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SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 741134

A. W. HALL TRANSFER AND STORAGE COMPANY, ET AL.,
Appellants,

v.

TRIANGLE TRANSFER AND STORAGE CO., INC.,
Appellee.

JOINT APPENDIX

RICHARD M. PRICE
1108 East Main Street
Richmond, Virginia 23219
Counsel for Appellants

MICHAEL MCH. COLLINS
239 West Main Street
Covington, Virginia 24426
Counsel for Appellees

HAMILL D. JONES, JR.
State Corporation Commission
Richmond, Virginia 23209
Counsel for State Corporation Commission

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Case No. H-
April 16, 1974

Form MC-20

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

Application for a Certificate of Convenience and necessity under Chapter 532, Acts of General Assembly of 1948, as a Household Goods Carrier.

MAR 4 1974 COUNCIL

To the State Corporation Commission,
Richmond, Va.

Application of Triangle Transfer and Storage Co., Inc.
(If individual, give full name—First Middle Last)

for a certificate of convenience and necessity as a Household Goods Carrier

Business address (street and number) P. O. Box 919, 1209 W. Jackson Street

City, or Town, and County Covington (City or Town) Alleghany (County)

Applicant is corporation (Individual, partnership, or corporation) doing business under the

trade name of Triangle Transfer and Storage Co., Inc.

If corporation or partnership, give names and addresses of officers of corporation, or all partners. If corporation give name of State under laws of which it is incorporated; and if partnership attach true and exact copy of partnership agreement under which the business is or will be conducted, marked Exhibit X.

Ronald E. Brown; President; RFD #2, Covington, Virginia

Lana H. Kemper; Vice President; 225 S. Royal Avenue, Covington, Virginia

Lewis D. Kemper; Secretary-Treasurer; 225 S. Royal Avenue, Covington, Virginia

This Corporation is a Virginia Corporation, chartered August 13, 1973.

Applicant asserts that the granting of certificate applied for should be granted for the following reasons:

At the present time, there are only two movers in the Covington-Clifton Forge-Alleghany County area. One is located in Clifton Forge and the other, in Covington. This is less than one-half the number of movers who held certificates in this area ten to fifteen years ago. There are two large industries in the Covington area who require the use of movers extensively to transfer employees and their families to and from the local plants. These industries are Westvaco Corporation and Hercules, Incorporated. Each has numerous plants and do extensive shuttling of personnel. The personnel and traffic departments at each of these plants indicate that they receive poor service or frequent cancellations in trying to arrange for movement of their personnel. In addition, there is an average amount of movement to and from this area which is likewise hampered by this situation. At this point in time, the transfer company located in Covington is effectively without competition which has created an unhealthy atmosphere. Triangle Transfer and Storage Co., Inc., through extensive investigation and contacts with numerous people and discussions with several national moving lines, is convinced that the granting of an additional certificate of convenience and necessity will alleviate the present problems and will provide better working conditions for all movers in the area by bringing the workload to within tolerable limits.

Additional pertinent information may be attached to application.

(over)

Applicant attaches, in duplicate, marked Exhibit A, the number of vehicles proposed to be operated, with a statement for each vehicle containing the following description:

Kind—Make—Motor Number—Maker's Number—Type—Rated Capacity—Length—Width—Height—Number of Seats; and statement of the State Highway Commission that the law applicable as to the proposed route or routes has been complied with as to size, weight and type of vehicles to be used.

Applicant attaches, marked Exhibit B, complete statement of financial condition and ability to operate as a Household Goods Carrier if certificate is granted.

Applicant attaches marked Exhibit C, tariff of rates proposed to be applied if application is granted.

Applicant agrees to furnish the service proposed within thirty days after the granting of the certificate under this application, unless permission is obtained from the Commission to postpone the beginning of operation.

Applicant agrees to comply with the provisions of Chapter 532, Acts of General Assembly, 1948, and with all applicable rules and regulations prescribed by the Commission in accordance therewith.

(Signed) Triangle Transfer Inc.

By Ronald E. Brown Title President

Dated at Covington, Virginia this 27th day of February 19 74.

STATE OF VIRGINIA,

County of Alleghany ss.

Personally appeared before me, Brenda S. Lemons, a Notary Public in and for the State and County aforesaid Ronald E. Brown

who, being duly sworn, deposes and says that he is* President of Triangle Transfer and Storage Co., In applicant in the above proceeding; that he has read the foregoing application and knows the contents thereof, and that the statements made therein are true to the best of his knowledge and belief.

My commission expires on the 18th day of May, 19 74.

Given under my hand this, the 27th day of February, 19 74

Commissioned as: Brenda S. Saylor

Brenda S. Lemons

Notary Public.

*If applicant is a corporation, insert "president of the" or "secretary of the." If a firm or partnership, insert "one of the."

EXIBIT A.

Number of Vehicles proposed to be operated: Two

(1) 1970 GMC Tilt Cab 5500 Series

Title Number: 19363263
Identification Number: TE50VZ125984
Capacity: 25,000 lbs.
Overall Length: 30 Ft.
Van Length: 24 Ft.
Width: 7 Ft.
Heighth: 12 Ft.
Number of Seats: 1 straight seat accomodating 2 people

(2) 1970 Ford F-600

Title Number: 19352057
Identification Number: F610CJ45066
Motor Number: 25795
Capacity: 25,000 lbs.
Overall Length: 30 Ft.
Van Length: 22 Ft.
Heighth: 11 Ft.
Width: 7 Ft.
Number of Seats: 1 straight seat accomodating 2 people

EXHIBIT B

FINANCIAL STATEMENT
of
Triangle Transfer & Storage Co., Inc.

ASSETS:	
Cash on hand and in Banks	$ 1,200.00
Office Equipment	300.00
Equipment:	
1970 GMC 5500 Tilt Cab, 24 Ft. Van Body	8,000.00
1970 Ford F-600, 22 Ft. Van Body	7,000.00
1970 Ford F-100 Pick Up Truck	2,000.00
1967 Ford F-250 Pick Up Truck and Cover	1,750.00
1968 International 2 Ton Truck	2,000.00
TOTAL EQUIPMENT:	20,750.00
TOTAL ASSETS:	22,250.00
LIABILITIES:	
Notes payable to Banks	$ 8,400.00
TOTAL LIABILITIES:	$ 8,400.00
NET WORTH:	$13,850.00

The undersigned certifies that the above information is true and correct.

Ronald E. Brown — President — Date Signed December 26, 1973

Lewis D. Kemper — Sec.-Treas. — Date Signed December 26, 1973

FINANCIAL STATEMENT
of
Lewis D. Kemper
225 S. Royal Avenue
Covington, Virginia 24426

ASSETS

Cash on hand and in Banks	$ 1,400.00
100 shares of Piedmont Aviation Stock	700.00
750 shares of Triangle Transfer & Storage Co., Inc.	7,083.00
1 unit of First Commonwealth Life Insurance Co. stock	500.00
Real Estate	21,000.00
Personal Property	5,000.00
Coin Collection	300.00
TOTAL ASSETS	$35,983.00

LIABILITIES

Notes payable to Banks	$ 2,325.00
Real Estate Mortgage	18,602.00
TOTAL LIABILITIES	$20,927.00
NET WORTH	$15,056.00

Total Life Insurance: $50,000.00

The undersigned certifies that the above information is true and correct.

Lewis D. Kemper

Date Signed December 26, 1973

FINANCIAL STATEMENT
of
Ronald E. Brown
R. F. D. 2, Valley Ridge
Covington, Virginia 24426

ASSETS

Cash on hand and in Banks	$ 1,700.00
U. S. Government Bonds	440.00
136 shares of Clifton Forge-Waynesboro Telephone Co. Stock	5,168.00
750 shares of Triangle Transfer & Storage Co., Inc. Stock	7,083.00
Real Estate	26,500.00
Personal Property	7,000.00
TOTAL ASSETS	$47,891.00

LIABILITIES

Notes payable to banks	$ 7,335.00
Real Estate Mortgage	19,123.00
TOTAL LIABILITIES	$26,458.00
NET WORTH	$21,433.00

Total Life Insurance: $43,000.00

The undersigned certifies that the above information is true and correct.

Ronald E. Brown
Ronald E. Brown

Date Signed Dec. 26, 1973
December 26, 1973

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NET WORTH	$15,056.00

Total Life Insurance: $50,000.00

The undersigned certifies that the above information is true and correct.

Lewis D. Kemper

Date Signed December 26, 1973
December 26, 1973

EXHIBIT C

TARIFF OF RATES PROPOSED TO BE APPLIED

Triangle Transfer and Storage Co., Inc., proposes to adopt the Virginia Movers and Warehousemen's Association Tariff Number 10 if the application for convenience and necessity is granted.

EXHIBIT C

TARIFF OF RATES PROPOSED TO BE APPLIED

Triangle Transfer and Storage Co., Inc., proposes to adopt the Virginia Movers and Warehousemen's Association Tariff Number 10 if the application for convenience and necessity is granted.

ORDER OF

VIRGINIA STATE CORPORATION COMMISSION

Filed March 7, 1974

Application having been made to the State Corporation Commission by Triangle Transfer and Storage Co., Inc. for a certificate of public convenience and necessity as a household goods carrier for the operation of motor vehicles between points in Virginia, and

It appearing to the Commission that the application should come before the Commission for a hearing;

IT IS ORDERED that the application be, and it is hereby, docketed for hearing before the State Corporation Commission in its courtroom, Blanton Building, Bank and Governor Streets, in the City of Richmond at 10 A.M., April 16, 1974.

IT IS FURTHER ORDERED that the applicant give notice of the application and of the time and place of hearing thereof by registered or certified mail, return receipt requested, using Form MC-22, on the following parties at least twenty (20) days prior to the date of the hearing:

Carroll B. Jackson
Va. Movers & Warehousemen's
Asso., Box 8634
Richmond, Virginia

Mr. J. P. Mills, Jr.
State Traffic and Safety
Engineer.,
Dept. of Highways
1221 E. Broad Street
Richmond, Virginia 23219

Mayor
Covington, Virginia

Covington Transfer and
Storage Co., Inc.
520 W. Main Street
Covington, Virginia

W. H., W. B., and J. L. Hall
t/a Hall Transfer and Storage
Company, Route 4
Lexington, Virginia

Chairman
Board of Supervisors
Allegheny County

W. H. Hall, d/b/a
Arthur B. Hall Transfer Co.
510 Church Street
Clifton Forge, Virginia

IT IS FURTHER ORDERED that the following notice be published in a newspaper having general circulation in Covington, Virginia, at least ten days before the hearing date:

> NOTICE is hereby given of an open hearing before the State Corporation Commission in Richmond, Virginia, on April 16, 1974, 10 A.M., to consider the application of Triangle Transfer and Storage Co., Inc. for a certificate of public convenience and necessity as a household goods carrier.

Form MC-22

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

Case No. HF-86

NOTICE
(MUST BE MADE BY PROPER SERVICE)

To W. H. Hall d/b/a
Arthur B. Hall Transfer Co.
510 Church Street

Clifton Forge, Virginia 24422

TAKE NOTICE THAT THE UNDERSIGNED

has made application to the State Corporation Commission for a Certificate of Convenience and Necessity as a Household Goods Carrier by motor vehicle and expects to conduct operations generally in the following territory:

From all ~~Between~~ points in Virginia to Alleghany, Bath, Augusta, Rockbridge and Botetourt Counties and from Alleghany, Bath Augusta, Rockbridge and Botetourt Counties to all points in Virginia.

and the Commission having set the application for hearing at its courtroom, Blanton Building, Bank and Governor Streets, Richmond, Virginia (Place)
April 16, 1974 (Month) (Day) (Year) 10 A. M. (Hour)

you are hereby notified to appear before the Commissioner at said time and place and protect any interest you may have, or make any relevant statements thereto.

