CHESNUTT: None from me, Your Honor.

16 MR. MALIN: Your Honor, I have laid out my exhibits and
17 I've given a copy of all of them to Mr. Wick, but I would be
18 happy to give a copy of all of them to the stenographer and
19 yourself, or do it piecemeal, your preference.

20 JUDGE SCHNIERLE: Why don't you do it piecemeal, do it
21 as we go along. You may call the witness then, Mr. Malin.

22 MR. MALIN: I would call Mr. Gary Wallin.

23 JUDGE SCHNIERLE: Please raise your right hand.

24 GARY WALLIN, having been duly sworn, was examined and
25 testified as follows:

1 JUDGE SCHNIERLE: Please be seated.

2 MR. CHESNUTT: Mr. Malin indicated that he had given
3 copies of the exhibits to Mr. Wick, and he may have done so,
4 but he's also given to me, and I acknowledge receipt of them.

5 MR. MALIN: I apologize. I don't know why I don't have
6 my head screwed on today. Obviously, I gave them to Bill.
7 Mr. Wick I didn't give them to. If he wants me to --

8 DIRECT EXAMINATION

9 BY MR. MALIN:

10 Q Mr. Wallin, by whom are you employed?

11 A Crossett, Incorporated.

12 JUDGE SCHNIERLE: Excuse me. How do you spell your?

13 THE WITNESS: My name?

14 JUDGE SCHNIERLE: Yes.

15 THE WITNESS: W-a-l-l-i-n.

16 BY MR. MALIN:

17 Q By whom are you employed?

18 A It's Crossett, Incorporated, C-r-o-s-s-e-t-t.

19 Q And what is your position with Crossett?

20 A I'm the traffic manager with Crossett.

21 Q And how long, sir, have you held that position?

22 A Approximately seven years.

23 Q And how long have you been employed by Crossett?

24 A Twelve years.

25 Q And as traffic manager, are you authorized to appear

1 at proceedings such as this before the Pennsylvania Public
2 Utility Commission as a representative of Crossett?

3 A Yes, I am.

4 Q Are you familiar, sir, with the operations of
5 Crossett, its day-to-day operations?

6 A Yes.

7 Q And the customers that you serve, the shippers that
8 you serve?

9 A Yes.

10 Q And what, generally, sir, is the business of
11 Crossett, Inc.?

12 A Crossett, Incorporated is what I would call a
13 regional carrier of petroleum and petroleum products in bulk
14 in tank vehicles.

15 Q Where is the headquarters of Crossett?

16 A Crossett is headquartered at Warren, Pennsylvania.

17 Q And where is that?

18 A Where is that?

19 Q In relationship to this portion of the state.

20 A Okay. That is in the western half of the state, in
21 the northern area.

22 Q In Warren County?

23 A Right, in Warren County.

24 Q And how long approximately has Crossett been engaged
25 in the specialized transportation of petroleum and petroleum

1 products in bulk?

2 A This is our 61st year.

3 Q And at your headquarters in Warren, Pennsylvania,
4 what is located there?

5 A We have all of our corporate offices, our dispatch
6 offices, our safety, personnel, et cetera, our maintenance,
7 the maintenance for the fleet and cleaning facilities, and the
8 majority of our trailers and tractors are at that place.

9 Q Okay. Approximately, sir, how many employees does
10 Crossett, Inc., have?

11 A Crossett employs approximately 150 individuals.

12 Q And are these fulltime employees?

13 A Yes.

14 Q Are they all fulltime employees?

15 A Yes.

16 Q And approximately how many of them would be drivers
17 and how many would be office personnel?

18 A At the point that I looked at this, there were 28
19 office employees, 23 maintenance and 99 drivers.

20 Q In addition to using -- first of all, do you operate
21 your own equipment?

22 A We operate with owned and leased.

23 Q In addition to having fulltime employees, do you have
24 owner-operators, independent contractors?

25 A Yes. We have approximately 50 independent operators

1 driving vehicles for Crossett, Incorporated under contract.

2 Q Are these fulltime, again, for Crossett?

3 A Yes, yes. These are under long-term lease.

4 Q That would be in addition to the approximately 99
5 drivers that you just alluded to?

6 A Right. So we could say approximately 150 drivers.

7 Q Now, has Crossett been headquartered in Warren for 61
8 years?

9 A Yes.

10 Q And do you own facilities or lease facilities?

11 A We own facilities in Warren.

12 Q Without being too elaborate, how many -- how many
13 buildings or how many square feet -- or give me some
14 description of the facilities in Warren, a little more detail.

15 A Going from memory, we have approximately ten acres of
16 ground with a -- with a large office and maintenance complex,
17 and we have another building, a smaller building which is our
18 safety and personnel department, and there are a couple of
19 smaller buildings for storage and cleaning, et cetera.

20 Q And you do maintenance there, too? You have a
21 maintenance facility?

22 A Yes.

23 Q I mean for mechanics, as well as cleaning of tanks?

24 A Right. When I say maintenance, I should have been
25 more accurate. Maintenance is not cleaning the offices. This

1 is maintaining and repairing vehicles.

2 Q And you said tank cleaning facilities?

3 A Yes.

4 Q In Pennsylvania, where else do you have facilities or
5 equipment based, as it pertains to your business?

6 A In McKean County in the City of Bradford.

7 Q Okay. And what do you have located in the City of
8 Bradford?

9 A We have a rented piece of property there with just an
10 office and some of our vehicles there. Just a dispatching
11 type office.

12 Q And vehicles are dispatched and based out of
13 Bradford, is that correct?

14 A Right. And when I say dispatched, that's probably
15 better put as it's an office where the dispatch comes. We
16 have a central dispatch and we dispatch all of our drivers,
17 with the exception of one New York terminal, from our central
18 dispatch and it's done through computer links. We will punch
19 a button, so to speak, in Warren, PA and the instructions and
20 bill of lading will print out in the outlying terminal.

21 Q Is that the two locations, then, in which you base
22 facilities in Pennsylvania?

23 A Yes.

24 Q Are Warren and Bradford?

25 A Yes.

1 Q That's in Warren County and McKean County?

2 A Right.

3 Q When you gave me the number of drivers, the 99
4 drivers, that would include those that are working out of
5 Bradford?

6 A Yes.

7 Q As well as Warren?

8 A Right. That number is company-wide.

9 Q Would those be the two pertinent facilities as it
10 pertains to this Pennsylvania application of Central
11 Transport?

12 A Yes.

13 MR. MALIN: Your Honor, I am going to ask that I have
14 marked as an exhibit -- and I don't -- I'm not sure whether
15 we're using Crossett No. 1. I forgot what our nomenclature is
16 here, or whether you're going in sequential numbers.

17 JUDGE SCHNIERLE: Why don't we use Crossett No. 1.
18 That's how we handled the protestant's exhibits last week in
19 Philadelphia, as I recall. Yes, Crossett No. 1.

20 MR. MALIN: Okay. As a matter of commentary, I'm going
21 to ask that Exhibit Crossett No. 1 be marked, a copy of the
22 protest of Crossett to the Central application, and I do that
23 because we forgot this morning to bring a piece of paper
24 indicating Crossett's authority, and Crossett's authority is
25 set forth in here in Paragraph 4 in entirety, as well as

1 Paragraph 5, setting forth that our interest is in petroleum
2 and petroleum products. And even though it might be of record
3 in Harrisburg, I would like to make it an exhibit here.

4 JUDGE SCHNIERLE: That's fine.

5 (Crossett Exhibit No. 1 was produced and
6 marked for identification.)

7 BY MR. MALIN:

8 Q Mr. Wallin, you're looking at Crossett Exhibit No. 1.
9 I would ask you to refer specifically to Paragraph 4 thereof,
10 and I would ask you whether or not that correctly sets forth
11 the Pennsylvania Public Utility Commission authority of
12 Crossett, Inc., as relevant to this application?

13 A Yes. That's from page 2 until page 5 here, several
14 folders and subfolders.

15 Q Now, sir, I'd also cause your attention to be called
16 to Paragraph 5. Is that accurate? If the applicant here was
17 restricted or prohibited from transporting any petroleum,
18 petroleum products, would that satisfy the interests of
19 Crossett?

20 A Yes. Crossett specializes in petroleum, and I
21 believe most of the carriers that transport petroleum are
22 specialists in this area and I feel as though it's a specialty
23 in the liquid bulk business.

24 Q And although we will get to it later, could you --
25 would your primary areas of origination of Crossett, even

1 though your authority is more extensive, be petroleum and
2 petroleum products from the Counties of Warren, McKean and
3 Venango, as far as your Pennsylvania intrastate operations are
4 concerned?

