

PUC-77

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheets

1. <u>REPORT DATE:</u>	January 29, 1990	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU:</u>	Transportation	:	MAR-90-T-246*
4. <u>SECTION</u>	Technical Review	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>		:	March 8, 1990
Director:	Ernst 7-2154	:	
Supervisor:	Bigelow/Marzolf 3-5945	:	
7. <u>MONITOR:</u>		:	
8. <u>PERSON IN CHARGE:</u>	Hoshour 7-5513	:	
9. <u>DOCKET NO.:</u>	A-00085095, F. 2, Am-A	:	
10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines)		:	
(b) Short summary of history & facts, documents & briefs		:	
(c) Recommendation		:	

(a) Application of Hoy Transfer, Inc., State College, Centre County, a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate as set forth in the order.

(b) The application was protested by 17 certificated common carriers. All protests were withdrawn when the applicant restrictively amended the application as set forth in the order. The applicant and seven supporting shippers have entered verified statements. The record indicates that the applicant has rendered illegal service in good faith. The evidence sets forth that the applicant has the expertise and equipment to provide the shipping public with the service supported herein. The statements of support indicate that there exists a public need for the service proposed by the amended application.

(c) The Bureau of Transportation recommends that the Commission adopt the proposed order approving the application, as amended.

WH:rb

11. MOTION BY:	Commissioner Chm. Shane	Commissioner Rhodes - Yes
SECONDED:	Commissioner Fischl	Commissioner Smith - Yes
		Commissioner Rolka - Yes

CONTENT OF MOTION: Staff recommendation adopted.

AUG 1990



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

March 16, 1990

IN REPLY PLEASE
REFER TO OUR FILE

A-85095
F. 2, Am-A

Herbert R. Nurick, Esquire
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Application of Hoy Transfer, Inc., a corporation of the Commonwealth
of Pennsylvania

To Whom It May Concern:

Enclosed is the compliance order issued by the Commission in
this proceeding.

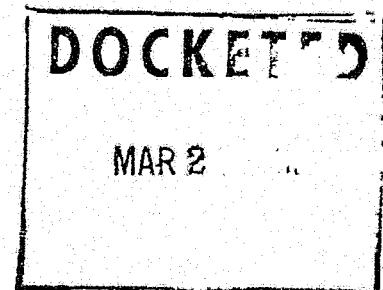
The applicant will not be permitted to operate or engage in
any transportation granted by the enclosed order until a tariff has been
prepared and filed in accordance with the enclosed instructions.

Motor carriers operating without complying with the above
requirement will be subject to the penalty provisions of the Public
Utility Code.

Commission regulations require compliance with the above
requirement within sixty (60) days of the date of this letter. Failure
to comply within the sixty (60) day period will cause the Commission to
rescind the action of March 8, 1990 and dismiss the application
without further proceedings.

Very truly yours,

Jerry Rich
Secretary



lg
Enclosure
Certified Mail
Receipt Requested
Tariff Contact Person: Joseph Machulsky (717) 787-5521
cc:applicant
Hoy Transfer, Inc.
1801 Atherton Avenue
State College, PA 16830

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

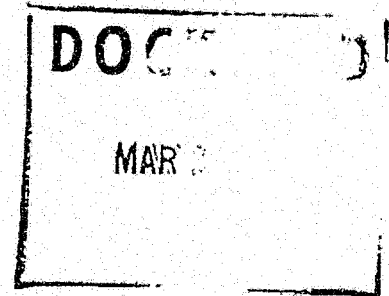
Public Meeting held March 8, 1990

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice-Chairman
Joseph Rhodes, Jr.
Frank Fischl
David W. Rolka

Application of Hoy Transfer, Inc., a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, household goods and office furniture in use from points in the borough of State College, Centre County, and within an airline distance of twelve (12) miles of the limits of said borough to points in Pennsylvania, and vice versa: SO AS TO PERMIT the transportation of household goods, personal effects and property used or to be used in a dwelling when a part of the furnishings, equipment or supplies of such dwelling as an incidental part of a removal by the householder from one domicile to another; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, when in connection with a removal from one location to another; articles, in use, including objects of art, displays and exhibits which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods; and tabulating machines, calculating machines, copying machines, computers, and other electronic equipment and business machines, and parts, materials and supplies when moving in connection therewith; between points in the counties of Blair, Centre, Clearfield, Clinton, Huntingdon, Juniata, Mifflin and Union, and from points in said counties to points in Pennsylvania, and vice versa.