Michael McH. Collins

angle Transfer and Storage Co., Inc By Michael McH. Collins

Title Counsel for Applicant

Dated at Covington, Virginia this 27th day of March 1974

FINAL ORDER OF THE
VIRGINIA STATE CORPORATION COMMISSION

Filed August 5, 1974

On April 16, 1974, came on for hearing the application of Triangle Transfer and Storage Co., Inc., for a certificate of public convenience and necessity as a household goods carrier by motor vehicle, Commissioners Shannon, Harwood and Bradshaw sitting.

William T. Wilson and Michael McH. Collins appeared as counsel for the applicant. Richard M. Price appeared as counsel for Covington Transfer and Storage Co., Inc., and A. W. Hall Transfer and Storage, interveners. Weldon Lawrence, Jr. appeared as an individual intervener. Michael L. Rigsby appeared as counsel for the Commission.

From the evidence and exhibits presented, Commissioners Harwood and Bradshaw are of the opinion that the application should be granted in part, subject to the proviso that either the President or the Secretary-Treasurer of the corporation become a full-time, permanent employee thereof within one hundred twenty days of the date of this order. Commissioner Shannon is of the opinion that the applicant failed to prove public convenience and necessity and that the application should be denied. Accordingly,

IT IS ORDERED, that a certificate of public convenience and necessity be issued to Triangle Transfer and Storage Co., Inc. authorizing the transportation of household goods by motor vehicle between the Cities of Covington and Clifton Forge and the Counties

of Allegheny, Bath, and Botetourt, Virginia, on the one hand, and all points in Virginia, on the other hand, upon the filing of a certificate of insurance and a tariff of rates as required by Title 56, Chapter 12.1 of the Code of Virginia, as amended.

IT IS FURTHER ORDERED, that the authority granted herein be cancelled at the end of one hundred twenty days of the date of this Order, unless within such time either the President or the Secretary-Treasurer of the corporation become a full-time, permanent employee thereof.

IT IS FURTHER ORDERED, that an attested copy of this Order be mailed to all parties of record.

NOTICE OF APPEAL

Filed August 30, 1974

A. W. Hall Transfer and Storage Company, Covington Transfer & Storage Co., and Weldon Lawrence, Jr., intervenors in the above proceeding, hereby give notice of their appeal from the Order of the State Corporation Commission of Virginia dated August 5, 1974, and entered in the above-entitled case.

ASSIGNMENTS OF ERROR

Filed August 30, 1974

The Order entered in the above case was contrary to the law and evidence in that:

1. Said Order granted the applicant, Triangle Transfer and Storage Co., Inc., a certificate of public convenience and necessity for territory in excess of the territory requested by applicant and set forth in its notice pursuant to Section 56-338.10 of the Code of Virginia and the Rules and Regulations of the Commission. Applicant applied for such certificate only "from all points in Virginia to Allegheny, Bath, Augusta, Rockbridge and Botetourt Counties and from Allegheny, Bath, Augusta, Rockbridge and Botetourt Counties to all points in Virginia," and the Commission's Order, while eliminating applicant's request for Augusta and Rockbridge Counties, added the independent cities of Covington and Clifton Forge.

2. The evidence does not support the finding that the public convenience would be served.

3. The evidence does not support the finding that there was public necessity.

4. The Order is not based on any substantial evidence in the record.

5. The Order is contrary to the provision of Section 56.338.11 of the Code of Virginia, as amended.

Dated: August 30, 1974

A. W. HALL TRANSFER AND STORAGE COMPANY
COVINGTON TRANSFER & STORAGE CO.
WELDON LAWRENCE, JR.

By_____
Richard M. Price, their counsel

Application of Triangle Transfer and Storage Co., Inc. for a certificate of public convenience and necessity as a household goods carrier.

Case No. HF-86

Opinion, Bradshaw and Harwood, Commissioners

November 8, 1974

Triangle Transfer and Storage Co., Inc. made application for a certificate of public convenience and necessity as a household goods carrier by motor vehicle to provide service between all points in Virginia.

The Commission set the application for hearing, requiring notice to the Mayor of the City of Covington, the Chairman of the Board of Supervisors of Alleghany County, the certificated household goods carriers in the general geographical vicinity of the applicant's place of business (Covington), and to an official of the Virginia Movers and Warehousemen's Association. The applicant also published notice of the hearing in a newspaper of general circulation in Covington.

On April 16, 1974 the application was heard. William T. Wilson and Michael McH. Collins appeared as counsel for the applicant. Richard M. Price appeared as counsel for Covington Transfer and Storage Company, Inc. and W. H. Hall, d/b/a A. W. Hall Transfer and Storage, interveners. Weldon T. Lawrence, Jr. appeared as an individual intervener. Michael L. Rigsby, Commerce Counsel, appeared as counsel to the Commission.

August 5, 1974 the Commission granted the application in part. Authority for the transportation of household goods by motor vehicle

was granted as follows: to all points in Virginia from the Cities of Covington and Clifton Forge and the Counties of Alleghany, Bath and Botetourt; and from all points in Virginia to the aforesaid cities and counties. The Commission granted the authority subject to the condition that either the president or secretary-treasurer of the applicant become a full-time employee thereof within one hundred twenty days after granting the authority.

Chairman Shannon dissented, being of the opinion that the applicant failed to prove public convenience and necessity.

The original application sought authority to provide household goods service between "all points" in Virginia. Upon docketing the application, Commerce Counsel prepared notice Form MC-22 to show that the application was for "all points" authority.

The Commission's Order of March 7, 1974 specifically identified all of the parties to whom the applicant was to send the notice Forms MC-22. The parties were so identified in accordance with the Commission's long-standing Rules and Regulations Governing the Supervision, Control and Operation of Household Goods Carriers by Motor Vehicle.

The applicant, prior to mailing the Forms MC-22, amended the forms to limit the geographical area. The amended notice Forms MC-22, as mailed by the applicant, read: "From all points in Virginia to Alleghany, Bath, Augusta, Rockbridge and Botetourt Counties and from Alleghany, Bath, Augusta, Rockbridge and Botetourt Counties to all points in Virginia."

The Commission is of the opinion, in view of its past administrative practices; its rules and regulations; and Sections 56-338.8 and 56-338.11

of the Code of Virginia that the Commission has jurisdiction to grant authority to the extent stated in the notice Forms MC-22. The Commission is also of the opinion that any city completely surrounded by any of the five counties identified in the notice Forms MC-22 would be within the Commission's jurisdiction to grant operating authority.

Had the notice Forms MC-22 not been amended by the applicant and had they been sent to indicate an application for "all points" authority, the Commission could have granted "all points" authority as well as any limited or restricted portion thereof. As a practical matter, limited or restricted authority is frequently granted when the evidence in a given case discloses that only a limited or restricted operation is justified by the public convenience and necessity.

The Commission may also accept applications for only limited or restricted authority. Counties and/or cities may be designated as territories of origin and/or destination. Notice, of course, would be sent to correspond with the application. With the narrowed request for authority, the issue for determination by the Commission is more clearly defined. Carriers who might normally appear for an "all points" application are saved the time and expense of an appearance.

A party of interest properly notified of the hearing for authority involving a five county geographical area is reasonably apprised that authority is also being sought for cities wholly surrounded by any one of the five specifically identified counties.

Notice which may reasonably apprise the parties of interest of the substance of the particular hearing constitutes reasonable notice and is sufficient in law. As the application was for "all points" authority

and the notice Forms MC-22 identified the authority sought as being to or from a "five county area," the Commission is of the opinion that it may grant authority to or from the five county area--including any city wholly surrounded by any of the previously identified five counties.

The amended notice Forms MC-22 were mailed to all parties as required for an "all points" application in accordance with the Commission's Rules and Regulations Governing the Supervision, Control and Operation of Household Goods Carriers by Motor Vehicle. All of the carriers required to be served appeared at the hearing. No objection to the notice Forms MC-22 was noted as long as the applicant would be "held to the notice," and the applicant's evidence was directed in large part to serving the Cities of Covington and Clifton Forge. No objection was raised to the testimony of applicant's witnesses who told of the need and convenience of serving the two cities. In fact, one intervener, W. H. Hall, in the main only testified concerning the two cities. This record leaves no doubt what jurisdictions the applicant sought to serve and what jurisdictions the interveners objected to it serving. It is the opinion of the Commission that the final grant of authority is within the authority plainly sought by the applicant.

Section 56-338.11 of the Code of Virginia permits the Commission to grant a certificate if it finds the proposed operation justified by the public convenience and necessity. The Commission must consider many facts in reaching its determination. Such facts may include the applicant's fitness, willingness and ability to provide the proposed

service; the character and financial standing of the applicant; the applicant's current operations or his past transportation experience; the transportation related equipment and facilities of the applicant; the number and quality of employees of the applicant; the population and geography of the area to be served; the adequacy of existing carriers and services; the public and shipper support for the applicant; and the applicant's general ability to provide a needed or desired service which would not result in ruinous competition to currently efficient certificated carriers who may have already made a significant investment in plant and equipment.

Ronald E. Brown and Lewis D. Kemper testified as president and secretary-treasurer, respectively, of Triangle Transfer and Storage Co., Inc. Their testimony, in concert with their individual personal financial statements and corporate financial statement, indicated that sufficient capital would enable the corporation to begin business as a certificated household goods carrier.

The applicant also had sufficient plant and equipment to begin operations on a limited scale. Mr. Kemper testified that the corporation had six available pieces of moving equipment. Three thousand square feet of warehouse space were currently under lease. There was also adequate office equipment and secretarial help to handle all paperwork. Additionally, a telephone answering device was operational, permitting the reception of telephone calls on a twenty-four hour a day basis.

The applicant demonstrated that it had sufficient moving experience to warrant the issuance of a certificate. It had operated as a contract carrier in the local moving business since August, 1973 under the exemption of Section 56-338.2(d) of the Code of Virginia. The applicant

is, and has been, the local moving agent for Bekins Van Lines, having satisfied the many requirements of this large interstate carrier.

The population and geography of the area to be served are one of many factors justifying the issuance of an additional certificate. The area is oriented toward industrial development. The Hercules Corporation and Westvaco Corporation industrial plants in the Covington area employ approximately 3400 workers. Oliver P. Reid, Mayor of Covington and a representative of Hercules Corporation, testified on behalf of the applicant. He related the existence of the industrial growth of the general area and the overall population trends. Also of importance, he related, would be the resultant population growth associated with such projects as the Gathright Dam project and the completion of the construction on Interstate Highway 64 and U. S. Highway 220.

The existing certificated carriers in the area were Covington Transfer and Storage Company, Inc.; W. H. Hall, d/b/a A. W. Hall Transfer and Storage, Clifton Forge; and Lawrence Transfer and Storage Corporation, Roanoke, Virginia. The Commission heard evidence by these intervening carriers and took note of the fact that Mr. Lawrence was objecting only to that part of the application concerning the Counties of Rockbridge and Botetourt.

Richard L. Walker testified as the seven-state area manager for Bekins Van Lines. Stating that the entire Shenandoah Valley was his primary area of responsibility, he testified to the results of a nation-wide study performed by Bekins Van Lines and the results thereof relative

to the Alleghany County-Covington area. Mr. Walker supported the applicant and related the interest of Bekins Van Lines in continuing to have a local agent in the Covington area. The need for additional service was suggested in that the local agent for United Van Lines (Covington Transfer and Storage Company, Inc.) already holds a certificate of public convenience and necessity as a household goods carrier. United Van Lines represents the primary competition for Bekins Van Lines for interstate operations in the Covington area.

Robert Sinclair, Traffic Supervisor of Westvaco Corporation, Covington plant, testified on behalf of the applicant as to the lack of local competitive moving companies in the area. He testified that it was the policy of Westvaco and its 1800 employees not to utilize the services of Covington Transfer and Storage Company, Inc. because of "service problems." Such policy had been in effect for the past one and one-half years.

