

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Following)	
Applications for Contract Motor)	
Carrier Permit Authority.)	
)	
Lewis Transport, Inc.	)	Case No. 93-1734-TR-ACO
Page Transportation, Inc.	)	Case No. 93-1820-TR-ACO
D B Trucking, Inc.	)	Case No. 93-2032-TR-ACO
Ohio Warehousing Transfer Company	)	Case No. 94-89-TR-ACO
Thomas Dipman dba TWD Trucking	)	Case No. 94-279-TR-ACO
Go Express, Inc.	)	Case No. 94-430-TR-ACO
Usher Transport, Inc.	)	Case No. 93-1529-TR-AAP
Sharkey Transportation, Inc.	)	Case No. 93-1965-TR-AAP
Steel Transport, Inc.	)	Case No. 94-54-TR-AAP
Rebman Truck Service, Inc.	)	Case No. 94-342-TR-AAP
Ryder Dedicated Logistics, Inc.	)	Case No. 94-420-TR-AAP
Clary Trucking, Inc.	)	Case No. 94-421-TR-AAP
Sidney Truck & Storage, Inc.	)	Case No. 94-454-TR-AAP
Hyway Trucking Company	)	Case No. 94-458-TR-AAP
B & R Services	)	Case No. 94-481-TR-AAP
Precision Strip Transport, Inc.	)	Case No. 94-575-TR-AAP
Delivery Connection, Inc.	)	Case No. 94-701-TR-AAP

OPINION AND ORDER

The Commission, considering the applications filed by the above motor carriers, the verified statements or the transcript of the hearing filed, and being otherwise fully advised, hereby issues its opinion and order. All protests previously filed in these proceedings have been withdrawn and the cases are submitted for consideration on an uncontested basis.

NATURE OF THE PROCEEDINGS:

These matters are before the Commission on the applications of the above motor carriers for contract motor carrier permits. These cases are unprotested and are submitted for processing under the Commission's modified procedure, pursuant to Rule 4901-5-02(D), Ohio Administrative Code (O.A.C.). The service and commodity description for the requested authority in each case reads as set forth in the applicable attachment to this order.

DISCUSSION:

Pursuant to Sections 4923.04 and 4923.05, Revised Code, and Rules 4901-5-02 and 4901-5-05, O.A.C., applicants filed their applications on the forms furnished by the Commission with the appropriate contracts, affidavits, and other exhibits attached. Pursuant to Section 4923.06, Revised Code, and Rule 4901-5-04, O.A.C., notice of the filing of these applications was published once a week for three consecutive weeks prior to the hearing in a newspaper of general circulation published in the county in which the applicant's principal place of business is located or in a newspaper published in the county seat of Franklin County, Ohio, where the applicant has no principal place of business in this state. Inasmuch as the applicants have filed and published notice of their applications in accordance with the provisions of the these statutes and rules, the Commission has jurisdiction to consider the issues discussed herein.

The standards governing applications for new or amended permits are substantially the same. In determining whether a contract motor carrier permit should be issued to an applicant, the Commission must consider several criteria which have been prescribed by the statutes and the courts. Section 4923.07, Revised Code, requires the Commission to grant a permit if:

- 1) The applicant has complied with the law and rules and regulations of the commission governing contract motor carriers;
- 2) The operations proposed by the applicant come within the definition of a contract motor carrier;
- 3) The applicant is a proper party; and
- 4) The granting of a permit will be consistent with the declared policy and purpose of the regulation of transportation by common and contract carriers by motor vehicles.

The policy of the state of Ohio with respect to regulation of transportation is outlined in Section 4921.03, Revised Code. Briefly stated, this policy requires the Commission to:

- 1) Regulate transportation by common and contract carriers by motor vehicle in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in,

such transportation and among such carriers in the public interest;

- 2) Promote adequate, economical, and efficient service by such motor carriers, and reasonable charges therefor, without unjust discrimination, undue preferences or advantages, and unfair or destructive competitive practices;
- 3) Improve the relations between, and coordinate transportation by and regulation of, such motor carriers and other carriers;
- 4) Develop and preserve a highway transportation system properly adapted to the needs of commerce and the state.

In addition to these statutory considerations, it is also incumbent upon an applicant in such proceedings to show that there is a demand for the proposed service which is not currently being fulfilled by existing motor carriers. Jones v. Pub. Util. Comm., 141 Ohio St. 237 (1943).