5 A Right. We use our total authority to the extent that
6 we're able to sell our services, but our main business comes
7 from Warren, McKean and Venango Counties, and that is our
8 principal interest in this case.

9 Q But you are operating under the full scope of your
10 authority?

11 A Yes.

12 Q For example, just generally, sir, could you describe
13 your authority in a Reader's Digest version, less than these
14 pages, that although may not totally be accurate, but give the
15 Judge some idea of your operations?

16 A Yes. There are many ifs and ands here, but
17 basically, our authority is north of Pittsburgh and west of
18 the central part of the state in a block, between points. We
19 have total petroleum authority in that area, and then we have
20 various counties where we have state-wide authority.

21 Q From or to those counties?

22 A From or to, yes. Warren, Clearfield, McKean being
23 some of the examples there. Lycoming is another one that
24 comes to my mind. And there are some, of course, exceptions
25 beyond that even, but that's the bulk of our authority. We're

1 situated in the northwest and the bulk of our business is in
2 the northwest.

3 Q Okay. If I was to be candid, and maybe if somebody
4 had like a shipment moving from Warren County to Philadelphia,
5 that would be traffic that you could be authorized to handle,
6 happy to handle?

7 A Yes, definitely.

8 Q Or if they had traffic going from Philadelphia to
9 Warren or McKean or Venango Counties, you could handle that,
10 would be happy to handle it?

11 A Especially if they had one of each that we could put
12 together.

13 Q That would be nice. If somebody had transportation,
14 say a petroleum product, say from Philadelphia to a point
15 within 20, 30 miles within Philadelphia, that would be more or
16 less out of your authority?

17 A Right. We don't have that authority. It's
18 definitely out of our area.

19 Q That would be a general description of what these
20 pages amount to?

21 A Yes.

22 Q In conducting your operations -- you said that you
23 own equipment. Did you bring with you a location list and a
24 specific description of the tractors owned by Crossett, Inc.?

25 A Yes. I have that here.

1 MR. MALIN: May I have such a document marked as
2 Crossett Exhibit No. 2 for identification?

3 JUDGE SCHNIERLE: You may so mark it.

4 (Crossett Exhibit No. 2 was produced and
5 marked for identification.)

6 BY MR. MALIN:

7 Q Mr. Wallin, would you look at Exhibit No. 2, Crossett
8 Exhibit No. 2 for identification? And let's take the first
9 page. It says locations of owned equipment. Now, this is --
10 first of all, this is tractors only, is that correct?

11 A Yes.

12 Q And I note that you have 18 in Warren, Pennsylvania.
13 That's the headquarters that you mentioned?

14 A That's correct.

15 Q And you have seven in Bradford, Pennsylvania?

16 A Um-hum.

17 Q Which is the McKean County location you mentioned?

18 A Yes.

19 Q I also notice that you have three other terminal
20 locations in New York state, is that correct?

21 A Yes.

22 Q Tonawanda, is that in the Buffalo area?

23 A That's correct.

24 Q And Falconer, New York, is that actually within ten
25 miles of Warren?

1 A Not ten, but very close to that. I believe Falconer
2 is 19 from Warren.

3 Q Just over the New York state line?

4 A Right.

5 Q That's almost supplemental to Warren, then, rather
6 than any great distance away?

7 A Yes.

8 Q And Rochester, New York, you have 15 tractors located
9 there?

10 A Yes.

11 Q In conducting your operations, other than
12 Pennsylvania Public Utility Commission authority, do you also
13 hold some authority from the New York State Department of
14 Transportation?

15 A Yes, we do.

16 Q And do you also hold authority from the Interstate
17 Commerce Commission that would allow you to haul petroleum and
18 petroleum products in the New York state and the Pennsylvania
19 and other state areas?

20 A Yes, that's correct.

21 Q Now, the vehicles or tractors that are up in
22 Rochester and Tonawanda, New York, I suppose are used for ICC
23 and New York state business?

24 A Yes, yes.

25 Q Is this equipment permanently cemented to these

1 locations, or do they move from time to time where your needs
2 may be?

3 A Equipment is never cemented. That's one nice thing
4 about being in transportation, you have wheels under
5 everything.

6 Q Okay. By the way, do you -- just for the record, do
7 you lease or own facilities in Rochester, Tonawanda and
8 Falconer?

9 A We own in Tonawanda, we own in Rochester, we own in
10 Warren, we lease in Bradford and we lease in Falconer.

11 Q Looking at the rest of the pages, the other three
12 pages to Crossett Exhibit No. 2, is that self-explanatory as
13 to the type of tractor, its unit number, date of acquisition,
14 serial number, its license plate, its make, et cetera?

15 A Yes, yes. It would be difficult to see why anybody
16 would need to ask about that.

17 Q These would be tractors that you are using in your
18 operation -- overall operations?

19 A Yes, yes.

20 Q Did you also cause to be prepared a similar exhibit
21 -- which I ask be marked as Crossett Exhibit No. 3 --
22 indicating the trailer locations and trailer owned equipment
23 of Crossett?

24 A Yes. I have that.

25 MR. MALIN: This is a trailer exhibit that I would ask

1 -- owned trailer exhibit that I would ask be marked as
2 Crossett Exhibit No. 3 for identification.

3 JUDGE SCHNIERLE: It may be so marked.

4 (Crossett Exhibit No. 3 was produced and
5 marked for identification.)

6 BY MR. MALIN:

7 Q Mr. Wallin, if you would look at what's been marked
8 as Crossett Exhibit No. 3, would you tell me -- first of all,
9 the second page, does that tell the total number of trailers
10 owned by Crossett and types?

11 A Yes, it does.

12 Q And looking at the first page, would that show the
13 types of trailers owned by Crossett, the terminals or
14 locations as of 12/3/88?

15 A Yes. I could see one minor exception that I would
16 like to point out, is that there have been two or three of
17 those black fuel tanks that have been converted to MC307's. I
18 don't -- I didn't realize that that had not been changed on
19 the list, but I --

20 Q To the best of your ability, sir, how should we
21 correct Exhibit Crossett No. 3?

22 A I don't know if it's a big point, other than 307's
23 have been, I understand, mentioned previously.

24 Q Okay.

25 A But Crossett has taken and retrofitted, I believe,

1 two or three. It could be more, it could be less.

2 Q You would have two or three less black fuel trailers?

3 A Yes.

4 Q And two or three --

5 A MC307's.

6 Q -- MC307's?

7 A Yes.

8 JUDGE SCHNIERLE: Excuse me. What's a black fuel
9 trailer?

10 THE WITNESS: Black fuel is a straight board tank that
11 does not have compartments in it and it's generally -- for our
12 purposes we call it black fuel because we normally haul black
13 fuel, No. 6 burning oil, this type of a product.

14 JUDGE SCHNIERLE: And what did the conversion consist
15 of?

16 THE WITNESS: Putting in the electrodes for bottom
17 loading and -- well, they already had the structural integrity
18 for the MC307, so it's basically conversion of the domes with
19 the wiring for the bottom loading. You have to have an
20 electrical float system to shut off when you bottom load.

21 JUDGE SCHNIERLE: I understand. Thank you.

22 BY MR. MALIN:

23 Q So if we move to page 2, then, and we listed two to
24 three MC307's, and moved the black fuel trailers down to 38
25 slash 39, would that make this exhibit accurate?

1 A That should be -- well, it wouldn't be 38 slash 37.

2 Q Well, it's two or three. I'm subtracting from 41,
3 Mr. Wallin.

4 A Oh, okay. I'm looking at another place. Okay. Yes,
5 you are right.

6 Q And would you know where those are located, those
7 converted ones?

8 A Yes. That's what I was looking at, the first page.
9 They're in Warren, and we list 39 of the black fuel there, and
10 that's why I was not agreeing.

11 Q Okay. So that number should probably be 36 slash 37?

12 A That's correct.

13 Q And two MC307's added to the Warren listing?

14 A Yes.

15 Q Looking at pages 3 onward, as it pertains to your
16 owned equipment, is that self-explanatory as to what they are,
17 or --

18 A It may not be. If someone sees a question, I could
19 answer it.

20 Q Okay. Let's start, then, by turning to page 3 and
21 looking at the first one.

22 A The type is where there may be a problem. If it
23 doesn't say an MC, they may not realize what our --

24 Q Let's look at the first one on your list. What --
25 under Unit 149, what is 149?

1 A 149 says INSUL, which is insulated.

2 Q Now -- strike that. Excuse me. Back up. What does
3 the number 149 stand for?

4 A That is the unit number.

5 Q That is Crossett's number that they've designated to
6 that trailer?

7 A Right. It's like a name for the unit.

8 Q Under ACQ, 9/12/55, what is that?

9 A That is the date acquired.

10 Q By Crossett?

11 A Yes.

12 Q And under YR, 55, what does that mean?

13 A That's the year that the vehicle was made, produced.

14 Q Under make it says Pennsylvania. What does that
15 mean?

16 A That's the company that made the trailer. That was
17 -- the Pennsylvania Furnace and Iron Company made Pennco, I
18 believe.