Public witnesses are seldom present at household goods carrier hearings because individual "shipper-homeowners" may use the services of a carrier so infrequently and are, most usually, moved out of the service area. However, strong public support was produced on behalf of the applicant by an exhibit in the form of resolutions from the Board of Supervisors of Alleghany County and the Covington City Council, each recommending approval of the application.

In consideration of the entire record the Commission is of the opinion that the public convenience and necessity justify the grant of authority to the applicant.

The objection of W. H. Hall, intervener, to the issuance of certificates to "part-time movers" is valid even though we note that the genesis of his business was as a part-time mover. Accordingly, the Commission attached a condition to the grant of authority by which either of the principal officers of Triangle Transfer and Storage Co., Inc. was required to become a full-time employee within 120 days.

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

Application of

November 8, 1974

TRIANGLE TRANSFER AND STORAGE CO., INC.

CASE NO. HF-86

For a certificate of public convenience and necessity as a household goods carrier.

Opinion, SHANNON, Chairman, dissenting:

This matter came on to be heard upon notice given by the applicant, Triangle Transfer and Storage Company, Inc. (Triangle) which notice failed to name the two municipalities (Covington and Clifton Forge) specifically designated in the grant of authority. In view of the particular facts in this case, I do not conclude that anyone has been thereby prejudiced, but if we are to authorize less than state-wide certificates, the final order and the certificate thereby authorized should both be totally consistent with all prior public notices.

I do disagree with the majority decision to grant a conditional certificate of public convenience and necessity as a household goods carrier to Triangle. I do not consider the record in this case adequate to support the necessary finding that the proposed operation is justified by public convenience and necessity. I consider improper the grant of

authority subject to subsequent cancellation at the end of 120 days unless within such period either the president or secretary-treasurer of the applicant corporation ". . . becomes a full-time, permanent employee thereof." Further, prior decisions of the Supreme Court of this State suggest to me that the Commission lacks the authority to impose a point of origin or destination limitation upon applicants seeking certificates of authority under the applicable statutes, i. e., Code §§56-338.1 through 56-338.18.

By Commission order dated August 5, 1974, a certificate of public convenience and necessity was directed to be issued to applicant, Triangle, to perform the services of a household goods carrier between all points in Virginia to and from Covington and Clifton Forge and the counties of Alleghany, Bath and Botetourt. All unrestricted household goods carriers within the State have a legal right to compete with the applicants, but three in particular appear to be in immediate and direct competition with Triangle. Lawrence Transfer and Storage Corporation, with a Roanoke address, claims to solicit and serve the three counties and two cities allocated to Triangle. Covington Transfer and Storage Company, and Arthur B. Hall Transfer Company in nearby Clifton Forge, have had unrestricted authority since 1961 and 1948, respectively.

Mr. Ernest Beels, president and sole stockholder of Covington Transfer testified that he was in the process of replacing all of his

motor trucks (T. 164), that he had never turned down a prospective move (T. 164), that he had incurred only $50 claim expense during 1973 in his warehouse operation and zero claims on van operation (T. 172), and that his company had lost money two out of the last five years (T. 179, 188).

Mr. Beels introduced copies of awards from United Van Lines for which Covington Transfer is local agent.

Mr. William H. Hall, proprietor of Arthur B. Hall Transfer, testified that he was not operating at full capacity (T. 143), that business was slow -- not good -- (T. 143), and that his company suffered a net loss in 1973 of $4,100 (T. 144).

The two sources of repeat moving business in the area, Hercules Corporation and Westvaco Corporation, both located in Covington, were represented in Triangle's application as being dissatisfied with the services offered by both Hall Transfer and Covington Transfer. Both moving companies disclaimed any knowledge of any such attitude (T. 145, 146, 166, 182) prior to this proceeding. In fact, there was testimony from witness Hall (T. 146, 147), supported by a statement of the Commission's Commerce Counsel (T. 147, 148), that a representative from Hercules' Delaware headquarters had stated in a phone conversation with both witness Hall and Commission's Counsel that Hercules had not authorized any such representation of dissatisfaction, and that, in fact, Hercules was satisfied with both Hall Transfer and Covington Transfer.

The only testimony in support of the allegation of corporate displeasure of Hercules and Westvaco was from a traffic supervisor of Westvaco, one Robert Sinclair. However, even he disclaimed any knowledge of complaints against Hall Transfer (T. 49). On the other hand, Sinclair claimed that it was company policy of Westvaco, of some year and a half standing, not to use Covington Transfer (T. 44). Allegedly, this policy was formulated by the local plant manager (T. 43) who was not present at the hearing. It further appears that this witness disclaimed any knowledge of service problems with the intrastate service of Covington Transfer (T. 45). The witness never pinpointed the dates of any moves which he reported had been handled unsatisfactorily by Covington Transfer. Witness Sinclair did not dispute the testimony of Mr. Beels (Covington Transfer) that during 1972 and 1973 that company had handled four moves for Westvaco; three were handled in 1972 and one during 1973 (T. 192). Candidly, witness Sinclair knew little or no details of the moves allegedly handled unsatisfactorily by Covington Transfer, and his testimony was hearsay of the rankest sort. I am unable to conclude from that witness's testimony that the operations of present certificated movers are so inadequate or unsatisfactory as would justify issuance of a certificate to Triangle. In fact, witness Sinclair knew of no current refusal of intrastate service to anyone in the subject area (T. 49-50), and he testified that his employer's business ". . . has been in the

state of tightening our belt for some time, and the moving business has been employees seeking other employment in other areas . . ." (T. 49, 50). He further confirmed that employment at Westvaco has been cut during the past two or three years (T. 41).

Oliver F. Reid, Mayor of Covington and Personnel Manager of Hercules Corporation, testified on behalf of the applicant. The witness had no responsibility for handling his employer's traffic needs, nor for moving personnel (T. 100). This witness first disclaimed any position, pro or con, regarding the application (T. 101), but then urged its granting ". . . as a matter of providing additional service to the people of that area" (T. 103). Witness Reid shed no light upon the adequacy of the intrastate moving services available in the area. He did say, however, that intrastate moving by his employer, Hercules, ". . . within the past year or so . . . has been minimal" (T. 97). His personal prognostication of the hiring of one to two hundred additional hourly employees ". . . within the next year or so . . ." (T. 98) does not support a finding of convenience and necessity in this case. The witness does not suggest that such employment would necessitate moves either within the area or from without, and it surely is not implied.

Witness Reid claimed knowledge of only one complaint against the movers serving the area, and that was against Covington Transfer

(T. 106, 112). He had no details, but suggested the complaint related to the time and price of a move handled by that company. This portion of his testimony was strictly hearsay.

Mr. Reid also observed that the City of Covington is declining in population (T. 107). He made passing comment as to expected temporary employment at a Vepco project some 30-35 miles from Covington (T. 109), and he expressed a belief that completion of the Gathright Dam would see an increase in boating, fishing and other recreational activities (T. 107). None of this testimony would appear to support a conclusion that there is, or will be, an increased need for certificated household goods carriers in the area.

Mr. Richard L. Walker, area manager for Bekins Van Lines, an interstate carrier, testified on behalf of the applicant. The testimony he presented in behalf of public convenience and necessity related to a study made four years prior to the hearing by Bekins for the purpose of determining regional moving trends. The witness could not attest to the accuracy of the study, either in general application or as it related specifically to the Alleghany County-Covington area (T. 52, 53). He did advise that the depicted trends -- or patterns -- were primarily "regional," and that one must "assume" that the pattern of a given part thereof would be ". . . normal for [the] region, . . ." (T. 59). The witness confirmed

that no specific study was made in, or related to, the area certificated to the applicant. There was neither evidence nor implication that the witness played any part in preparing the study. He had no back-up data to support his figures (T. 59). As an aside, witness Walker said that, to the extent his company's "survey" figures were correct, indications were that ". . . a good ninety percent of them [the expected moves] would [be interstate moves] (T. 54). The certificate in question has no effect upon the applicant's ability to render interstate service.

Code §56-338.11 provides the standard to be applied in the determination of this case, viz.:

> "Upon the filing of an application for a certificate of public convenience and necessity as a household goods carrier, the Commission shall, within a reasonable time, fix a time and place of hearing of such application. If the Commission shall find the proposed operation justified by public convenience and necessity, it shall issue a certificate to the applicant, subject to such terms, limitations and restrictions as the Commission may deem proper. If the Commission shall find the proposed operation not justified, the application shall be denied."

The phrase "public convenience and necessity" is not so strict as to require proof that the public must absolutely have the proposed service. Rather, it means that the applicant must show that its proposed service is one which is reasonably required for the comfort and convenience of the public.

Seaboard Air Line R. Co. v. Commonwealth, 193 Va. 799 (1952); County Board v. Town of Fairfax, 199 Va. 612 (1958). I do not understand that Triangle is required to prove that its proposed service is an absolute imperative; however, I do understand that it must at least prove that there is a reasonable need for its service. It has been noted that the applicant is not precluded by State law from engaging in interstate movements of household goods as an agent of Bekins Van Lines, and Virginia Code §56-338.2 specifically exempts Triangle from any need for authority to serve ". . . between any points wholly within the limits of any city or town in this State, or for any lesser distance than thirty miles."

The present record compels the conclusion that the existing household goods carriers are adequately serving the territory and the authorized operation could well affect them adversely. The risk of revenue loss to Covington Transfer and to Hall Transfer, both of which proved deficit operations, is hardly in the best interest of the public.

With no intent to belabor the point, I must take issue with the condition imposed upon Triangle in the Commission's order of August 5, ". . . that the authority granted herein be cancelled at the end of one hundred and twenty days of the date of this Order, unless within such time either the President or the Secretary-Treasurer of the corporation becomes a full-time, permanent employee thereof."

I agree with the majority that certificated "part-time" household goods carriers are not in the best interest of the public. Such operations can well be expected to destroy the business of those concerns whose prime objective is to establish and maintain a permanent business in a chosen community. I think we can take notice that any community will be better served by established, responsible movers as opposed to curbstone operators.

I construe the applicable Code provisions as requiring justification of a proposed service only upon reasonable proof of necessary facts and conditions which are in being at the time of the hearing. To my mind, to issue a certificate in the absence of any fact or factor which we deem necessary and material is not contemplated by the statute. This deficiency is not cured by later cancellation of the certificate if the necessary ingredient is not supplied. Further, I question the wisdom of admonishing a young man that he must give up a permanent job -- the support of his family -- or lose a right which this Commission has awarded him. One must also recognize that the applicant here was, and is, a corporation. I am aware of no authority by which this Commission can circumscribe the naming of corporate officers or their hours of service to their "employer." What evidence of record supports the implication that the applicant will better serve public convenience and necessity if, by some

arbitrarily fixed date, one of its present officers quits his employment by a third party in order to become a full-time, permanent employee of applicant corporation? I should think that the only relevant condition would be that the applicant itself was and is capable of a full-time operation. The amount of time devoted to the company's business by any given officer or stockholder would seem irrelevant and of no legal concern to this Commission.

Germane to any consideration of the validity of the condition imposed by the Commission's order, one must observe that the date upon which the Commission will presumably ask for proof that the condition has been met is also the last day upon which the Clerk of the Commission can certify the record on appeal (Code §12.1-40). Proof of failure of the condition, therefore, will result in the appeal of a moot order, if in fact it is a "final" order within the meaning of Code §12.1-39.

No party has taken exception to the right of the Commission to limit an original certificate to and from a definite point. I am also aware that other such certificates have been issued in recent years. However, this case has caused me to question our jurisdiction in the matter.