After consideration of the evidence relevant to these applications, the Commission is of the opinion that the granting of these applications is consistent with the declared policy and purpose of the regulation of transportation by common and contract carrier by motor vehicle. Applicants have complied with the statutory and judicial standards governing this type of application. Applicants currently operate equipment which is adequate and appropriate to serve the needs of the shippers and applicants are able to obtain such additional equipment as may be required. The needs of the shippers require the dedicated service of a contract motor carrier and there is no indication on the record that existing carriers will be able to serve these needs adequately. The terms of the contracts of carriage are reasonable and acceptable to all parties, and the applicants have adequate financial resources to maintain the proposed service. It is, therefore, the finding of this Commission that the applications should be granted.

FINDINGS OF FACT:

- 1) The verified applications were filed with the Commission on the forms provided by the Commission and with the appropriate exhibits, contracts, and affidavits attached thereto.

- 2) Publication of each application was made in a newspaper of general circulation published at the county seat of the county wherein applicant's principal place of business is located, or in the county seat of Franklin County, Ohio where the applicant has no principal place of business in this state, once a week for three consecutive weeks prior to the hearing date.
- 3) Applicants possess sufficient equipment, experience, ability, financial stability, and knowledge of the rules and regulations governing motor carrier operations to receive the authority proposed in the present applications. The equipment of each applicant is maintained in good operating condition.
- 4) The proposed contracts of carriage contain reasonable minimums and durations.
- 5) The supporting shippers have a need for the service to be performed by these carriers due to the nature of the specialized commodities being shipped.
- 6) The shippers have a need for the dedicated service of a contract motor carrier and a need for the equipment that these particular carriers can provide.
- 7) There is no evidence of record as to any existing common carrier who is ready and prepared to meet adequately and satisfactorily all the needs of these shippers.
- 8) The service proposed by the applicants will satisfy the shippers' needs.
- 9) Each applicant is currently not under citation, suspension, or investigation by this Commission, any other state transportation commission, or the Interstate Commerce Commission. Applicant(s) is knowledgeable of the Commission's rules and regulations and will abide by all applicable rules, regulations and laws if this authority is granted.

- 10) Each shipper supports the application of its respective carrier and will make use of the carrier if this authority is granted.

CONCLUSIONS OF LAW:

- 1) The Commission has jurisdiction to hear and determine the issues in these proceedings.
- 2) Applicants are proper parties to whom contract motor carrier permits may be issued or to whom to grant amended permits.
- 3) Applicants have complied with the laws and rules and regulations of the Commission governing contract motor carriers.
- 4) The operations proposed by the applicants come within the definition of a contract motor carrier.
- 5) The granting of these applications is consistent with the declared policy and purpose of the regulation of transportation by common and contract carrier by motor vehicle.

ORDER:

It is, therefore,

ORDERED, That the applications for new contract authority be granted and that upon filing of evidence of insurance and payment of taxes, the permit numbers indicated be issued to the carriers listed in the attachments to this order. It is, further,

ORDERED, That the applications for amended authority be granted and that the permits to be amended listed in the attachment to this order be reissued to the motor carriers indicated, providing for the additional service set forth in the attachments to this order. It is, further,

ORDERED, That all compliances set forth in this order be performed within 60 days of the date of this order, or the applications shall be subject to dismissal. It is, further,

ORDERED, That copies of this opinion and order and the applicable attachment be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Craig A. Glazer, Chairman

J. Michael Biddison
J. Michael Biddison

Golynn Barry Butler

Richard M. Fanelly

David W. Johnson

/vrp

Entered in the Journal

JUL 14 1901

A True Copy

Gary E. Vigorito
Gary E. Vigorito
Secretary

Case No. 94-430-TR-ACO
Go Express, Inc.

Application filed: March 9, 1994
Verified statements filed: June 22, 1994
Publication: April 15, 1994

APPEARANCES:

Gamble, Hartshorn & Alden, by Mr. John L. Alden, One East Livingston Avenue, Columbus, Ohio 43215, on behalf of Go Express, Inc., applicant.

Upon full compliance with the requirements set forth in this order, Permit No. 94769 shall be issued to Go Express, Inc., providing for the following service:

SHIPPER:

Ontario Store Fixtures, Inc., its divisions
and wholly-owned subsidiaries
Hilliard, Ohio

AUTHORITY:

Transportation of property, except commodities
in bulk, from and to points in Ohio.

KKS/pdc