19 Q Now, looking then, as we follow that list all the way
20 down, everything would be the same? The first number would be
21 the Crossett number, and then the next would be the year
22 acquired, and then the year it was made and its manufacturer's
23 name, is that correct?

24 A Yes.

25 Q Now, you didn't put serial numbers down, but you skip

1 over here under gallons, G-A-L-S, 6550, what does that mean?

2 A That's the rated capacity of the cargo tank.

3 Q So it can hold 6,550 gallons?

4 A Yes.

5 Q The next one would be 6,100 gallons, et cetera?

6 A Yes.

7 Q Now, under type it says INSUL-N/S. What does that
8 mean?

9 A That is an insulated tank, meaning that it has
10 weather insulation between the barrel, the body of the tank
11 and the outside jacket which holds the insulation in to retain
12 heat; and N/S means a non-spec tank, which means it has no MC
13 number.

14 Q And under titled it says PA. What does that mean?

15 A That's -- it's licensed in the State of Pennsylvania.

16 Q Or -- and titled there, is that correct?

17 A That's correct.

18 Q Under license number, is that the license plate on
19 the trailer?

20 A Yes.

21 Q And under site it has a number four. What is that?

22 A That would refer to our sites, and No. 4 -- hopefully
23 you've given me the key. I don't see our key here to the
24 sites. I believe that that would be a non-available number in
25 what we're dealing with.

1 Q In any event, you have the actual location, trailer
2 locations on the front anyway.

3 A I can explain that. There is more than one site. In
4 Warren, PA, for example, because they are in groupings in the
5 lot for insurance purposes, and so these will not relate to
6 the terminals.

7 Q Meaning if we had the key we would know where the
8 trailer is?

9 A Yes.

10 Q But we know where the trailer is from the first page
11 anyway, even though we don't have the key?

12 A Yes.

13 Q Now, looking at the various types of equipment,
14 trailers that you own, what is an MC330?

15 A MC330 is what people in the business quite often
16 refer to as a bullet. This is a tank that is made to
17 withstand or hold high pressure products such as propane,
18 butane and other liquified petroleum gases.

19 Q And what is MC306AL?

20 A The AL stands for aluminum. It's of aluminum
21 construction. The MC306 is a specific tank which is able to
22 withstand light amounts of pressure and is normally used to
23 haul such products as gasoline or fuel oil.

24 Q As far as compartments are concerned, are the 306's
25 generally compartmentalized?

1 A All of the 306's are compartmentalized, four
2 compartments.

3 Q All of Crossett's 306's are compartmentalized in four
4 compartments?

5 A Yes.

6 Q Are any of the other vehicles with any other numbers
7 compartmentalized?

8 A No.

9 Q Just the 306's?

10 A Right. We have had some other ones in the past that
11 had compartments, but there was not enough call for them.

12 Q Looking down, following your list, Mr. Wallin, the
13 next description or type that I see would be on the next page,
14 page -- it says page 2, but it would be page 4 of the exhibit,
15 page 2 of the listing. It would be 7200 SKIN-N/S. What's a
16 SKIN-N/S?

17 A SKIN means that it is not insulated. The SKIN,
18 referring to just the skin of the barrel is exposed to outside
19 air.

20 Q So it's an uninsulated tank, single compartment. It
21 would haul 7200 gallons, is that correct?

22 A That's correct.

23 Q What type of commodity would this be used for, as an
24 example?

25 A This would be used for hauling naphtha, lubricating

1 oils. Unless it would be a very viscous type of lubricating
2 oil, in the winter you wouldn't use that. Also, it could be
3 used for fuel oil and especially for black bunker type fuel.

4 Q Moving on through your list, I note more MC330's, two
5 Trinitys. You've described them before, is that correct?

6 A Yes.

7 Q And of varying capacities, insulated N/S tanks, is
8 that correct? You've described them before?

9 A Yes.

10 Q I see an S-insulated on page 3 of your exhibit list.
11 For example, No. 337, Crossett number. What is that?

12 A That's a steel insulate. Most of our insulates are
13 aluminum.

14 Q And this is a steel tank?

15 A Yes.

16 Q Have we described the type of tank equipment that you
17 have, or have we missed any, Mr. Wallin?

18 A I think you've been quite thorough.

19 Q In your business, sir, has such equipment been useful
20 for hauling all types and forms of petroleum and petroleum
21 products?

22 A Yes.

23 Q Are you familiar with the exclusion that the
24 applicant has put in its application, for example, aviation
25 gasoline, butane, diesel fuel, fuel oil grades 2, 4, 5 and 6,

1 gasoline, kerosene, motor fuel, propane, turbo fuel, cryogenic
2 liquids, dispersants and refrigerant gases? Are you familiar
3 with that?

4 A Yes, I am.

5 Q Do you haul commodities within that excluded range?

6 A Not all of them, but most of them, yes.

7 Q Do you also haul petroleum, petroleum products also
8 not within that exclusion?

9 A Yes.

10 Q For example, do you haul lubricating oils?

11 A Yes.

12 Q Do you haul petrolatum?

13 A Yes.

14 Q Petroleum gases?

15 A Yes.

16 Q Do you haul many products that are not excluded?

17 A Oh, yes.

18 Q Sir, in addition to your owned equipment, did you
19 bring with you a listing of leased equipment that is leased
20 with independent contractors on a permanent lease basis, 30
21 days or more, as to the equipment that Crossett is operating
22 under its PUC authority?

23 A Yes, I did.

24 MR. MALIN: May I have such a listing -- exhibit marked
25 Crossett Exhibit No. 4 for identification?

1 JUDGE SCHNIERLE: You may.

2 (Crossett Exhibit No. 4 was produced and
3 marked for identification.)

4 BY MR. MALIN:

5 Q Mr. Wallin, looking at Exhibit No. 4 for
6 identification, and looking at the first page, what does that
7 tell me?

8 A This tells the locations of that leased equipment.

9 Q And so you have basically 45 owner-operators based in
10 Warren, Pennsylvania, is that correct?

11 A That's correct.

12 Q And three owner-operators based in Bradford,
13 Pennsylvania?

14 A Yes, that's correct.

15 Q And four additional owner-operators based in New York
16 terminals?

17 A Yes.

18 Q Looking at the second page of your exhibit, can you
19 tell me, using the first line as an example, what that
20 information means?

21 A A lot of this information is information that is in
22 our computer which is not that valuable to what we're talking
23 about today, or some of it anyhow, like the distance.

24 Q Let's start with the first column, like we did
25 before, and give us an explanation, if you would please.

1 A Okay. Lease No. 28 is the lease number. We go
2 consecutively with our leases.

3 Q Okay.

4 A And then the truck is No. 28-2, and that is a 1985
5 Mack, with a serial number which is listed below there. The
6 license number in Pennsylvania is listed.

7 Q Okay.

8 A And 6/30/88, I believe, is the date that that was
9 leased on with Crossett, Incorporated.

10 Q Are you sure, sir, because I have like a 2/28/89
11 later on which has no --

12 A I better not say. I'm not sure about that number.
13 There's a number further on that says lease 6/20/85.

14 Q Is it possible that's when the registration expires
15 on the license number?

16 A Well, since I struck out the first time, I'll not
17 say.

18 Q But then you'll see lease and then you'll see a date,
19 6/20/85, for example.

20 A Yes.

21 Q Is that the date when the lease, to the best of your
22 recollection, would have been entered into with that
23 owner-operator?

24 A Yes.

25 Q And then you have inspect and a date?

1 A Right.

2 Q Is that the last time --

3 A Yes.

4 Q -- you inspected the vehicle?

5 A Yes. We inspect all leased vehicles on a regular
6 schedule.

7 Q Okay. And then it says Pump P. What does that mean?

8 A This means there is a pump, a product unloading pump
9 on this vehicle, and the P indicates that there is one.

10 Well --

11 Q Or the type?

12 A Right. That's the type of pump. The P is a propane
13 pump. If it says pump, there is one, and -- no. I stand
14 corrected there. Pump followed by an initial means that there
15 is a pump, and the initial tells the type of pump.

16 Q So in addition to your owned equipment, you have this
17 leased equipment. In maintaining your equipment, owned or
18 leased, as it pertains to terminals, do you move them from
19 time to time as the needs develop?