In two earlier cases, the Supreme Court of Virginia construed the Household Goods Carriers Act -- now Code §§56-338.1 through 56-338.15 -- as precluding the Commission, upon an application for a transfer of certificate, from cancelling the original certificate and imposing a condition upon the one re-issued and transferred which restricts origin or destination

points. In short, original certificates had to be state-wide and could not be cancelled except as provided by statute. See Cook Transfer v. Commonwealth, 196 Va. 384 (1954) and McDaniel v. Commonwealth, 199 Va. 287 (1957).

It is true that certain statutory amendments followed each of the foregoing decisions, but it appears that the objective in each instance was to authorize the Commission to impose geographical limitations as a condition to authorizing transfer of certificates. Certain language was removed from present Code §§56-338.8 and 56-338.12 following the decision in McDaniel, which language had been cited by the Court as an expression of legislative intent to preclude cancellation of certificates as a step in the process of "transferring" a certificate with engrafted geographical limitations.

However, even with the amendments to date, in specific regard to the issuance of a certificate (as opposed to the transfer thereof), I do not find in Chap. 12.1 of Title 56 any requirement that a point of origin be specified, or was intended to be specified. One again compares these provisions as did the Supreme Court in the Cook case, above, with the related legislation providing for the certification of common carriers and restricted common carriers by motor vehicle, and to petroleum tank truck carriers. Upon comparison, I conclude that the differences are intentional

and substantive, and that the earlier conclusion of the Supreme Court is still valid -- that original certificates issued to household goods carriers are intended to apply state-wide. I also find persuasive the following language of the Court in Cook Transfer, above, 196 Va. 384, at 392:

> ". . . If it be mandatory that a point of origin be required, it would be necessary for every hamlet in Virginia to have a certificated household goods carrier located therein, with the hamlet designated as the point of origin. Even this would not answer the needs of citizens living in remote rural sections; such citizens would have no choice except to use the services of unregulated carriers who 'occasionally or infrequently' engage in the transportation of household goods and are exempted from the operation of the Act under subsection (d) of §56-338.2, supra."

For the foregoing reasons and evaluations I respectfully dissent from the action of the majority. I would deny Triangle's application.

TRANSCRIPT OF THE TESTIMONY HEARD ON APRIL 16, 1974

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

APPLICATION OF

TRIANGLE TRANSFER AND STORAGE CO., INC.

CASE NO. HF-86

For a Certificate of Public Convenience and Necessity as a Household Goods Carrier.

DATE OF HEARING

April 16, 1974

1

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1 COMMONWEALTH OF VIRGINIA

2 STATE CORPORATION COMMISSION

3

4 APPLICATION OF CASE NO.

5 TRIANGLE TRANSFER AND STORAGE CO., INC. HF-86

6 For a certificate of public convenience and necessity as a household goods carrier.

7

8 PRESENT:

9 COMMISSIONERS

10 PRESTON C. SHANNON, Chairman

11 THOMAS P. HARWOOD, JR.

12 JUNIE L. BRADSHAW

13 (Chairman Shannon, presiding)

14

15 APPEARANCES:

16 Michael McH. Collins,
and
17 William T. Wilson,
Counsel for the Applicant

18 Richard M. Price,
19 Counsel for Covington Transfer and Storage Company, and
20 A. W. Hall Transfer and Storage Company,
Interveners

21 Michael L. Rigsby, Sr.,
22 Commerce Counsel to the Commission

23

24

25

Appearances

1 CHAIRMAN SHANNON: I want to give counsel
2 an opportunity to gather at the table here.
3 MR. RIGSBY: Before --
4 CHAIRMAN SHANNON: Mr. Rigsby, do you
5 have a preliminary statement?
6 MR. RIGSBY: Sir, before we commence I
7 would like to introduce to the Commission Mr.
8 Michael Collins, Mr. William T. Wilson, and
9 Mr. Richard Price.
10 CHAIRMAN SHANNON: We are glad to have
11 all of you gentlemen before us here this morning.
12 MR. RIGSBY: Now, if Your Honors please,
13 our office has received two letters, one from
14 Mr. and Mrs. T. O. Deitz, which supports the
15 Application, and another from Mr. John C.
16 Wooldridge, a carrier which opposes the
17 Application. I would like to pass those to the
18 file.
19 CHAIRMAN SHANNON: They will be passed
20 to the file. All right, Mr. Wilson are you
21 or is Mr. Collins going to be the spokesman for
22 the Applicant?
23 MR. WILSON: If Your Honors please, I
24 think Mr. Collins will make any opening statement
25 that we make, and we would like to refer to him as

1 Chief Counsel if it is all right.

2 CHAIRMAN SHANNON: Mr. Collins?

3 MR. COLLINS: Thank you, Your Honor.

4 Quite briefly, we have several witnesses about

5 both of the -- about the honorableness of the

6 Applicant, along with some representatives of

7 the industry and personnel in the county area,

8 and also representatives of the Community. It

9 is a little difficult to bring people this

10 distance, and we have quite a few, and we will

11 try to go through this as expeditiously as

12 we can.

13 I would like to mention at the outset

14 that our Application was filed on the standard

15 form, and in talking with Mr. Rigsby I was

16 advised -- I was not really aware of the

17 availability of moving business from one area

18 of the State to another. Our clients, the

19 Applicants, are natives and local people in the

20 Covington-Allegheny County area, on which they

21 all rely and intend to conduct this business

22 in that area, and only in that area, with the

23 natural return trips and so forth, and because

24 of that, while there was no place on the Appli-

25 cation that I saw to limit it, in sending out

1 the notice we amended somewhat the suggestion of
2 Mr. Rigsby, or whoever sent the notice to us,
3 which said originally, I believe, "To or from all
4 points in Virginia," which, as I understand, is
5 the standard and normal request, and we have
6 amended that. I want just to point out that the
7 Application is actually a notice from "All points
8 in Virginia to Allegheny, Bath, Augusta, Rockbridge
9 and Bottetourt Counties," which is the five
10 contiguous counties, and from these five counties
11 to all points in Virginia.
12 These five counties correspond with the
13 franchise that they have with Bekins Van Lines,
14 whose representative is also here. I just wanted
15 to point that out initially, and otherwise just
16 proceed and call our witnesses.
17 CHAIRMAN SHANNON: Do you want to put the
18 notices in?
19 MR. COLLINS: Yes, sir.
20 CHAIRMAN SHANNON: We will make those
21 Exhibit "A". Mr. Rigsby, do you have any comment
22 on that?
23 MR. RIGSBY: Well, the Application did
24 come in asking for all points in Virginia. The
25 notice has gone out, and I have not had an opportunity

1 to see them. It would have to be restricted
2 to these points.
3 CHAIRMAN SHANNON: This is a restrictive --
4 MR. COLLINS: We would prefer to have the
5 full rights, but we felt if it would in any way
6 improve our position or show what the intentions of
7 this corporation are, we would be willing to limit
8 ourselves to the service area we intended to serve.
9 CHAIRMAN SHANNON: I think you will be
10 held to the notice.
11 MR. COLLINS: We have purposely restricted
12 ourselves beyond what was initially intended.
13 CHAIRMAN SHANNON: Mr. Price?
14 MR. PRICE: May it please the Commission,
15 we believe that the evidence will show that the
16 Covington area is adequately served, and that
17 in fact there has been a pattern of flight from
18 that area. We also believe that there is some
19 question regarding the Applicant's capitalization.
20 At the present time, that is all I have
21 to say.
22 CHAIRMAN SHANNON: All right. Thank you,
23 Mr. Price. Mr. Collins, you can call your first
24 witness.
25 MR. COLLINS: Yes, sir. Mr. Ronald Brown?

1 RONALD E. BROWN,

2 a witness introduced on behalf of the Applicant, being

3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. COLLINS

6 Q Will you state your full name, please?

7 A Mr. Ronald E. Brown.

8 Q Where do you live, Mr. Brown?

9 A I live at Woodlawn Drive, Covington,

10 Virginia.

11 Q What is your age?

12 A Thirty-four.

13 Q Are you a lifetime resident of

14 Covington?

15 A Yes, sir.

16 Q Are you married?

17 A Yes, sir.

18 Q Mr. Brown, where are you employed

19 other than --

20 A Sixteen years with Westvaco Corporation.

21 Q In what capacity?

22 A I am a backtender.

23 Q All right. Mr. Brown you say you have

24 been with that Company for sixteen years?

25 A Yes, sir.

1 Q All right. Will you tell the Commission
2 what led you to this decision to go into business, and what
3 your plans are for the office?
4 A Well, for a good many years I have
5 wanted to go into business for myself, and I have been
6 fairly active in community affairs. I am presently a
7 Board member of our local credit union.
8 I am presently a member of our sick
9 insurance association. I have quite a number of friends
10 who are in business. I own some stock in the local telephone
11 company, and I am very friendly with the past President of
12 the Chamber of Commerce, and for a number of years I have
13 been wanting to go into business, and the time has come
14 right now to go, and because knowing a little bit about
15 finances, the longer you wait, the harder it would be to
16 start a new business and build it up. So we had negotiated
17 to buy a business that was already in operation, and --
18 Q Excuse me, but Mr. Brown, so that -- you
19 are referring to "we".
20 A I have a partner, Mr. Louis Kemper, who
21 will also testify.
22 Q How long have you been acquainted with
23 Mr. Kemper?
24 A Oh, I think about thirteen years.
25 Q Is he an employee of Westvaco?

1 A Yes, sir.

2 Q So you say, when you refer to 'we',

3 in making any plants, it has been you and Mr. Kemper?

4 A Yes, sir. It is a joint operation.

5 Q And to pick up where you left off,

6 that you had made some preliminary negotiations to purchase

7 an existing company?

8 A Yes, sir.

9 Q Prior to that, have you investigated

10 or looked into the possibility of other private endeavors

11 or other types of businesses?

12 A There were some that we didn't

13 particularly like to go into. There are certain types of

14 businesses in the area that I think a lot of people tried

15 and failed, and we didn't have any intention of going into

16 a business that would fail. We also wanted to go into a

17 business that would bring back enough revenues to support

18 our families in the manner in which we are accustomed to,

19 and we also wanted to get into a business that there was a

20 need for, and a market for. So with that in mind, we

21 looked at a lot of businesses, and when we looked at Mr.

22 Beels business we researched his business, with his

23 permission, for five years prior to this past year. We

24 talked with the eastern representative of United Van Lines,

25 who indicated that he may be interested in us as an agent

1 for his Company, and that there was a chance that Mr.
2 Beels may not continue to be their agent in this area.
3 So with this in mind, we --
4 Q Who is this that you are referring
5 to?
6 A Mr. Otto Sponsor.
7 Q And he is with United?
8 A Yes, sir.
9 Q A market analysis, was this done on
10 the area of Covington transfer business, or what?
11 A This was mainly on the moving business
12 within this state and nationwide also.
13 Q Is United represented at this time in
14 the Covington area?
15 A Yes, Mr. Beels is still in business,
16 and he is still their agent.
17 Q He is the agent for United, but you say
18 you are independently negotiating with them for a franchise?
19 A Yes, we were. When he found out that
20 we were interested in this business, he kind of indicated
21 that he would like to take a look at it -- at us -- because
22 Mr. Beels had his business to sell, and he would like to
23 research us, so he did that, and he came back and said that
24 we were the type people he would like to have, and wanted
25 to know if we would be interested in being part of their

1 company.

2 Q Now, is this with the understanding that

3 you were purchasing the business, or was this just on your

4 own that you went into this?

5 A This is on our own, because at this

6 point in time we could not purchase Mr. Beel's because of

7 several complications that came up during negotiations.

8 Q Well, we will get to that later. Did

9 you actually make an application with United Van Lines?

10 A Yes, we did. We had an application

11 with United Van Lines. We were pretty much assured by

12 letter that we would be the agent in the Covington area,

13 and we have a letter here to this effect.

14 Q Let's identify that if we can.

15 A All right, sir. This is a letter from

16 Mr. Kenneth James, and he is the Assistant Vice President

17 of Agency Development. And he states that he is happy to

18 receive the application, and he assures us that he will

19 rush it through as quickly as possible.