A-00085095
F. 2
Am-A



McNees, Wallace & Nurick by Herbert R. Nurick for the applicant.
Robert R. Kennedy for the protestant, Kennedy Transfer.
Kriner, Koerber and Kirk by Dwight L. Koerber, Jr., for the
protestant, Krebs Moving & Storage, Inc.
Owlett & Lewis, P.C. by John D. Lewis for the protestant, Fiamingo
Moving & Storage, Inc.
John E. Fullerton for the protestant, Camp Curtin Transfer, Inc.,
Centre Carriers Corp., Independent Freightway, Inc., J. J. Brandt
Moving & Storage Co., Lindeman Moving Company, Movers World, Inc.,
Parks Moving & Storage, Inc., B & B Systems, Inc., Tosh Moving &
Storage, Inc., Parks Moving Systems, Inc. and A. Yeagle's
Moving & Storage Corp.
Vuono, Lavelle & Gray by William J. Lavelle for the protestants,
Lytle's Transfer & Storage, Inc. and Gearharts Moving &
Storage, Inc.
Louis J. Carter for the protestant, Industrial Transportation, Inc.

O R D E R

BY THE COMMISSION:

This matter comes before the Commission on an application filed July 27, 1987. Public notice of the application was given in the Pennsylvania Bulletin of August 29, 1987. Protests to the application were filed by 17 certificated common carriers. As a result of the filing of a revised restrictive amendment, dated September 7, 1989, all of the protests were withdrawn.

By the revised restrictive amendment, the applicant now seeks the right to provide transportation of the same commodities as originally sought, between points in the county of Centre, and from points in said county, to points in Pennsylvania, and vice versa; and for Avtex Fibers Lewistown, Inc., Lewistown Hospital, Geisinger Medical Group and the Central Pennsylvania Conference of the United Methodist Church, between points in the county of Mifflin, and from points in said county to points in Pennsylvania, and vice versa.

The now unprotested application is certified to the Commission for its decision. The record consists of 11 pages of testimony generated on August 17, 1989, before Administrative Law Judge Herbert Cohen; and verified statements submitted by the applicant and seven supporting shippers.

DISCUSSION AND FINDINGS

Hoy Transfer, Inc. (Hoy or applicant) sought to have its certificate of public convenience amended so that it would have been authorized to transport household goods, personal effects and property used or to be used in a dwelling when a part of the furnishings, equipment or supplies of such

dwelling as an incidental part of a removal by the householder from one domicile to another; furniture, fixtures, equipment and property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, when in connection with a removal from one location to another; articles, in use, including objects of art, displays and exhibits which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods (hereinafter referred to as "broad form household goods authority"). The applicant also sought the right to transport tabulating machines, calculating machines, copying machines, computers, and other electronic equipment and business machines, and parts, materials and supplies when moving in connection therewith (hereinafter referred to as "business machine authority"). Both rights proposed transportation between points in the counties of Blair, Centre, Clearfield, Clinton, Huntingdon, Juniata, Mifflin and Union, and from points in said counties to points in Pennsylvania, and vice versa.

In response to protests which were filed by 17 certificated common carriers, the applicant restrictively amended the application by limiting the territorial scope of the pending application. No modification was made to the commodity descriptions. Based on the revised restrictive amendment of September 7, 1989, the applicant now seeks to provide transportation between points in the county of Centre, and from points in said county to points in Pennsylvania, and vice versa; and for Avtex Fibers Lewistown, Inc., Lewistown Hospital, Geisinger Medical Group and the Central Pennsylvania Conference of the United Methodist Church, between points in the county of Mifflin, and from points in said county to points in Pennsylvania, and vice versa.

Hoy is a Pennsylvania corporation domiciled at 1801 North Atherton Street, State College, Centre County. Terminal facilities are located in Patton Township, Centre County, and are comprised of administrative offices, drivers' room and a warehouse. The office is equipped with a WATS line and with computers.

Transportation is being rendered with seven tractors, 13 trailers, five straight vans and one parcel van. All of the motor vehicles are maintained by a local garage. The applicant also has available all of the specialized accessorial equipment used to move household goods, such as furniture pads, dollies, winches, etc.

Service is being rendered by Hoy on behalf of the supporting shippers pursuant to its current limited intrastate authority and in interstate commerce as an agent for North American Van Lines, Inc. The applicant intends to continue to provide the same service it is currently providing its customers.

The instant application was filed by the applicant for several reasons. First, the applicant has received requests for service in the expanded territory. The "broad form household goods authority" was requested so as to eliminate any question as to what commodities the applicant is authorized to transport under its current "short form" household goods

authority. The application was also filed to eliminate any confusion as to whether or not a "household goods" carrier can perform work which is provided within the confines of land owned by the shipper.