20 A Yes.

21 Q Do you supervise all the drivers, whether it be
22 owner-operators or whether they're fulltime employees, as to
23 matters of safety and the proper handling of lading, and the
24 compliance with the rules and regulations of the Department of
25 Transportation and other government agencies, et cetera?

1 A Yes. Although they're not directly employees of
2 ours, we expect them to maintain our image and our lawfulness.

3 Q And do you have a portion of Crossett's staff that is
4 dedicated to safety?

5 A Yes.

6 Q And how many -- what does that consist of?

7 A There is a safety director and four people in that
8 department besides the safety director, so we have five people
9 who are dedicated to safety.

10 Q And are they schooled and skilled in safety
11 requirements?

12 A Yes.

13 Q Including spills, hazardous waste spills, things of
14 this nature?

15 A Yes.

16 Q Has Crossett been hired from time to time by
17 different organizations to come take care of a spill, even not
18 of your own making?

19 A Not necessarily spill, no.

20 Q But you do have the clean-up procedures and all this?

21 A Right. We used to do more of our own spill clean-up,
22 but with today's regulations, it's better to hire an outside
23 group for any kind of a major spill.

24 Q In conducting your business, has Crossett been
25 profitable?

1 A Yes, it has been.

2 Q Approximately --

3 MR. CHESNUTT: Excuse me. Could I have that last
4 question and answer read back?

5 (The referred-to question and answer wer read
6 back by the court reporter.)

7 MR. CHESNUTT: Thank you.

8 BY MR. MALIN:

9 Q Generally, sir, the approximate revenues that
10 Crossett would gain from a year's operations, ICC, PUC, NY
11 DOT, approximately your overall revenues?

12 A Overall generally runs around 13 million.

13 Q Did you cause to be brought with you, sir, a profit
14 and loss statement of Crossett as of 6/30/1988, showing the
15 revenues for the first six months of the year?

16 A Yes, I did.

17 MR. MALIN: Could I have such a document marked Crossett
18 Exhibit 5 for identification?

19 JUDGE SCHNIERLE: It will be marked Crossett No. 5.

20 (Crossett Exhibit No. 5 was produced and
21 marked for identification.)

22 BY MR. MALIN:

23 Q Mr. Wallin, looking at Crossett Exhibit No. 5 for
24 identification, from your operations, sir, have you been
25 profitable?

1 A Yes.

2 Q And what was your operating ratio?

3 A .9861.

4 Q And your revenues for half of the year were something
5 in excess of 6 million?

6 A Yes.

7 Q And your profits from operation was \$87,034.40, is
8 that correct?

9 A That's correct.

10 Q This is an unaudited statement? It's from your books
11 and records at the end of 6/30/88?

12 A Right. It comes right from the revenue as it goes
13 into the computer.

14 Q And the line haul revenue, that would include all
15 forms of revenue, ICC, PUC, and New York state DOT revenues?

16 A Yes.

17 Q From your own knowledge, sir, on an annual basis,
18 approximately what would be your PUC revenues of Crossett?

19 A PUC would be approximately five and a quarter to five
20 and three-quarter million dollars.

21 Q And that, of course, that five and a quarter to five
22 and three-quarter million dollars, would all be derived from
23 the authority that is set forth in Exhibit No. 1, Paragraph 4?

24 A That's correct.

25 Q In breaking down that revenue geographically, did you

1 cause, from your computer which keeps your records, a computer
2 run-out for the year 1988, to indicate the total intrastate
3 Pennsylvania revenue obtained by Crossett originating in the
4 Counties of McKean, Venango and Warren, near your headquarter
5 areas?

6 A Yes, I did do that.

7 MR. MALIN: May I have such a document marked as an
8 exhibit for identification? I believe Crossett Exhibit No. 6.

9 JUDGE SCHNIERLE: You may so mark it.

10 (Crossett Exhibit No. 6 was produced and
11 marked for identification.)

12 MR. CHESNUTT: I have two similar exhibits, Mr. Malin.
13 Can you tell me which one has just been marked as Exhibit
14 No. 6?

15 MR. MALIN: The one with the revenue \$4,496,000 as a
16 total.

17 MR. CHESNUTT: Thank you, sir.

18 BY MR. MALIN:

19 Q Looking at that exhibit, does that include all the
20 products that Crossett hauled originating in McKean, Venango
21 and Warren Counties, whether or not it might include gasoline
22 or fuel oil or something that is excluded from the Central
23 Transport application?

24 A Yes. Yes, this is our total revenue derived by
25 hauling from those origins, origin counties.

1 Q So of your five and a quarter to five and
2 three-quarter million PUC revenue, whatever percentage of
3 \$4,496,000 would be of that total, that would be how important
4 those three counties are to your operations?

5 A Yes, yes. As you can see, that's a very large
6 percentage of our PUC revenue.

7 Q Now, sir, did you have the computer which keeps your
8 books and records also run the identical exhibit, excluding
9 those commodities that are petroleum and petroleum products
10 that are not sought by the applicant Central Transport; to
11 wit, the gasoline, the kerosene, the motor fuel, the propane,
12 et cetera?

13 A Yes, I did.

14 Q And did you bring with you sir, that analysis,
15 showing the same figures excluding those commodities?

16 A Yes, I did.

17 MR. MALIN: May I have that document, Your Honor, marked
18 as Exhibit No. 7 --

19 JUDGE SCHNIERLE: You may.

20 MR. MALIN: -- of Crossett for identification?

21 JUDGE SCHNIERLE: You may.

22 (Crossett Exhibit No. 7 was produced and
23 marked for identification.)

24 BY MR. MALIN:

25 Q Referring, Mr. Wallin, to the Crossett's Exhibit No.

1 7 for identification, could you tell me, after excluding all
2 the petroleum products not sought by the applicant, how much
3 revenue did Crossett originate during 1988 from McKean,
4 Venango and Warren Counties which would be in jeopardy, or
5 overlapped, or whatever phrase is objective, as to this
6 Central's application?

7 A Yes. \$1,690,888.56, which is in the range of
8 one-third of our PUC revenue.

9 Q So approximately one-third of your PUC revenue is
10 involved, as it relates to Central Transport's request to
11 originate traffic in McKean, Venango and Warren Counties, even
12 taking into consideration those specific petroleum products
13 that they have excluded from their application?

14 A Yes.

15 Q Is that a lot of traffic, in your opinion?

16 MR. CHESNUTT: I object. Suppose he answers it yes?
17 What difference does it make whether it's a lot of traffic in
18 his opinion?

19 MR. MALIN: I'll rephrase the question.

20 BY MR. MALIN:

21 Q Can you compare for me your \$87,000.00 profit with
22 your \$1,690,000.00 revenue, and give me any opinion as to the
23 importance of this revenue?

24 A Well, the 85 -- or 80 some thousand dollars of
25 profit, the 87,000 profit would be about 5 percent of that,

1 and it's quite significant when you put it against that, about
2 1 to 20.

3 Q Sir, if you were to lose all or part of the
4 \$1,690,888.56 of the revenue, would that have an adverse
5 affect upon Crossett's operations, employment and business?

6 A Yes, it would. The atmosphere for trucking has been
7 extremely competitive over the last several years, and more
8 and more so. The last 1,700,000 is important.

9 Q Sir, you have not been in the hearing room during the
10 applicant's testimony or the shipper witness testimony, have
11 you?

12 A No, I haven't.

13 Q You have been apprised of the -- one, two, three,
14 four, five, six, seven -- eight companies which supported this
15 application, is that correct?

16 A Yes, I have.

17 Q And you know their names?

18 A Yes, I do.

19 Q Okay. As to -- is it your understanding that three
20 of the companies, the McCloskey Corporation, Calgon
21 Corporation and Valspar Corporation did not give any testimony
22 that related to petroleum products?

23 A Yes, I understand that.

24 Q As it relates to the other five companies, can you
25 tell me which, if any, has Crossett transported petroleum

1 products for?

2 A Yes. Witco. Crossett transports out of their
3 facility in Bradford, Pennsylvania on a daily basis.

4 Q Let me stop you one second. Is that one of the
5 reasons you have this Bradford terminal which is computer
6 dispatched from Warren and base equipment there, in order to
7 serve Witco?

8 A Yes, yes. We are the only carrier that has a
9 terminal in Bradford.

10 Q And you serve them daily?

11 A Yes, we do.

12 Q Would that include lubricating oils or petrolatums,
13 or products that would not be excluded from Central's
14 application?

15 A Yes. A large portion of Witco's business from that
16 facility would be resins and naphtha, as well as the ones you
17 mentioned.