20 Q And this is United Van Lines?

21 A Yes, sir.

22 MR. COLLINS: And this is United Van

23 Lines, which I would like to introduce at this

24 time.

25 CHAIRMAN SHANNON: All right. That

1 will be received as Exhibit No. 1. The Bailiff
2 can make copies for counsel.
3 MR. PRICE: I don't need a copy, Your
4 Honor.
5 CHAIRMAN SHANNON: Do you want to make
6 this an exhibit? We will receive it as an exhibit
7 representing a fact that a letter was written,
8 rather than as evidence of what is in the letter.
9 Or we can pass it to the file. I believe
10 probably it would be better to just go ahead and
11 receive it as Exhibit No. 1, as the fact that
12 this letter was written.
13 MR. COLLINS: That is the purpose, sir.
14 I don't believe there is any strong statement
15 in there except the fact that they had processed
16 the application.
17 BY MR. COLLINS
18 Q Mr. Brown, again, this application
19 was tendered without any understanding of purchasing their
20 existing franchise or anything. It was simply as an
21 additional agent in the area?
22 A Yes, sir.
23 Q And what -- was that application
24 processed?
25 A Yes, it was processed and were

1 pretty much assured verbally that we would be the United
2 agents for this area, and for a period of two months in
3 waiting, it was further decided -- Mr. Beels assured the
4 United Company that he would update his agency and revitalize
5 his agency, and they would give him another chance to carry
6 on since he had been so long with the company. For that
7 reason they selected, at that time, not to make us an
8 agent, because there is room only for one agent for an area
9 our size.
10 Q Let me ask you if you can identify this
11 letter of November 29th as being the letter that you are
12 referring to?
13 A Yes, it is. It is signed by Mr. Miller,
14 and he is Assistant Director Agency Development.
15 MR. COLLINS: I would also like to offer
16 that as an exhibit.
17 CHAIRMAN SHANNON: All right. That will
18 be received as Exhibit No. 2.
19 BY MR. COLLINS
20 Q Now, you have indicated, Mr. Brown,
21 that you have talked extensively with Mr. Beels about
22 purchasing his existing business, is that correct?
23 A Yes, sir.
24 Q Did either you or Mr. Kemper become
25 involved in any way with his business?

1 A Yes, sir. As I said, with his
2 permission we ran a five year check on his past five years
3 of business, and Mr. Kemper elected to go down and work
4 with Mr. Beels so he could more comprehend what he was
5 talking about in the language that is used within the
6 moving industry, and to understand in general how to deal
7 with people and how to pack and handle things in that type
8 of operation.
9 Q He was, I take it, interested in
10 selling the business at that time?
11 A Yes, he was. We had pretty extensive
12 negotiations with Mr. Beel. We decided at the conditions
13 at that time, we couldn't purchase it at his price.
14 Q But in investigating the general area
15 and his business in particular, were you able to come to
16 any conclusions about the availability of work?
17 A Yes, we did. We thought when you go
18 into a business, you don't say, "Well, I am going into
19 business", and hope that your business comes along. We
20 went and talked to the production manager at the Westvaco
21 Corporation, which is just about our largest industry.
22 We took a five year market analysis. We discussed it with
23 the manager of Hercules installation. We talked with people
24 that have proven successful in the transportation field,
25 such as people in the trucking business. We talked to a

1 gentleman, a Mr. Garnett, who previously owned a
2 certificate, and he has since retired because of bad health.
3 We knew at that time that there had
4 existed four certificates in this area, and now there is
5 only one. With Mr. Barnett going out of business with
6 the market that we felt was going to be in the Covington
7 area, with the expansion of the Hercules facility. We
8 also took into consideration I-64 is to be complted through
9 Covington, 220 is coming through our area. We also have
10 an increase in commercial development in the area.
11 We have a Holiday Inn, which is coming
12 in, and chain restaurants that are coming in. With all
13 of this, and we went out and talked to people that were
14 already in the area -- in the industry. We talked to
15 people in West Virginia, Mr. Wills in West Virginia, right
16 across the line. So we talked to people that were in the
17 business and who have been successful in the business.
18 CHAIRMAN SHANNON: And you say there
19 were four certificated carriers in the area at
20 one time?
21 A Yes, sir.
22 CHAIRMAN SHANNON: What happened to the
23 other three?
24 A Well, one of them Mr. Beels bought.
25 One was revoked, and the other one was sold because the

1 gentleman elected to move to Chicago, and he had an offer
2 of a different type over there, and the fourth one, I
3 don't remember exactly what that was. I think it was also
4 sold.
5 And then with all of this in mind -- and
6 then we talked with people that had moved, and were
7 dissatisfied with the move, and people who had to wait,
8 and as you people know, moving can be kind of a traumatic
9 experience. People just can't afford to wait. They like
10 service, and they like to deal with people that are reputable,
11 and they like to deal with them in confidence -- they want
12 to have confidence in them.
13 MR. PRICE: First, I would like to object
14 to this line of testimony. I think if the
15 Applicant has evidence of specific complaints,
16 well and good, but I --
17 CHAIRMAN SHANNON: Well, we realize
18 this is self-serving. I do take it you have
19 witnesses other than Mr. Brown here?
20 MR. COLLINS: Yes, to a limited extent.
21 In general terms he is trying to show has basis
22 for getting into this. I am not asking for names
23 or stores or anything.
24 CHAIRMAN SHANNON: All right.
25 BY MR. COLINS

1 Q All right, let me pick up on that a
2 little bit. Let me ask you, getting away from that, I
3 think it is apparent by the filing of this application
4 and so forth that you personally evaluated this business?
5 A Yes, sir.
6 Q Have you in any way been able to
7 involve yourself in business? Obviously, you are
8 incorporated, but have you been functioning at all?
9 A Yes, sir. We formed Triangle Transfer
10 in August of 1973. We have already made corporate moves
11 for Hercules Company. We made a move for Westvaco
12 Corporation. We have another for Westvaco, on our Interstate
13 with our Bekin --
14 CHAIRMAN SHANNON: Are you an agent of
15 Bekin Van Line?
16 A We are Bekin Van Lines agent, yes, sir.
17 BY MR. COLLINS
18 Q And have you made local moves?
19 A We have a list of people we have moved
20 on a local level, yes, sir. We have several letters of
21 recommendation.
22 CHAIRMAN SHANNON: Do you have a permit
23 from this Commission?
24 A We have a permit to operate in
25 Covington and thirty miles, yes, sir.

1 CHAIRMAN SHANNON: As a contract carrier?
2 A Yes, sir.
3 CHAIRMAN SHANNON: Go ahead.
4 BY MR. COLLINS
5 Q This is since approximately what date?
6 A Well, since August, I think since
7 August 17th.
8 Q When did you actually go into business?
9 A Well, we formed it in August and we
10 didn't start moving until October.
11 Q And you have done how many local moves
12 under your permit? And on what basis.
13 A I would say on a monthly basis we
14 probably moved about -- an average of about two a week.
15 About eight or ten a month.
16 Q Eight or ten a month?
17 A Yes, sir.
18 Q And you say you have also made a couple
19 of interstate moves. Are both you and Mr. Kemper still
20 working full time for Westvaco?
21 A Yes, we are.
22 Q What are your intentions along this
23 line?
24 A Our intention is to build this Company
25 to a point where we know that it is going to be a surviving

1 Company, a prosperous company, and at that time we intend
2 to operate this Company on a full time capacity as managers
3 and officers of the company.
4 Q You have a local permit and a franchise
5 agreement with interstate rights.
6 A Yes, sir.
7 Q Why do you feel -- or, do you feel that
8 it is essential and necessary to have this, since you have
9 interstate rights authority?
10 A Well, it is very essential to us,
11 because we feel it needs more service -- we feel the area
12 needs more service. We service people such as Hercules,
13 Westvaco, the railroads, and all of these people have
14 facilities or branches throughout the State. Westvaco has
15 three right here in the Richmond area.
16 So to give the companies that we deal with
17 the full service that we feel we are required to give, we
18 have to be a full service carrier. If we are going to do
19 business with them, we have to render them the service they
20 need intrastate, so with that in mind, we feel we have got
21 to have the authority to operate, and we also have had to
22 turn down people, that have come to us and know us
23 personally, or have heard of us through recommendation,
24 and we have turned down several people because we did not
25 have the authority.

1 COMMISSIONER BRADSHAW: Do you have an
2 office with a telephone?
3 A Yes, sir. Yes, we do.
4 COMMISSIONER BRADSHAW: Well, what would
5 happen if I called and wanted to move, and you
6 and your partner were working in the plant?
7 A We have a secretary on duty, and we
8 also have three people who help us. We have a secretary
9 on duty during the day, and we also have a recording
10 telephone.
11 CHAIRMAN SHANNON: How many full time
12 employees do you have?
13 A We have three.
14 CHAIRMAN SHANNON: Are they full time?
15 A Well, with school and off days and
16 all, yes, sir. We have one full time employee, on payroll.
17 CHAIRMAN SHANNON: And you say the
18 Corporation was formed in August of 1973?
19 A Yes, sir.
20 CHAIRMAN SHANNON: And it operated
21 profitably since August of 1973?
22 A Yes, it has.
23 CHAIRMAN SHANNON: How much did you make?
24 A I would say -- so far we have made
25 approximately -- roughly, four thousand dollars.

1 CHAIRMAN SHANNON: Now, did you pay
2 yourself any salary?
3 A No, sir.
4 CHAIRMAN SHANNON: You do not pay yourself
5 any salary?
6 A We do not pay ourselves a salary because
7 we feel that to operate the type business we want to
8 operate, we go with new equipment and we go with
9 advertising, and we let people know that we are interested.
10 CHAIRMAN SHANNON: Did you buy new
11 equipment?
12 A We bought one new van and one used
13 van.
14 CHAIRMAN SHANNON: How much do you owe
15 on the van?
16 A On the van, nothing. On the two
17 trucks --
18 CHAIRMAN SHANNON: How much on those?
19 A I would say on the two trucks approx-
20 imately thirty-two hundred dollars, on the two trucks.
21 But we then have three others -- those we own privately.
22 CHAIRMAN SHANNON: You mean you own them
23 as individuals? Is that what you mean by 'privately'
24 owned?
25 A We did at the time, and we have

1 transferred them to the Corporation.

2 CHAIRMAN SHANNON: They are in the

3 Corporation now?

4 A Yes, sir.

5 CHAIRMAN SHANNON: Are they owned outright

6 A Yes, sir.

7 CHAIRMAN SHANNON: By the Corporation?

8 A Yes, sir.

9 CHAIRMAN SHANNON: No incumbences?

10 A No, sir.

11 BY MR. COLLINS

12 Q All right, Mr. Brown, this total amount

13 of development and growth, the equipment has been done

14 within this period also?

15 A Yes, it has.

16 Q And you say with your limited authority

17 and the moves you have done, you say you are showing a

18 four thousand dollar profit?

19 A Yes, sir, we are.

20 CHAIRMAN SHANNON: Do you have a warehouse?

21 A Yes, we do. It is at 1209 Jackson

22 Street.

23 CHAIRMAN SHANNON: And who owns that?

24 A Mr. Russ Harwood owns it.

25 CHAIRMAN SHANNON: And how much are you

1 paying for that?

2 A Two hundred dollars a month lease.

3 That was one reason we felt we had to go into the business

4 early. Because with the inflation spiral -- we felt we

5 had to experience to a great extent such things as fixed

6 costs, such as your utilities, and we had to experience

7 dealing with the Commission, and there are federal agencies

8 that we had to deal with, and rules we come under.

9 With all that in mind, we also liked

10 the idea that moving is pretty much governed by the

11 Commission. It is not such a thing that you have to have

12 thirty years experience or a college degree, which we

13 don't have. We think we have a lot of energy and stamina,

14 and we want to do better.