The "business machine authority" portion of the instant application was filed in response to the Commission's decision in Pennsylvania Moving & Storage Association, Petition for Declaratory Order, Docket No. P-850090, in which it was determined that the transportation of business machines, new or used, was not authorized by household goods authority.

The applicant also finds that the limited territorial scope of its current authority to be impractical. The expanded territory proposed will permit the applicant to meet the transportation needs of the public.

Kenneth McCulloch, manager of industrial relations for Avtex Fibers Lewistown, Inc. (hereinafter Avtex), 1000 Elizabeth Street, Lewistown, states that Avtex's facilities are located in Granville Township, Mifflin County, at which it manufactures polyester yarn. Avtex is supporting the applicant for the right to transport household goods and related property and business machines and equipment.

The applicant would be used several times each year to transport household goods for employees of Avtex. When a new employee is hired, Avtex will provide for the relocation of their household goods to a point closer to the facilities of Avtex. The applicant will also be utilized to transport equipment and business machines within the area of application. The applicant has been used for interstate moves and has been requested to provide the service proposed by the amended application.

Tedd Heckathorn, vice president of materials management for Lewistown Hospital, states in support of the pending application that the Lewistown Hospital is located in Derry Township, Mifflin County. The applicant's proposed service would be used for the transportation of household goods in use for new and relocated employees. Frequency of need will vary from year to year, but the applicant should be used from two to four times each year.

The hospital's complex includes six blocks of property in Derry Township. The property consists of seven buildings on the hospital's campus and the applicant would be used to move departments from building to building. These movements would entail the transportation of furniture, fixtures, equipment, etc. used by the various departments. The applicant would also be relied upon for transportation from the hospital in Derry Township to various other municipalities. The hospital has relied upon the applicant for relocation of employees in interstate moves. Service by the applicant has met the hospital's needs.

Brenda J. Moore, clinic operations manager for the Geisinger Medical Group (Geisinger), sets forth in her verified statement that Geisinger is located in Derry Township, Mifflin County. Her duties include the arranging for the transportation of the household goods of employees of Geisinger.

The applicant's proposed service would be used for the transportation of household goods and personal effects of physicians and their families. Moving expenses of the new physicians are paid for by the medical center. Geisinger also has need for transportation of sub offices from one location to another. It is the intention of Geisinger to use the services of the applicant to transport various business machines when necessary.

Reverend Karen W. Atanasoff, moving coordinator of the State College District of The United Methodist Church, provides the following support for the applicant. The home office of the church is located at 900 Arlington, Harrisburg, Dauphin County. The church has a parish office in Stormstown, Centre County. It is the intention of the church to use the services of the applicant to transport household goods in use for ministers being relocated. The church expects to have need of the applicant's service in both Centre and Mifflin Counties. When a minister retires, the church is responsible for relocating the retired ministers to points located throughout Pennsylvania. The church is currently utilizing the applicant within its authorized territory. Service provided by the applicant has been satisfactory.

Fremont D. Winand, senior buyer for HRB Systems, Inc. (HRB), sets forth that HRB is located in Ferguson Township, Centre County. HRB is a computer system house which processes computers and designs software systems. The applicant is currently providing transportation for HRB within Hoy's currently authorized territory.

HRB would rely upon the applicant to transport household goods and personal effects of employees who are relocating to or from Centre County. HRB would also use the services of the applicant to transport displays and exhibits to various points in Pennsylvania and vice versa.

A major transportation requirement of HRB is for the transportation of computers and electronic equipment. These shipments would move from Centre County to any point in Pennsylvania where a contract may have been signed. HRB therefore has a need for the applicant to provide service to any point in Pennsylvania, and vice versa.

Barry K. Houtz, director of purchasing for Locus, Inc. (Locus), provides the following information in his verified statement in support of the application. Locus is a manufacturer of electronic equipment and simulation systems at facilities located in the village of Boalsburg, Harris Township, Centre County. It is the intention of Locus to use the applicant to transport various computers and electronic equipment from its facilities to points in Pennsylvania, and vice versa. It will also rely upon the applicant for the transportation of household goods in use, for those employees which live beyond Centre County and are relocating to Centre County, and vice versa.

Shipments of electronic equipment, and parts, materials and supplies used in connection with the electronic equipment, are shipped to points throughout Pennsylvania. It would also rely upon the applicant for shipments moving to the facilities in Boalsburg. Because of the delicate nature of the electronic equipment to be transported, air-ride-equipped

trailers are very important. Service as provided by the applicant pursuant to existing authority has met the needs of Locus.