18 Q Have you had any complaints about your service from
19 Witco?

20 A Very few. As a matter of fact, they say that if they
21 have problems with a carrier they call Crossett.

22 Q And how many pieces of equipment do you say that you
23 have generally in Bradford to serve clients, or a customer
24 like Witco?

25 A In Bradford we have several pieces of equipment, as

1 shown on our listing, but that equipment is supplemented by
2 Warren and on a daily basis. This isn't just in an extreme
3 emergency. We run a truck over daily. We're sending trucks
4 over from Warren to all outfits.

5 Q As well as Bradford?

6 A Yes.

7 Q Is Witco an important shipper for Crossett?

8 A Yes. They've always been an important shipper for
9 us.

10 Q Pennzoil was a supporting shipper. Does Crossett
11 transport any petroleum products for the Pennzoil Company?

12 A Yes, they do.

13 Q How frequently and what would be the types of
14 traffic, et cetera?

15 A Pennzoil, we haul a fair amount of product, not in
16 the same range as Witco, but we do attempt to sell them on a
17 regular basis and we do haul for them on a regular basis. We
18 also haul just -- I would say daily for them or their
19 customers out of their facility at Rouseville, Pennsylvania,
20 which is in Venango County.

21 Q So their Rouseville facility in Venango County,
22 Pennzoil would be, for example, some of the traffic that would
23 be included in your revenue figures in Crossett Exhibit No. 6
24 and 7?

25 A Yes.

1 Q Are they an important account to you?

2 A Yes, they are.

3 Q Another one mentioned was the McCloskey -- no. I'm
4 sorry. McCloskey Corporation had no petroleum. E.F. Houghton
5 Company. Do you know anything --

6 A We have inbound into their Fogelsville, Pennsylvania
7 plant, which is approximately -- in the Philadelphia area.

8 Q Where would that traffic generally originate from
9 that you would haul to E.F. Houghton and Company?

10 A That would originate from Bradford, Pennsylvania,
11 which is in McKean County.

12 Q How frequently do you think you would haul product
13 into E.F. Houghton out of, say, you're McKean County --

14 A We had been hauling this at one time frequently, when
15 service was prime consideration. There was another carrier
16 that came in with a lower price and we had not been hauling it
17 for a period of time. As a matter of fact, there were two
18 other carriers, but Houghton has become disenchanted with one
19 of those carriers because of service problems and we have
20 asked to -- we have been asked to begin again to participate
21 in that traffic.

22 Q So without going beyond your actual knowledge, you
23 transported for them more frequently awhile back and you are
24 transporting for them more frequently today, and there was a
25 hiatus in there where you transported for them less

1 frequently?

2 A That's a good summary.

3 Q And that traffic, again, would be to their
4 Fogelsville facility from Venango County?

5 A No. From McKean County.

6 Q McKean County, excuse me. Now, two others was the
7 Harry Miller Corporation and the Para-Chem Southern, Inc.
8 Have you, to your knowledge, transported any traffic for them
9 or know anything about them?

10 A The names of these companies are unfamiliar to me.

11 Q So you can't guarantee that you might not have
12 transported a load for them, but they don't ring any bells?

13 A I don't know how we could have if I don't know who
14 they are. I would know.

15 Q Okay. You would know. Now, sir, are you opposing
16 this application, as you so stated in your protest and which
17 is Exhibit No. 1?

18 A Yes.

19 Q And if the application was restricted against
20 petroleum and petroleum products, would that satisfy
21 Crossett's interest?

22 A Yes, it would.

23 Q If in the Commission's wisdom they determine to grant
24 authority to this applicant that included petroleum and
25 petroleum products, would your interest be primarily satisfied

1 if the Commission excluded the Counties of McKean, Venango and
2 Warren from such grant of authority as origins?

3 A I think that the exhibits that I brought today would
4 bear that out, yes. We would be relatively satisfied.

5 MR. MALIN: I have nothing further, Your Honor, and I
6 would move my exhibits, subject to cross examination.

7 JUDGE SCHNIERLE: Do you wish a recess before beginning
8 cross examination Mr. Chesnutt?

9 MR. CHESNUTT: No, sir. I may wish one after I commence
10 cross examination and get so far.

11 JUDGE SCHNIERLE: All right. You may proceed.

12 CROSS EXAMINATION

13 BY MR. CHESNUTT:

14 Q Mr. Wallin, I direct your attention to Exhibit No. 6
15 and Exhibit No. 7, please.

16 A Yes.

17 Q Are there any documents in the hearing room that
18 pertain, underlie or otherwise explain these two exhibits?

19 A There are none. These were taken from our everyday
20 course of business in our record keeping and they are accurate
21 to that extent, yes.

22 Q This is not a report that you generally produce, is
23 it?

24 A This was generated specifically for this meeting by
25 our computer department.

1 Q And the computer department gave the computer certain
2 instructions and said to it pull out origin county, and then
3 the three that are listed on here, pull out the load column,
4 amount of revenue, the gallons, and that's about it?

5 A That's correct.

6 Q And told the computer to add those columns up, is
7 that correct?

8 A Yes.

9 Q The computer has a lot more data in it than what are
10 depicted on these two exhibits, is that not correct?

11 A Yes.

12 Q Indeed, the computer, if it were instructed in a
13 certain fashion, could pull out a load number, an origin, a
14 destination, commodity, revenue, gallons per load, what else
15 on a per transaction basis?

16 A Yes, it could.

17 Q And there would be other data, other what -- perhaps
18 what type of trailer was used?

19 A I think you went far enough the first time. I'm not
20 -- I suppose that would be in there, but I would not guarantee
21 that.

22 Q But it's basically the computer program and the data
23 that are contained in the computer are designed to keep track
24 of the transportation functions that are performed by Crossett
25 on a daily basis?

1 A Yes.

2 Q So you could have produced a study that would have
3 shown these transactions on an individualized basis, could you
4 not?

5 A Possibly, yes.

6 Q And then if you had done that and brought that to the
7 hearing room, then I would be in a position to verify, would I
8 not, whether the subtraction function, which I think is
9 implicit in the difference between Exhibit No. 6 and Exhibit
10 No. 7, was performed correctly, could I not?

11 A Yes.

12 Q In other words, I could look at what you had included
13 in the Exhibit 7 study, compare it with what -- and simply
14 verify that all of the commodities included in the Exhibit 7
15 study were, indeed, commodities which my client, Central
16 Transport, is seeking authority to transport?

17 A Yes.

18 Q But I cannot do that, other than to accept your word
19 on it with respect to these?

20 MR. MALIN: Or cross examine him.

21 THE WITNESS: The same as with the profit and loss, or
22 any other statement, yes.

23 BY MR. CHESNUTT:

24 Q Now, when you performed the -- what I've called the
25 subtraction function, that is -- let me tell you what I mean

1 by that so that we're on the same wave length. As I
2 understand it, Exhibit 7 has all of the shipments that are
3 also in Exhibit 6, except an effort has been made to exclude
4 from the Exhibit 7 those shipments from Exhibit 6 which had
5 commodities that appear in the exceptions list filed by
6 Central, is that --

7 A I would state it similarly. However, I would say
8 that in the No. 6 we included everything. In No. 7 we
9 included only the items which are not germane to your
10 application. It isn't so much subtraction as how much you
11 add.

12 Q Okay. Sure. Fine. I think we get to the same
13 place.

14 A Sure. We do.

15 Q And in looking at Exhibit 6 and Exhibit 7 in
16 comparison, there is an awful lot more traffic transported
17 from Warren that involves commodities not being sought by
18 Central --

19 A Yes.

20 Q -- than there are from the other two counties, is
21 that fair to say?

22 A Yes. Would you like an explanation?

23 Q I would.

24 A Okay. Warren -- the principal origin there is United
25 Refining Company. United Refining Company produces primarily

1 gasoline, fuel oil, kerosene, asphalt, propane and butane,
2 which are exactly the products that you are saying you're not
3 applying for, and that's the main explanation right there;
4 whereas, the other origins have plants that have more of the
5 products that you are not seeking.

6 MR. MALIN: That you are seeking?

7 THE WITNESS: That you are seeking. I'm sorry.

8 MR. CHESNUTT: Thank you.

9 BY MR. CHESNUTT:

10 Q Now, I think I only have one more question with
11 respect to Exhibit 6 and 7, and that is this question: That
12 is full year 1988 data, is it not?

13 A Yes, it is.

14 Q And Exhibit 5, clearly, on its top page is simply the
15 first six months of 1988 financial results, is that correct?