15 CHAIRMAN SHANNON: Have you tried for any

16 interstate rights, Mr. Brown?

17 A No, sir, we didn't have to because we

18 are operating under an agency.

19 CHAIRMAN SHANNON: You have no intention

20 of filing for an interstate certificate?

21 A I would not think so, sir.

22 BY MR. COLLINS

23 Q Mr. Brown, were you in any way held

24 up by the negotiations with United?

25 A Yes, sir. We have letters and meetings

1 where they assured us that they felt we would be the
2 agent. So with all that in mind, we didn't try to get
3 a color scheme or advertising campaign. We found that in
4 talking with the Chamber of Commerce there was a fifteen
5 percent turnover in that area of people that move in and out
6 all the time. We felt it was growing with the economy and
7 there were installations coming in. We felt we were going
8 to be the agent of United, and this covered a period of two
9 months.
10 Q And the letter that we have offered into
11 evidence states you did not receive that franchise?
12 A We did not.
13 Q And I take it you then began with Bekins?
14 A Yes, we did.
15 Q When did you actually come to some sort
16 of terms and obtain the Bekins franchise?
17 A I think it came in late November or
18 early January.
19 We were going to be pretty selective too,
20 and we started this business on a small scale. Bekins has
21 a little saying that that states they are pretty choosey
22 about their people. Well, we are more or less the same,
23 because we are pretty choosey about who we come in with also.
24 CHAIRMAN SHANNON: Could you be a little
25 more specific about the franchise? You said late

1 November or early January 1974. Could you be
2 more specific about that?
3 A Well --
4 MR. COLLINS: I think Mr. Kemper has
5 that in his records.
6 BY MR. COLLINS
7 Q All right. You have come to some
8 agreement with Bekins Van Line s. Does the area of your
9 franchise correspond with the notice in the application?
10 A Yes, sir. They are identical.
11 Q Mr. Brown, to your way of thinking,
12 is there any disadvantage in restricting the notice in
13 the application?
14 A Yes, sir. We are going to be
15 disadvantaged by the fact that there are people throughout
16 the State during the peak period. If we are in an area
17 where we have taken a line haul to, if we can't return a
18 load back to our area -- we may find a load to an area
19 other than the one we have restricted ourselves to, and
20 that would cost us money. And another thing, it would
21 hurt us on customer relations, because we would have to
22 turn people down.
23 CHAIRMAN SHANNON: Mr. Brown, since your
24 affiliation with Bekins, how many interstate
25 moves have you made?

1 A Two interstate moves, and we have
2 two more.
3 CHAIRMAN SHANNON: What are the two you
4 have already made?
5 A One to Charleston, South Carolina,
6 and the other was to Blanston, Florida. There are two
7 more, one to Kentucky and one to New York.
8 BY MR. COLLINS
9 Q With what industries was that?
10 A Mainly with Westvaco, but one was with
11 Hercules.
12 CHAIRMAN SHANNON: Do those companies
13 bid when they have a family or move to be made.
14 MR. COLLINS: We have a witness for
15 answering that, sir.
16 BY MR. COLLINS
17 Q All right, Mr. Brown. Why are you
18 willing to limit your application as you have?
19 A We are willing to limit it because
20 we feel that we definitely do need this application, and
21 we feel that we can service this area. And for that
22 reason, we are willing to restrict it just to this area
23 and to assure ourselves a more favorable ruling from this
24 Commission.
25 MR. COLLINS: All right. That is all the

1 questions I have of Mr. Brown. He referred to
2 conversation with the Chamber of Commerce, and
3 I intended to file the Chamber of Commerce
4 report for your consideration.
5 CHAIRMAN SHANNON: Of course you understand
6 Mr. Collins that that can't be received into
7 evidence unless you have somebody here to sponsor
8 it. Now that can be passed to the file. If you
9 intend for it to be proof of public convenience
10 and necessity, I think you should put it in
11 through a witness. I just wanted to make that
12 clear, because we do have a lot of documents
13 that are passed to the file. Before it can be
14 received into evidence it should be put on by a
15 witness and he would then be subject to cross
16 examination on it.
17 Mr. Price, do you have any questions?
18 MR. PRICE: Yes, sir.
19 CROSS EXAMINATION
20 BY MR. PRICE
21 Q Mr. Brown, are you familiar with the
22 financial statement filed with the Application?
23 A Yes, sir.
24 Q Are they still substantially correct?
25

1 A They are correct with the exception
2 of our capital on hand at the present time.
3 Q Has that increased?
4 A That is decreasing.
5 Q It has decreased?
6 A Yes, sir.
7 Q To what amount?
8 A I would think right now I think our
9 bank account shows a total of five hundred dollars in the
10 bank, but we have something like fourteen hundred in
11 corporate credits due us that we have already rendered.
12 Q Thank you. What are your hours of
13 business?
14 A We operate from nine to five. Frankly,
15 we will operate any time we need to be called, because
16 we have a recording phone, and I work a different shift
17 every week, and Mr. Kemper works a set shift every day,
18 and we have a secretary in the office every day.
19 Q Have you advertised in local papers?
20 A We have advertised in the local papers
21 and on the radio.
22 Q What hours do you advertise?
23 A We have advertised in the morning hours,
24 and we have this program now where we bring all the local
25 high school baseball games.

1 Q I mean what hours of business?

2 A We advertise the hours of business

3 of our office. When we first started we were open from

4 nine to two, and we will take calls any time. And our

5 home phone is listed as well as our business phone. Mr.

6 Kemper's home phone and mine are listed.

7 Q Are you familiar with that advertisement?

8 A Yes, sir.

9 Q What hours of business are advertised

10 there?

11 A The hours of business here are

12 advertised from eleven to five. This is our most recent

13 one that we have put out, because our secretary is a

14 college student, and she had to change her hours.

15 MR. PRICE: I would like to offer that.

16 CHAIRMAN SHANNON: That will be received

17 as Exhibit No. 3.

18 MR. PRICE: I have no further questions.

19 CHAIRMAN SHANNON: Mr. Rigsby?

20 MR. RIGSBY: Yes, sir.

21 CROSS EXAMINATION

22 BY MR. RIGSBY

23 Q Mr. Brown, you testified that you made

24 two interstate moves?

25 A That is right.

1 Q And you also testified that beginning
2 in October, I believe it was, you began to provide service
3 in your area?
4 A Yes, sir.
5 Q And you testified that you have made
6 since October approximately two moves per week?
7 A Something like that.
8 Q And this is while you are working
9 full time, you and Mr. Kemper working full time for
10 Westvaco?
11 A Yes, sir.
12 Q All right. Now, all of the moves
13 with the exception of the two interstate moves are local
14 moves, is that correct?
15 A Yes, sir.
16 Q Did you have to make special arrange-
17 ments for providing service for these people that you
18 moved, that is, the special hours that you would be
19 available?
20 A No, sir. We pretty much leave that
21 up to those people. We have asked in several instances
22 if they would start after lunch, as that would suit us
23 better, and in most cases we felt that a housewife on a
24 local move likes this, because it gives her time to get
25 the children off and the house pretty much set the way she

1 wants to have it before she moves out. We generally put
2 three men on every job.
3 Q Are either you, or Mr. Kemper -- do
4 either you or Mr. Kemper on hand when the moves are made?
5 A On every move.
6 Q On every move. I might interject
7 right here that if a customer doesn't have a particular
8 day he wants to move, I have a different day off during
9 the week, and I inform him that I will be available all
10 day that day, and Mr. Kemper has his days off, and if that
11 doesn't work out, then I will change it to the hours that
12 fits my work days.
13 It has worked out very well.
14 Q You testified that you have one full
15 time employee at present, and that is a man who moves the
16 furniture?
17 A Yes, sir.
18 Q And you have two other helpers?
19 A Three.
20 Q Three other helpers.
21 A We use those on the basis of need and
22 availability.
23 Q And one of those is a part-time
24 secretary?
25 A No, sir. The secretary is a college

1 student, and she is a part-time secretary.

2 CHAIRMAN SHANNON: Where does she go to

3 school?

4 A She goes to the VPI extension.

5 CHAIRMAN SHANNON: Is that right in the

6 Covington area?

7 A Yes, sir. It is about nine miles

8 from our place.

9 BY MR. RIGSBY

10 Q Mr. Brown, did you prepare the

11 application which was submitted on behalf of Triangle?

12 A Mr. Kemper and I together did it.

13 Q The application in part states that

14 apparently someone had contacted personnel of Westvaco

15 Corporation and Hercules, and you had been advised that

16 the two corporations had received poor service or cancellations

17 A They had received cancellations, yes,

18 sir.

19 Q Did you make the contact with Westvaco

20 and Hercules?

21 A Mr. Kemper and I both made contact.

22 Q And to whom did you speak at Westvaco?

23 A At Westvaco we talked with Mr. Gilbert

24 and Mr. Sinclair, and is here with us today, and at

25 Hercules we talked to Mr. Reed, Mr. Blankenship, and Mr.

1 Sizemore.

2 Q Are any of these gentlemen here?

3 A Mr. Reed is here.

4 Q You testified that you had paid

5 yourself no salary year end 1973. Did the corporation

6 pay either you or Mr. Kemper dividends from stock you

7 own?

8 A No, sir.

9 Q In regards to the warehouse facility,

10 how many square feet of area do you all lease?

11 A We have approximately three thousand

12 square feet.

13 Q Three thousand?

14 A Yes, sir.

15 Q Have you had occasion to use that

16 footage?

17 A Yes, we have. And we have an inter-

18 state shipment with Bekins that is probably in late yesterday

19 or in today.

20 Q Do you hold yourself out to offer

21 warehouse services in addition to your moving services?

22 A Yes, we do.

23 Q Is the application, the proposed

24 service area that you are asking for, based at all or

25 limited at all by the agency agreement that you have with

1 Bekins?

2 A Yes, it is. It is identical --

3 Q I mean has Bekins told you that if

4 you are going to be an agent for them, you have to restrict

5 yourself to that area?

6 A No, sir.

7 MR. RIGSBY: Thank you, Mr. Brown. I

8 have no further questions.

9 CHAIRMAN SHANNON: Mr. Brown, who are

10 the stockholders in the Corporation?

11 A Mr. Kemper and myself, and my wife

12 and his wife.

13 CHAIRMAN SHANNON: You all own one

14 hundred percent of the stock?

15 A Yes, sir.

16 CHAIRMAN SHANNON: And in the origin

17 territory that you have in your Bekins agency

18 agreement, how did you arrive at that?

19 A Well, we arrived at it because Bekins

20 had a need they felt in this particular area, and they

21 also have a policy, and we have the Bekins representative

22 here with us today, and it was arrived at because we felt

23 that we could service this area, and we felt at this time

24 that we would be available to do so.

25 CHAIRMAN SHANNON: Any re-direct Mr. Collins?

1 MR. COLLINS: Yes, sir.

2 RE-DIRECT EXAMINATION

3 BY MR. COLLINS

4 Q Just a couple of questions, Mr. Brown.

5 There has been some question about the part-time nature of

6 your employment. You have indicated that you anticipate

7 going full time assuming things go well on this

8 Application. When do you anticipate leaving Westvaco?

9 A I would think later on in this year.

10 Q What about Mr. Kemper?

11 A We have both discussed it, because it

12 is a major interest of both of us.

13 Q So you both are looking at the immediate

14 future rather than down a year possibly?

15 A Yes, in the very immediate future

16 if this authority is granted. This is one of the reasons

17 we have held back because we are limited within the State.

18 MR. RIGSBY: I have one more question.

19 RE-CROSS EXAMINATION

20 BY MR. RIGSBY

21 Q Since you have advertised and held your

22 services out, can you tell the Commission the number of

23 times you had to turn business down because you did not

24 have intrastate rights?