John H. Auman, manager of services for Chemcut Corporation (Chemcut), states in support of the pending application that Chemcut is located in Ferguson Township, Centre County, at which it produces chemical etching and plating equipment. The proposed services of the applicant would be utilized to transport household goods and personal effects of newly hired employees. Chemcut selects and pays for the transportation.

In addition to household goods in use, Chemcut would also rely upon the applicant to transport such items as displays and exhibits. Shipments would also be comprised of electronic equipment such as computer control electronic equipment and various other electronic items. Shipments would move from the facilities of Chemcut in Centre County to all points in Pennsylvania, and vice versa.

Hoy, a long established transporter of household goods in use has submitted sufficient evidence to demonstrate that the applicant possesses the experience and equipment to provide transportation in the expanded territory. The supporting statements are adequate to illustrate that there is a public need for the transportation proposed by the amended application.

We think that it is appropriate to comment on a statement contained in the applicant's verified statement. Richard W. Hoy, in describing the reasons for the instant application, stated, "We have also believed that no authority was required from the Commission to perform service when the work is all within the confines of the land owned by the shipper. For example, we have performed service for Lewistown Hospital on this basis". The service provided for Lewistown Hospital was further defined by the statement of Tedd Heckathorn, which was filed in support of the pending application. Mr. Heckathorn stated, "The Hospital complex consists of approximately six blocks of property in Derry Township. There are seven different buildings on our campus and departments move from building to building at various times. This requires transportation of furniture, fixtures, equipment, etc. utilized by the department from one building to another. We understand that applicant can already perform this service since it is on our private property".

It has been the established policy of this Commission to require that the carrier hold authority from this Commission, even when transportation is rendered totally on private property, as hereinbefore described by the applicant's witness and the witness for Lewistown Hospital. In providing the service described, the applicant rendered transportation by motor vehicles for the Lewistown Hospital, and would have therefore rendered "service" as defined at 66 Pa. C.S. §102. It has also been the position of this Commission that the movement of goods from one floor to another within the same building, does not require that the carrier hold authority to provide the service.

After due consideration of the record, we find that the applicant has rendered transportation without the necessary authority. The illegal transportation rendered by the applicant was rendered under the misconception that it held authority to render the transportation, or that the service

transportation rendered by the applicant was rendered under the misconception that it held authority to render the transportation, or that the service rendered did not require authority from this Commission. We are of the belief that although illegal service was provided by the applicant, that said service was rendered in good faith.

We find:

1. That the applicant has rendered illegal service, in good faith.
2. That the applicant is fit, willing and able to provide the proposed transportation, as amended.
3. That the applicant has demonstrated that there exists a public need for the transportation proposed by the amended application.
4. That approval of the application, as amended, is necessary for the accommodation and convenience of the public; THEREFORE,

IT IS ORDERED: That the application, as amended, be and is hereby approved, and that the certificate issued to the applicant on May 13, 1958, be amended to include the following rights:

- (1) To transport, as a Class D carrier, household goods, personal effects and property used or to be used in a dwelling when a part of the furnishings, equipment or supplies of such dwelling as an incidental part of a removal by the householder from one domicile to another; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, when in connection with a removal from one location to another; articles, in use, including objects of art, displays and exhibits which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods; and tabulating machines, calculating machines, copying machines, computers, and other electronic equipment and business machines, which because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods, and parts, materials and supplies used in connection therewith, between points in the county of Centre, and from points in said county to points in points in Pennsylvania, and vice versa;
- (2) To transport, as a Class D carrier, household goods, personal effects and property used or to be used in a dwelling when a part of the furnishings, equipment or supplies of such dwelling as an incidental part

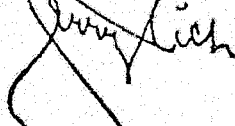
of a removal by the householder from one domicile to another; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, when in connection with a removal from one location to another; articles, in use, including objects of art, displays and exhibits which, because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods; and tabulating machines, calculating machines, copying machines, computers, and other electronic equipment and business machines, which because of their unusual nature or value, require specialized handling and equipment usually employed in moving household goods, and parts, materials and supplies used in connection therewith, for Avtex Fibers Lewistown, Inc., Lewistown Hospital, Geisinger Medical Group and the Central Pennsylvania Conference of the United Methodist Church, between points in the county of Mifflin, and from points in said county, to points in Pennsylvania, and vice versa.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Public Utility Code and the rules and regulations of this Commission relative to the filing and acceptance of a tariff establishing just and reasonable rates.

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

IT IS FURTHER ORDERED: That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the carrier, shall not be construed as conferring more than one operating right.

BY THE COMMISSION,



Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: March 8, 1990

ORDER ENTERED: MAR 16 1990