16 A That's correct.

17 Q Now, in order that the record be clear, when one
18 reads Exhibit No. -- Crossett Exhibit No. 5 and gets down to
19 the net profit from operations number, it is clear that the
20 letters CR appear behind the numbers associated with that
21 line, is that correct?

22 A Yes.

23 Q Now, you previously testified that \$87,034.40
24 represented a profit from operations, is that correct?

25 A Yes.

1 Q And, indeed, if one subtracts the total operating
2 expenses shown on this from the total revenue shown, one would
3 see that the revenue does indeed exceed the expenses, is that
4 correct?

5 A Yes.

6 Q And then going down to the bottom line, one would see
7 that the amount transferred to the retained earnings appearing
8 on the balance sheet of the company as of this date would be
9 an additional 354,805.19, resulting from operations in the
10 first half of the year, is that correct?

11 A From operations and other income and expenses.

12 Q Right. Okay. And thus, continuing the analysis back
13 into the years -- full years 1987 and 1986, which are the two
14 remaining pages on Crossett Exhibit No. 6, it would be correct
15 for one reading this exhibit to understand that in those full
16 years there was a net loss from operations, rather than a net
17 profit, is that correct?

18 A Yes. By the way, that -- I have that marked Exhibit
19 No. 5. You said No. 6.

20 Q I stand corrected. It is Exhibit No. 5, and I thank
21 you for the correction. But you do agree with my
22 characterization of the --

23 A Yes, that's correct.

24 Q -- net profit from operations line on the last two
25 pages of Exhibit No. 5?

1 A Yes, and I think the reason there is that it has been
2 extremely competitive in the petroleum transportation
3 business.

4 Q I understand that. I understand your belief in that.
5 But once again, if one follows those two pages down to the
6 bottom, there is moneys transferred to the retained earnings
7 of the company in both those years as the result of income,
8 principally from non-carrier operations, from interest and
9 from extraordinary items, is that correct?

10 A That's correct.

11 Q What are the extraordinary items that are covered by
12 Account No. 8800?

13 A I could not give you a full listing on those. Those
14 would be items other than listed --

15 Q An ordinary item?

16 A Yes. Right.

17 Q It's my understanding from your testimony, and from
18 responses that you have furnished to interrogatories that were
19 served on your counsel and for which I understand you're
20 responsible for the responses to the interrogatories --

21 A Yes.

22 Q -- that Crossett employs 99 drivers?

23 A Yes. I believe that figure has risen since that
24 date, but at that period -- at that particular time, yes.

25 Q And that is an increase over the number of drivers it

1 employed on average during 1987, is that correct?

2 A I couldn't state that for a fact. I didn't look at
3 that number.

4 Q If I were to represent to you that in an annual
5 report that Crossett has filed with the Pennsylvania Public
6 Utility Commission on April 1, 1988, it represented to the
7 Commission that the number of drivers -- average number of
8 drivers employed during 1987 was 74, is that correct?

9 A I see that, yes.

10 Q Do you see that number?

11 A That number is, yes, on that sheet.

12 Q And that number also indicates an average number of
13 officers, terminal department and division managers,
14 supervisors and administrative personnel, clerical and
15 administrative personnel that total 28?

16 A Yes.

17 Q Which is the number of such employees that you have
18 indicated you presently have in those categories, is that
19 correct?

20 A Yes.

21 MR. MALIN: Just if you'd like to ask, I don't know
22 whether those figures would show any New York based drivers
23 being in the PUC report; where the officers would all be in
24 Pennsylvania. I'm not familiar with your annual report. I
25 just ask you if that's a possibility.

1 BY MR. CHESNUTT:

2 Q Well, I'll show you, sir, the document that I have
3 copied from the Commission's files and represent to you that
4 it is a report filed with the Interstate Commerce Commission,
5 which was simply photocopied for purposes of filing with the
6 Pennsylvania Commission.

7 A All right.

8 Q Now, looking at Exhibit No. 4, you there have --
9 well, let me -- as I understand from your interrogatories --
10 one more question on those drivers -- they are all fulltime
11 employees of the company?

12 A Yes.

13 Q Then on Exhibit No. 4 you furnished to the Commission
14 information about your leased equipment, and I would assume
15 that each of those leased units also has a driver associated
16 with it, but that driver, as an employee of whomever, is
17 leasing the equipment to Crossett, is that correct?

18 A Yes, that's correct.

19 Q Okay. Thank you. You talked about the increased
20 competition to which Crossett has been subjected. I believe
21 you used the phrase over the past several years. Could you
22 tell me what those past several years are?

23 A It would be hard to say exactly what years, but I
24 believe that 1981 is a water shed year as far as competition
25 goes, deregulation of the industry.

1 Q And with -- and when you say it has become more
2 competitive, does that include the introduction of additional
3 carriers?

4 A There have been.

5 Q And with what carriers do you compete at the present
6 time for Pennsylvania intrastate traffic?

7 A I would hesitate to give a list because I'm sure I'd
8 leave out more than I would mention, but I could --

9 Q Do the best you can.

10 A I could give some individuals.

11 Q Sure.

12 A Matlack, Incorporated; Refiners Transport and
13 Terminal; PTI, Propane Transport, Incorporated; George Most;
14 Chemical Leaman; Fleming Transport; Erie Petroleum; Five Star
15 Transport. That's a good start.

16 Q Have any of those carriers that you have just named
17 for me sought additional Pennsylvania intrastate commerce
18 authority since 1981?

19 A I'm sure they have, yes. Yes, they have.

20 Q Did Crossett file protests against any of those
21 carriers?

22 A Yes.

23 Q Would you tell us which ones?

24 A I can think of two.

25 Q Yes.

1 A Erie Petroleum, and that was this past summer, and
2 Petroleum Transport, Incorporated. I believe that was two or
3 three years ago. I won't say for sure.

4 Q Did Petroleum Transport, Incorporated obtain the
5 authority for which they were applying?

6 A Yes.

7 Q What about -- what is the fact with respect to Erie
8 Petroleum?

9 A They also did.

10 Q Was the authority they sought and were awarded --
11 strike that. Was the authority they were awarded competitive
12 with operations of Crossett?

13 A Yes, they were.

14 MR. CHESNUTT: If Your Honor please, I'd like to have
15 marked for identification as a Central exhibit, just the way
16 you've been marking them --

17 JUDGE SCHNIERLE: That would be Central Exhibit No. 28
18 for identification.

19 (Central Transport Exhibit No. 28 was produced
20 and marked for identification.)

21 BY MR. CHESNUTT:

22 Q Have you ever seen a document that looks like this,
23 Mr. Wallin?

24 A No, sir, I have not.

25 MR. CHESNUTT: Your Honor, might I request that you take

1 official notice of what I will represent to you is a copy of
2 the assessment reports filed by Crossett, Inc., with the
3 Pennsylvania Public Utility Commission for 1987, 1986 and
4 1985, which is what constitutes Central Exhibit No. 28?

5 JUDGE SCHNIERLE: Do you object to that request I take
6 judicial notice of these documents?

7 MR. MALIN: I have no objection to it, Your Honor.

8 JUDGE SCHNIERLE: I'll take judicial notice of these
9 documents.

10 MR. CHESNUTT: Thank you, sir. If Your Honor please,
11 I'd like to request that a ten page document be marked for
12 identification as Central Exhibit No. 29.

13 JUDGE SCHNIERLE: It may be so marked.

14 (Central Transport Exhibit No. 29 was produced
15 and marked for identification.)

16 BY MR. CHESNUTT:

17 Q Central Exhibit No. 29, Mr. Wallin, has been placed
18 before you. Do you recognize it?

19 MR. MALIN: Your Honor, before we get into that, I would
20 like to be heard.

21 JUDGE SCHNIERLE: Do you have an objection?

22 MR. MALIN: Yes, I do, Your Honor.

23 JUDGE SCHNIERLE: What's the objection?

24 MR. MALIN: My objection is, Your Honor, that although I
25 believe in liberal discovery and, therefore, I answered the

1 interrogatory to Mr. Chesnutt, I reserved for myself the right
2 to raise an issue in front of your court; that I agree that
3 fitness of protestants is not an issue, and without an
4 interrogatory, if a question was raised that a violation of
5 any rule, regulation was raised, I would object to it as
6 irrelevant and it's not germane to this proceeding.

7 It's been somewhat represented, not improperly, but
8 maybe misconstrued, that my answer to the interrogatory was,
9 in essence, in acquiescence that the issue of fitness of
10 protestants was accepted, and I had not determined that by
11 answering the interrogatory. I merely determined that I
12 should give free information under interrogatories in a
13 discovery proceeding, not in doing so accept a conclusion that
14 everything asked for was, in fact, relevant for evidence. So
15 now that we are getting into an evidentiary state I am raising
16 the issue that I believe that all the information that is
17 contained in this exhibit for identification, or any questions
18 thereon, is, in fact, inappropriate.