25 A Yes. I can relate, off the top of my

1 head five. There is a Mrs. Taggert, Mrs. Clarkston.
2 CHAIRMAN SHANNON: Where did Mrs.
3 Taggert want to go?
4 A She wanted to go to Salem, Virginia.
5 Mrs. Clarkston wanted to go between Salem and Norfolk I
6 think, in the eastern area. Mr. Cunningham wanted to go
7 to Christiansburg, Virginia, and Mr. Blankenship wanted
8 to come to Richmond. Those I know right off.
9 CHAIRMAN SHANNON: Were those specific
10 offers to you?
11 A Yes, sir.
12 CHAIRMAN SHANNON: Or were they just
13 inquiries?
14 A No, sir, they were specific requests
15 because they knew me personally, and they wanted us to
16 be able to move them, because two of them were my neighbors
17 and the others I knew through dealings.
18 CHAIRMAN SHANNON: All right. You may
19 stand down, Mr. Brown. The Commission will recess
20 for ten minutes. 11:20 A. M.
21
22 WITNESS STOOD ASIDE.
23
24
25

1

2 11:35 A. M. The Commission

3 resumes its session.

4

5 MR. COLLINS: I would like to call Mr.

6 Robert Sinclair.

7 ROBERT SINCLAIR,

8 a witness introduced on behalf of the Applicant, being

9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. COLLINS

12 Q Will you state for the record your

13 name and address, Mr. Sinclair?

14 A Robert Sinclair, 243 Pennsylvania,

15 Covington, Virginia.

16 Q Mr. Sinclair, are you employed in

17 Covington, Virginia?

18 A I am Traffic Supervisor of Westvaco

19 Corporation.

20 Q Will you very briefly give the

21 Commission some brief statement about what they -- what

22 Westvaco's relative size is?

23 A Westvaco Corporation is a major

24 manufacturer of pulp board, paper products. Our distri-

25 bution is worldwide. In fact, the Covington plant exports

1 roughly ten percent of its finished products. Our
2 Covington plant manufactures the heavy-weight board used
3 in cigarette boxes, and rather closely tied to that is the
4 three operations in Richmond.
5 The Covington facility has, at this time,
6 approximately eighteen hundred employees. A percentage of
7 this number is of salary, supervisory, and management
8 personnel. The Company policy on promotion and so forth
9 is to try to promote from within the Company, this
10 requiring a good number of moving operations of employees
11 and their families to other parts of the State and other
12 parts of the country.
13 CHAIRMAN SHANNON: Mr. Sinclair, are you
14 testifying for Westvaco?
15 A I am testifying as a witness for
16 Triangle Transfer and Storage.
17 CHAIRMAN SHANNON: I know, but are you
18 authorized by Westvaco?
19 A Yes, sir.
20 CHAIRMAN SHANNON: And what is your
21 position with Westvaco?
22 A Traffic Supervisor.
23 CHAIRMAN SHANNON: You are traffic
24 supervisor?
25 A Yes, sir.

1 CHAIRMAN SHANNON: And you are in charge
2 of the movement of all traffic?
3 A Yes, sir. Our department has three
4 people, and we are responsible for moving the trucks in
5 and the trucks out, rail in and rail out. And also personnel.
6 COMMISSIONER BRADSHAW: Do you ask for
7 bids when people want to move, employees want
8 to move?
9 A Sometimes, sir. Largely not, partly
10 due to the lack of local competitive companies.
11 BY MR. COLLINS
12 Q One question relative to other
13 industries, you say eighteen hundred employees. How would
14 that range locally as far as the size of the Company?
15 A It was the largest. Our numbers have
16 been cut somewhat in the past two or three years, while
17 Hercules plant has expanded. I think it is on an equal
18 plane with Hercules, as the two largest industries
19 locally.
20 Q Is there any other major industry
21 that size in the area?
22 A No, sir.
23 Q Now, you have indicated that in your
24 capacity you handle local moves, and you say there is a
25 lack of competition in that. Now, are you familiar with

1 all the movers that are licensed to do business in the
2 area?
3 A I think I am.
4 Q Who are they?
5 A We have Covington Transfer and Storage,
6 there is the agent for United, we have Mr. Hall in Clifton
7 Forge, and others in there. Of course, Bekins. Other
8 than that, we go to movers in other localities.
9 Q Which would be where?
10 A Roanoke.
11 Q Now, Covington Transfer which you have
12 mentioned is located where?
13 A In Covington.
14 Q And that is where the Westvaco plant
15 is located?
16 A Yes, sir.
17 Q Mr. Hall's tranfer is located where?
18 A Clifton Forge.
19 Q And you say beyond that the next
20 closest would be Roanoke?
21 A To the best of my knowledge, yes, sir.
22 Q And have you on occasion used Roanoke?
23 A Yes, I have.
24 Q Used Roanoke movers?
25 A Yes, I have.

1 Q Is that, would you say, the exception
2 or a frequent thing or --
3 A That has been the exception so far.
4 Q All right. Now let me ask you this.
5 In your position right now, if your Company, and speaking
6 for your Company, employees the services of Covington
7 Transfer and Storage?
8 A No, sir.
9 Q Is this a Company policy or is this
10 an individual decision on your part or what?
11 A Overall Company policy is that the
12 moving employees will be handled through the corporate
13 office, Covington being the exception to that.
14 Q That is not a personal decision of
15 yours, but is the office policy of the Covington mill?
16 A Back up to the manager's level.
17 Q Plant manager's decision. What has
18 necessitated that decision on the part of the plant
19 manager to not use Covington Transfer and Storage?
20 A Service problems.
21 Q Service problems. And over what
22 period of time? Did you in the past to your knowledge,
23 or since you have been an employer and handled the traffic,
24 used Covington Transfer and Storage?
25 A Initially, we used Covington Transfer

1 and Storage.

2 Q Did you ever have an agreement with

3 them that they would make all of your moves or anything

4 like that? Verbal or --

5 A Just verbal.

6 Q And over what period of time was this?

7 A I came in traffic in 1960 -- a year

8 and a half or two years ago was the period involved,

9 roughly.

10 Q And you say -- asking directly, how

11 long has it been since the policy was made not to use

12 Covington Transfer and Storage on any Westvaco move?

13 A Approximately a year and a half ago.

14 I am not specific on that.

15 Q So with that being unavailable -- I

16 think you have already answered this, but it would be Hall

17 and then going out of the area to Roanoke?

18 A Yes, sir.

19 Q I see. You said there were service

20 problems. Can you elaborate at all on the justification

21 for the plant manager's decision to not use Covington

22 Transfer and Storage?

23 A There were problems in service with

24 two members of our woodyard, our wood procurement operation.

25 One definite problem was the movement of an employee out

1 to the Kentucky woodland area. Name was Dan Mondold. There
2 were service problems to the extent with him, and I didn't
3 get Mr. Mondold's permission to quote him directly, but
4 he urged me to avoid using Covington Transfer, and to
5 definitely please not use him on future moves. He would
6 rather pay for it himself. That is a quote.
7 COMMISSIONER BRADSHAW: Does the Company
8 pay the cost of moving an employee?
9 A The Company pays the cost of moving
10 the supervisory and management, yes.
11 CHAIRMAN SHANNON: Now, you indicated there
12 was a service problem in connection with that inter-
13 state movement. Has there been any service problems
14 in connection with Intrastate movements?
15 A Sir, intrastate, no, but they were
16 handled through the same people -- same agency.
17 CHAIRMAN SHANNON: Was that Covington
18 Moving and Storage that made that move?
19 A Yes, sir.
20 CHAIRMAN SHANNON: Are they an agent for
21 one of the national van lines?
22 A United.
23 CHAIRMAN SHANNON: United.
24 BY MR. COLLINS
25 Q Well, was there any investigation made

1 of these before a decision was made to discontinue Covington
2 Transfer?
3 A Well, there was dissatisfaction from
4 the employee back to his manager, and back to the plant
5 manager.
6 Q What I mean it wasn't set on this one
7 isolated instance?
8 A No. Another move -- a small move up
9 in Maine. A gentleman named Gay Curtis, and that was
10 handled through the United agent, and it was through no
11 direct fault of his.
12 Q But for the last year and half you have
13 had no experience whatsoever with United or Covington
14 Transfer and Storage?
15 A Well, I did see one moving bill come
16 through my office that was handled through the corporate
17 office.
18 Q Let me ask you point blank, if Triange
19 Transfer and Storage were licensed to do intrastate moves
20 in the State of Virginia, would you utilize this service?
21 A We would make use of the service.
22 Q Other than the three plants in Richmond,
23 as far as inter-company is concerned, is there anything else
24 in the State of Virginia?
25 A Yes, sir.

1 CHAIRMAN SHANNON: Does Westvaco have
2 three plants in Richmond?
3 A Westvaco is the parent company of
4 HymanDoyle, and we have the milk carton, and we have the
5 folding box company.
6 CHAIRMAN SHANNON: They are subsidiary
7 companies?
8 A They are subsidiaries.
9 BY MR. COLLINS
10 Q And is it common for personnel to move
11 from one location to the other?
12 A A number of the management and super-
13 v isory people in the Richmond facilities started in
14 Covington.
15 Q What about the wood operations. Are
16 t here also other places located in Virginia?
17 A I drove many miles last week visiting
18 wood yards, and I didn't touch nearly all of them.
19 Q And there are personnel involved there
20 and personnel located -- local personnel located in
21 Covington?
22 A Yes, sir.
23 CHAIRMAN SHANNON: Where do you operate
24 wood yards in Virginia?
25 A Kelly Yard at Lynchburg is one. We

1 have Brookneal, Fontaine, Chatham.

2 CHAIRMAN SHANNON: Let me ask you this,

3 Mr. Sinclair. Since you have i ndicated some

4 displeasure with the existing carrier in the

5 area, who are you using in the area?

6 A At this time we are using Halls Transfer

7 of Clifton Forge.

8 CHAIRMAN SHANNON: Hall's transfer?

9 A Yes, sir.

10 MR. COLLINS: I believe that is all the

11 questions I have at this time.

12 CHAIRMAN SHANNON: Mr. Price?

13 MR. PRICE: Yes.

14 CROSS EXAMINATION

15 BY MR. PRICE

16 Q Mr. Sinclair, you mentioned one move

17 that you were dissatisfied with, and I believe you said

18 there was a second. Would you please explain the second?

19 A Again it is an interstate move. A

20 young chap named Gary Curtis from Maine down to Covington.