19 I have read the argument that in some way or other he
20 has to have in the record some sort of industry standard or
21 benchmark on which to be marked on a curve type basis for his
22 fitness to be resolved. In that regard, I do agree with such
23 an argument. I do not believe that we are grading the people
24 on a curve when an applicant comes before the PUC.

25 I think the benchmark is not what somebody else may be

1 doing who happens to be in the hearing, but the benchmark is
2 that the PUC knows what is happening through its regulatory
3 process of the system as a whole. That is the benchmark with
4 which to evaluate it, and not a benchmark of you had a flat
5 tire on Tuesday and you had a bad brake on Wednesday of the
6 individual participants in a proceeding before the
7 Pennsylvania Public Utility Commission.

8 That's why we have a regulatory agency, so that you
9 people gain the expertise and the industry know-how in which
10 to evaluate the applicant's fitness, not this type of cross
11 interrogatory or cross exhibit, or you were a bad boy on
12 Monday, I was a bad boy on Tuesday type of affair. That's not
13 what these hearings were intended for.

14 So I object to this as an evidentiary matter. I object
15 to it as not a proper way of going about this proceeding. I
16 think that this line of questioning and this exhibit is
17 irrelevant and improper in this proceeding, and by answering
18 the interrogatory I did not mean to waive any of those rights.
19 That was just an effort to help this gentleman receive
20 whatever information he wanted through a liberal discovery.

21 JUDGE SCHNIERLE: Mr. Chesnutt, do you wish to respond?

22 MR. CHESNUTT: Yes. I don't think I intended to
23 represent any position of Mr. Malin's, and by having this
24 document marked, I don't think I did represent any position of
25 Mr. Malin's, but that's all by-the-by.

1 The Judge, in his order responding to Matlack's
2 objections to interrogatories of a similar nature,
3 characterized an argument that I made as seeking to introduce
4 into this record an industry standard. With all due respect
5 to His Honor, that may have been the way he read my pleading.
6 I don't think I ever used the phrase industry standard. I
7 think I used the phrase industry experience.

8 This has to do with industry experience. This is one
9 segment of the industry. It's a segment of the industry
10 that's chosen to be present in this case by their own
11 volition. They're not here at the command of the Commission
12 to be here. They've chosen to be here.

13 And I think, clearly, the Judge's ruling with respect to
14 the Matlack situation on the issue of relevance, which I
15 believe is the only issue that Mr. Malin is arguing, although
16 I never heard him use the phrase, I believe that's what he's
17 arguing to you, that it is not a relevant document, and I do
18 clearly think it is a relevant document.

19 Last week we were treated to the unusual argument made
20 by counsel for Chemical Leaman that I was limited in anything
21 I did on cross examination by whatever applicant -- or
22 whatever protestant chooses to do on direct examination. And
23 I would call to His Honor's attention that -- if necessary, we
24 can have the reporter go back and read this, but there was
25 direct testimony here today about this protestant's actions

1 and expertise, and what have you, in cleaning up spills. That
2 testimony was offered and this is directly pertinent to the
3 testimony offered on direct examination, and it is obviously
4 relevant and acceptable evidence.

5 MR. MALIN: I would like to respond to one other matter.

6 JUDGE SCHNIERLE: You may.

7 MR. MALIN: Obviously, my objection is to relevance and
8 relevance of the standard. In other words, it is well
9 recognized that the applicant has a burden of proving he's
10 fit. Protestants do not have that burden. I think I've been
11 tainted by something that I shouldn't have been tainted by.

12 I did not bring in any interrogatory as it relates to
13 the applicant on any issue. I did not argue Matlack's
14 interrogatory. I did not argue Mr. Chesnutt's position. I
15 think part of the decision had to be if Matlack asks for
16 something, maybe it was appropriate for somebody also to ask
17 Matlack for the same thing.

18 Now, I did not fire a cannon and ask for anything. I
19 did not have any argument before you, Your Honor. I just was
20 a good boy and responded to the interrogatory, and now I don't
21 want to be a good boy anymore. I don't want to be tainted by
22 what has happened before, by what Chemical Leaman argued or
23 Matlack argued or what Mr. Chesnutt argued. I would like to
24 go back to the simple basics, that the applicant has the
25 burden of proving fitness. A protestant does not. To go into

1 this line of questioning is irrelevant, from a point of view
2 of my protestant Crossett, and I object.

3 JUDGE SCHNIERLE: All right. First of all, the fact
4 that -- in my view, the fact that you responded to the
5 interrogatory does not waive your right to raise relevance
6 when an attempt is made to introduce the evidence. However,
7 in my opinion, the evidence is relevant, and even if it's --
8 I'm ultimately -- I suppose I should mention that Matlack has
9 requested certification of the question from the Commission.
10 Assuming the question is certified, and I haven't made that
11 decision yet because I haven't received the briefs from the
12 parties, but even if it is and if that were overruled, my
13 decision, that is, were overruled, in my opinion, this would
14 be fair cross examination, since you brought up the issue of
15 their safety record and their -- the whole business about --

16 MR. MALIN: I did not.

17 JUDGE SCHNIERLE: -- their expertise in cleaning up
18 spills on direct examination. In my opinion, even if I were
19 overruled, this would be fair impeachment material at this
20 point on that point, so your objection is overruled.

21 MR. MALIN: All right.

22 JUDGE SCHNIERLE: You may proceed, Mr. Chesnutt.

23 MR. CHESNUTT: Thank you.

24 BY MR. CHESNUTT:

25 Q Are the -- is the information that you offered, Mr.

1 Wallin, in response to Interrogatory 17 and 18 as I have
2 reproduced it in Central Exhibit No. 29, true and correct to
3 the best of your knowledge, information and belief?

4 MR. MALIN: You're talking 17 and 18?

5 MR. CHESNUTT: Yes, sir.

6 THE WITNESS: It appears to be, yes.

7 MR. CHESNUTT: Thank you.

8 BY MR. CHESNUTT:

9 Q Mr. Wallin, you have furnished to me in response to
10 interrogatories information about your relationships with
11 owner-operators who drive the leased equipment which is
12 depicted on Crossett Exhibit No. 4. Have you not furnished me
13 a copy of the lease agreement, did you not?

14 A I do believe I recall that, yes.

15 Q Is it fair to say that the basic method of
16 compensating the owner-operators who both lease equipment to
17 you and drive that equipment, or arrange to have someone drive
18 it, is basically composed of two components, a percentage of
19 the revenue for the loads that are transported by those units,
20 plus a per tariff mile compensation?

21 A That's correct.

22 Q I don't want to delve into areas of confidential
23 concerns with your own company, but would it be fair to say
24 that on the revenues that are derived from transportation
25 performed by the leased units, that Crossett would pay out

1 somewhere between 60 and 80 percent of those revenues to the
2 owners of the equipment and/or drivers of the same?

3 MR. MALIN: I would object to the question. I don't
4 know whether it's relevant, the compensation to drivers and
5 owner-operators.

6 JUDGE SCHNIERLE: What's the relevance of that?

7 MR. CHESNUTT: The relevance of it is we've talked about
8 the potential of loss of revenues, which this man has been
9 talking about, and he related it to his bottom line profits in
10 the direct examination.

11 MR. MALIN: I don't --

12 MR. CHESNUTT: Please allow me to finish.

13 MR. MALIN: I'm sorry. I thought you were done.

14 MR. CHESNUTT: I just speak slowly. And it seems to me
15 that it certainly is relevant for His Honor and the Commission
16 to consider that if the transportation is performed by
17 owner-operators, that there is no overhead loss, there is no
18 fixed investment by this company, to the extent that
19 transportation is performed by owner-operators because simply,
20 if the owner-operator doesn't drive, the expense is not
21 incurred. The capital cost of the equipment is not a fixed,
22 in place cost.

23 If the revenues are decreased by a value comparable to
24 what the participation of owner-operators in the traffic
25 contributes to the company, it could conceivably have no

1 significant loss -- or no significant impact on profits at
2 all. And so I think it is relevant to know -- I'm not asking
3 him for specifics. I want to know the range. It's somewhere
4 between 60 and 80 percent, from my knowledge of the industry.
5 I'd simply want Mr. Wallin to hit it within that range. If
6 it's outside of that range, he can tell me that, too.

7 JUDGE SCHNIERLE: Mr. Malin.

8 MR. MALIN: Your Honor, the range is a specific. He
9 knows that two-thirds of their equipment is owned and one-
10 third is owner-operator. The specific details of remuneration
11 of an owner-operator and an independent contractor is not what
12 he needs for his argument. If he wants to make this argument,
13 he can make it orally, or he just stated it orally. The
14 information is still irrelevant to his argument. He doesn't
15 need it precisely to make his argument. I have no idea what
16 Bud Holder (phonetically) is paid. You can use this argument
17 for any type of program. This is too specific.

18 JUDGE SCHNIERLE: I think the question is legitimate.
19 The objection is overruled.

20 BY MR. CHESNUTT:

21 Q Do you remember the question, Mr. Wallin?

22 A Why don't you restate it.

23 Q In compensating owner-operators and persons leasing
24 equipment to your company, is it fair to say that the
25 compensation for each load that they transport lies somewhere

1 between 60 and 80 percent of the revenues derived from that
2 load?

3 A You're in the ballpark.

4 MR. CHESNUTT: Thank you. Those are all the questions I
5 have of the witness.

6 JUDGE SCHNIERLE: Do you have any redirect, Mr. Malin?

7 MR. MALIN: Just a couple.

8 REDIRECT EXAMINATION

9 BY MR. MALIN:

10 Q You were asked about Exhibit 6 and 7. Would your
11 personal knowledge of the revenues derived from McKean,
12 Venango and Warren Counties compare with these exhibits?

13 A Yes. They came out just about exactly what I would
14 have expected, and I'm involved in this on a day-to-day basis.

15 Q So you would know of your own personal knowledge that
16 approximately four and a half million dollars of revenue would
17 come from these counties in PUC on an annual basis, taking
18 into account all products?

19 A I wouldn't know the accurate, exact numbers, but like
20 I say, when I saw the numbers, there was no surprise to me.
21 As I mentioned, just about what I would have expected.

22 Q And the one million six, you talked about subtraction
23 and addition. Was this created by plugging in the commodities
24 that you specifically knew they were applying for, like
25 lubricating oil and these resins?

1 A Yes.

2 Q So it was really a build-up, rather than a
3 subtraction?

4 A Right.

5 Q That's how you got the million six?

6 A Yes.

7 Q Would that number also conform to your best -- to the
8 best of your personal recollection --

9 MR. CHESNUTT: Well --

10 BY MR. MALIN:

11 Q -- as to the type and amount of traffic that you
12 would have involved?

13 MR. CHESNUTT: I object to that. I think it's fair to
14 say that this gentleman would have a pretty good handle on
15 what was generated within a territory, but I doubt that he's
16 carrying around with him, as a matter of general business
17 knowledge, the precise division between commodities that lie
18 within and without the scope of the Central Transport
19 application. He probably never knew of that decision until he
20 began preparing for this case.

21 MR. MALIN: I don't know if that's an argument or an
22 objection.

23 JUDGE SCHNIERLE: I think that goes to the weight of the
24 answer, rather than the admissibility.

25 THE WITNESS: For what it's worth, yes, I would say that

1 1.7 million would be what I would expect.

2 BY MR. MALIN:

3 Q Now, you were asked two questions about some
4 competing applications. In that regard, has Crossett pretty
5 much consistently opposed any application for petroleum
6 product, as it pertains to McKean, Venango and Warren Counties
7 in the past?

8 A Yes, we have.

9 Q And has some applications withdrawn their request for
10 McKean, Venango and Warren Counties because of your protest?

11 A Several, yes.

12 Q You were asked about two applications in particular,
13 whether they were granted. One was PTI. Was that granted
14 solely for propane and butane?

15 A Yes.

16 Q Not petroleum products in general?

17 A Right.

18 Q You were asked about Erie Petroleum. Was that
19 granted as a contract carriage application for one shipper?

20 A Yes, it was.

21 Q Has Crossett, to the best of its ability, through the
22 regulatory process protested and attempted to maintain its
23 position in Warren, McKean and Venango Counties
24 indiscriminately as to who's applying? In other words, you
25 protest anybody if you think you're threatened?

1 A Oh, yes, yes. It doesn't matter whose name is on the
2 door. We are concerned about that territory.

3 MR. MALIN: Okay. I have nothing further.

4 JUDGE SCHNIERLE: Any recross, Mr. Chesnutt?

5 MR. CHESNUTT: Yes.

6 RE CROSS EXAMINATION

7 BY MR. CHESNUTT:

8 Q Who were the several protestants -- or several
9 applicants who amended their applications to protect the
10 interests that Crossett is serving?

11 A Probably Mr. Malin can remember them better than I
12 can. I've got a file on them, but I don't have the names.

13 Q When did it occur, Mr. Wallin?

14 A Over the years, since '81.

15 MR. CHESNUTT: Those are all the questions I have on
16 recross.

17 MR. MALIN: I have no further questions. I moved my
18 exhibits earlier, subject to cross examination.

19 JUDGE SCHNIERLE: Do you have any objections to the
20 admission of Crossett Exhibits 1 through 7?

21 MR. CHESNUTT: Yes. I object to Exhibit 6 and 7 because
22 I don't think they've been properly supported.

23 MR. MALIN: Your Honor, it's my opinion --

24 JUDGE SCHNIERLE: You don't object to 1 through 5, then?

25 MR. CHESNUTT: I do not.

1 JUDGE SCHNIERLE: All right. Crossett's Exhibits 1
2 through 5 are admitted. Mr. Malin, would you address yourself
3 to 6 and 7?

4 MR. MALIN: Yes. Your Honor, I think they were taken
5 from the records of Crossett which are put in the computer.
6 The individual was here who has a recollection of the business
7 of Crossett. They are put in to show in approximates the
8 amount involved. I think they're valid figures. I think
9 whatever objections Mr. Chesnutt's made to it could go to the
10 weight of them, not to its admissibility.

11 JUDGE SCHNIERLE: I agree. The objection is overruled.
12 Crossett 6 and 7 are admitted into evidence. Do you wish to
13 move the admission of --

14 MR. CHESNUTT: I offer Exhibits 28 and 29. I don't know
15 whether, really, 28 needs to be ruled on, but I'll offer it
16 anyway, and 29 we've already argued.

17 JUDGE SCHNIERLE: Do you have any objection to 28, Mr.
18 Malin?

19 MR. MALIN: Your Honor, I already indicated I have no
20 objection to 28. You've already ruled on 29, but just so the
21 record would be precise, I do object to 29. I will honor your
22 ruling, but I do take my respective exception. I think it's
23 dangerous for us to go into fitness of protestants. And I
24 might also state I am not embarrassed at all about Crossett's
25 record, as the information is shown. I'm just doing this as a

1 matter of principal.

2 JUDGE SCHNIERLE: I understand. Central Exhibits 28 and
3 29 are admitted into evidence. Do we have any further
4 business to transact today, gentlemen?

5 MR. CHESNUTT: I have none, Your Honor. I understand
6 that witnesses from Refiners Transport and Terminal will be
7 available at 10:00 o'clock tomorrow morning.

8 MR. MALIN: I have none, Your Honor, except the
9 understanding was once I got Mr. Wallin done, of course, I
10 would ask leave to be excused.

11 JUDGE SCHNIERLE: You're excused. Thank you, Mr.
12 Wallin.

13 MR. MALIN: Thank you, everybody.

14 JUDGE SCHNIERLE: Mr. Wick, do you want to get started
15 today?

16 MR. WICK: No, no. We're going to meet with Mr.
17 Chesnutt and review certain records, and we'll report here at
18 10:00 a.m.

19 JUDGE SCHNIERLE: Fine.

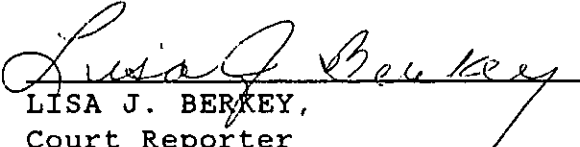
20 MR. CHESNUTT: Do you want to start any earlier
21 tomorrow?

22 MR. WICK: 9:30?

23 JUDGE SCHNIERLE: All right. This hearing is adjourned
24 until 9:30 tomorrow morning. Thank you.

25 (The hearing adjourned at 2:40 o'clock p.m.)

1 I hereby certify that the proceedings and evidence are
2 contained fully and accurately in the notes taken by me during
3 the hearing of the within cause, and that this is a true and
4 correct transcript of the same.

5
6
7
8 
9 LISA J. BERKEY,
Court Reporter

10
11 The foregoing certification does not apply to any
12 reproduction of the same by any means unless under the direct
13 control and/or supervision of the certifying reporter.

14 HOLBERT ASSOCIATES
15 LISA J. BERKEY
16 Suite 401, Kunkel Building
301 Market Street
Harrisburg, Pennsylvania 17101