21 It was lined up through the local United agent. It was

22 a fairly small amount of furniture, and we had to end up

23 getting is crated and shipped down to us by Hemmingway

24 Transport, a common carrier interstate hauler.

25 Q Now, you state that you are now primarily

1 using Hall's Transfer and Storage. Do you have any
2 complaints about Hall's Transfer and Storage?
3 A No complaints.
4 Q How far away is that from Covington?
5 A Ten miles.
6 Q I believe you also said that you on
7 occasion have used Lawrence Transfer and Storage?
8 A Yes. Only recently we had a move
9 of a gentleman who wanted to go to Lynchburg, and he wanted
10 to store his furniture, and in checking I found a couple
11 of carriers that had warehouse facilities in Lynchburg,
12 and Lawrence did have it, so he ended up using it.
13 Q Any complaints about that?
14 A No, sir.
15 MR. PRICE: I have no further questions.
16 CHAIRMAN SHANNON: Mr. Rigsby?
17 MR. RIGSBY: Yes, sir. Just a few
18 questions.
19 CROSS EXAMINATION
20 BY MR. RIGSBY
21 Q Mr. Sinclair, do you have any difficulty
22 now in obtaining household good carrier service to move
23 personnel intrastate? Do you ever have an occasion where
24 a carrier turns you down?
25 A Currently I have had no carriers turn

1 us down. Our business has been in the state of tightening
2 our belt for some time, and the moving business has been
3 employees seeking other employment in other areas.
4 Coming in, the moving business has not been real heavy.
5 CHAIRMAN SHANNON: How many intrastate
6 moves does Westvaco make during the course of
7 a year, Mr. Sinclair?
8 A It is a fluctuating thing.
9 CHAIRMAN SHANNON: In the past year.
10 A In the past year, we have probably
11 not have -- I would say four intrastate moves.
12 CHAIRMAN SHANNON: And I guess they
13 were to Richmond?
14 A I will be honest with you; I will have
15 to look that one up. I don't know.
16 MR. RIGSBY: No more questions.
17 CHAIRMAN SHANNON: Any further questions?
18 (NO RESPONSE)
19 CHAIRMAN SHANNON: You may stand aside,
20 Mr. Sinclair.
21 WITNESS STOOD ASIDE.
22
23
24
25

1 MR. COLLINS: I call Mr. Richard L.
2 Walker.
3 RICHARD L. WALKER,
4 a witness introduced on behalf of the Applicant, being
5 first duly sworn, testified as follows:
6 DIRECT EXAMINATION
7 BY MR. COLLINS
8 Q Now --
9 CHAIRMAN SHANNON: Before this witness
10 testifies, how many more witnesses do you have?
11 I am just trying to get an idea.
12 MR. COLLINS: We have Mr. Kemper and
13 Mr. Reid, and possibly one short witness.
14 CHAIRMAN SHANNON: So in addition to this
15 witness you have three others?
16 A Yes, sir.
17 CHAIRMAN SHANNON: Mr. Price?
18 MR. PRICE: I have three witnesses too,
19 Your Honor.
20 CHAIRMAN SHANNON: All right. You may
21 proceed.
22 BY MR. COLLINS
23 Q Mr. Walker, state your full name, please?
24 A Richard L. Walker.
25

1 Q And where do you live?
2 A 4810 Stuart, Richmond, Virginia.
3 Q What is your occupation?
4 A I am an area manager for Bekins Van
5 Lines, an interstate carrier.
6 Q And in that capacity, what are your
7 responsibilities?
8 A Basically, I have the seven states,
9 Mid-Eastern area, and have the sole responsibility for the
10 independent agents in that area as far as improvement,
11 training and motivation, market penetration.
12 Q And how long have you been employed
13 in that capacity?
14 A Two years.
15 Q Now, Mr. Walker, have you made, or
16 has your Company made a study as to the need in the
17 Covington area for additional transfer and storage
18 facilities?
19 A We made a detailed study of the entire
20 nation four years ago, and broke it down by county, and
21 this is based upon actual local population from the 1970
22 Census, and corrolated it with regional moving trends,
23 and this shows for Allegheny County and Covington, which
24 is the primary market area involved here, about -- and these
25 are rough guesses -- 225 interstate moves, and 205 intrastate

1 moves. I am not here to testify in any way on the accuracy
2 of that survey, because I guess this is done in every county
3 in the country, and obviously it is quite large. We do
4 use these figures in our market study however, and place
5 quite a bit of importance on this.
6 Q Nationwide, how accurate has this
7 survey proved to be?
8 A It is pretty difficult to tell, because
9 be don't have the cooperation of all fifty carriers to
10 put them all in a pile and count them, but this survery was
11 made initially and supplied -- figures supplied by the top
12 five carriers, and was a projection of the -- of a certain
13 percent of the total volume. That projection then gave us
14 the basis for the survery. The accuracy of the counties
15 may vary. We feel like a percent of that is a very
16 realistic way to go about it.
17 Q Do you have a fairly good personal
18 knowledge of the area that is embraced in this application?
19 A Yes, sir. The primary area of my
20 responsibility of course is the whole Shenandoah Valley,
21 and this is a vital part of it.
22 CHAIRMAN SHANNON: Where are your other
23 agencies up in that area?
24 A We have an agency in Roanoke, one in
25 Lynchburg, and one in Warrenton. I don't know how far it

1 is from Roanoke -- well, we feel strongly that we need an
2 agent in this area, and of course we are dependent -- or
3 we are directly involved, or hopefully will be involved
4 in a large degree in the new project in Bath County, and
5 we have some projections of as many as five hundred families
6 to be moved into the area in the next seven years. Of
7 course, without our own local agent there we would suffer
8 greatly.
9 CHAIRMAN SHANNON: This project is the
10 Gathright Dam and Virginia Electric and Power
11 Company --
12 A Yes, sir. As I understand it, they
13 are not related but they are related, but there are two
14 projects.
15 CHAIRMAN SHANNON: What percentage of
16 those moves, you say as many as five hundred
17 families -- five, six, seven hundred families
18 I believe you said, is that correct?
19 A That is the projection.
20 CHAIRMAN SHANNON: What percentage would
21 you indicate would come from outside of Virginia?
22 A Well, a good ninety percent of them
23 would. These are basically interstate moves. We do not
24 participate in intrastate moving. Some of those would be
25 intrastate.

1 CHAIRMAN SHANNON: In other words,
2 as far as your support of the Applicant is
3 concerned, the Applicant would be operating
4 independent of Bekins if this application is
5 granted?
6 A Entirely. As you are well aware, the
7 overlap is constantly painting our colors. People will
8 call us.
9 CHAIRMAN SHANNON: Do you take the blame
10 or the credit.
11 A We get the blame, and they get the
12 revenue. We are not involved in any way in supporting the
13 applicant's decision for intrastate except to testify as
14 to what we consider the potential volume of business in
15 the area, and while we are on that subject, we did a
16 thorough investigation of two applicants per our agency
17 agreement, and have been very, very favorably impressed
18 with the reports we got back, basically from the people
19 in the community. They seem to have a very high regard
20 for them. Their credit is very good. We are very
21 interested in bringing new people into the industry, and
22 we like very much what we see, and we feel like this will
23 be an asset to our business.
24 Q Mr. Walker along that line, what were
25 the mechanics of getting to know Mr. Brown and Mr. Kemper.

1 How did this thing initiate? What had transpired. Just
2 briefly, if you will, since that time?
3 A I was contacted by them for possible
4 representation. I would guess -- I think it was in
5 December -- I made a trip to Covington and interviewed them
6 and saw their equipment and facilities, and we later ran --
7 the extensive credit check we do from our office in Chicago,
8 which is basically retail credit in Dunn and Bradstreet's,
9 but these two are very good -- and I might add that I have
10 had negative reports on applicants before. These two
11 were very positive.
12 Q In addition to your inquiry into their
13 credit situation, do you also, or does your Company rather,
14 make inquiries into their personal backgrounds, as to their
15 reputation in the community and that sort of thing?
16 A Yes, sir. This is one of the means we
17 use, because we didn't have an established business to
18 measure.
19 Q Now, to what extent have you been
20 involved in their business since their negotiations with
21 you?
22 A Well, we do have two individuals who
23 do not have a background in the business, so to train them
24 I spent a good deal of time with them using all the training
25 aids we have, which I feel are certainly extensive.

1 So I spent a good deal of time with them.
2 They have already performed two interstate moves for us,
3 that has already been mentioned, and we have had high
4 praise from both shippers.
5 Q All right. From your experience with
6 -- from your experience in the training part of it, how
7 do these men respond to training. In other words, are
8 they --
9 A They have a completely open mind.
10 I think these two particularly have a very open mind and
11 have a willingness to learn the correct procedures and I
12 think they have been really very responsive.
13 Q And the two interstate moves that you
14 mentioned, you say you have received praise from both of
15 those who were moved, is that what you said?
16 A I have only heard directly from one
17 shipper I should have said. The other moved too recently
18 to get a report. So I should say only one, it was the
19 one to Charleston, South Carolina.
20 Q What is your impression of their business
21 tactics of the way they have gone about studying the market
22 as far as this business is concerned, of setting up a
23 warehouse, of getting the trucks in line, and organizing
24 their finances.
25 A Yes. I think they made a thorough study

1 of it. I gather they spent much time in
2 preparation for this. I, of course, am anxious and it
3 has been part of our understanding that they will become
4 full-time and active in the business by the summer rush.
5 I am not at all opposed to their method of operation at
6 the moment, because they do have full representation at
7 the office. I feel they can handle any move that comes
8 along on twenty-four hour notice.
9 So the part-time nature of their employment
10 right now, I wholly recommend that they go on retained
11 earnings, but I don't think it is hurting them at all for
12 the moment.
13 MR. COLLINS: All right. Mr. Walker,
14 answer any questions that may be asked of you.
15 CHAIRMAN SHANNON: Mr. Price?
16 MR. PRICE: Yes, sir.
17 CROSS EXAMINATION
18 BY MR. PRICE
19 Q Mr. Walker, was your testimony that
20 there were approximately two hundred and five moves to
21 and from --
22 A No, sir. Our survey shows a potential
23 for 205 intrastate moves, originating at Allegheny and --
24 Allegheny County and the City of Covington.
25 Q Could you tell us how that -- are you

1 familiar with how that figure was arrived at?

2 A I explained roughly how the figure

3 is arrived at. I can't elaborate on it. I don't have

4 anything here to back it up. It is pretty much my

5 testimony. That is all I can say. We developed it for the

6 purpose of determining the percent of the market.

7 Q I mean what means were employed --

8 A The 1970 Census was the prime separation

9 point, and then we took the regional moving pattern. We

10 know, for instance, that the northeast has a great deal

11 more moves than -- a great deal more moves out than in,

12 per population, and the southeast is just the opposite.

13 We look at the regional pattern and then use the population

14 base to determine that. So assuming that Covington and

15 Allegheny County normal for this region, I would say it

16 would be very accurate.

17 Q So the conculsion was based on average

18 regional patterns, and there was no specific study for

19 Allegheny County --

20 A On Allegheny County, no, sir. I did

21 not represent that there was.

22 MR. PRICE: Thank you. I have no further

23 questions.

24 CHAIRMAN SHANNON: Mr. Rigsby?

25 MR. RIGSBY: Yes, sir. Just one question.

1 CROSS EXAMINATION

2 BY MR. RIGSBY

3 Q Our office frequently receives

4 complaints about poor estimates on cost of moves involving

5 carriers. In your working with any of your agents, do you

6 put them through a course in estimating the cost of a move?

7 A Yes, sir. We have a film strip

8 presentation on the mechanics of estimating, which deals

9 with that, which I think is very thorough.

10 Q Is this a course that the Applicants

11 would have to -- have the Applicants already gone through

12 this?

13 A Yes, they have.

14 MR. RIGSBY: Thank you. I have no other

15 questions.

16 CHAIRMAN SHANNON: Any re-direct?

17 MR. COLLINS: I have no more questions.

18 CHAIRMAN SHANNON: Thank you very much,

19 Mr. Walker. You may stand down.

20 WITNESS STOOD ASIDE.

21 MR. COLLINS: I now call Mr. Kemper.

22

23

24

25

1 LOUIS D. KEMPER,

2 a witness introduced on behalf of the Applicant, being

3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. COLLINS

6 Q Will you state your full name, please?

7 A Louis D. Kemper.

8 Q And where do you live?

9 A 325 South Royal Avenue, Covington,

10 Virginia.

11 Q How long have you lived in the

12 Covington area?

13 A All my life.

14 Q How old are you?

15 A Thirty years old.

16 Q What is your occupation?

17 A I am with the Westvaco Corporation,

18 I am a joining insullator.

19 Q Will you tell me for one what that is?

20 A Well, pipe cutters, we have to maintain

21 pipes.

22 Q How long have you held that position

23 and how long have you worked for Westvaco?

24 A I went to work for Westvaco in March

25 of 1962. I worked in various jobs all over the plant, and

1 in 1966 I went into a training program, and I served a
2 four year apprenticeship, and have held that position ever
3 since.
4 Q Are you married?
5 A Yes, I am.
6 Q Do you have any children?
7 A I have one daughter, nine years old.
8 Q What other jobs have you held in the
9 community?
10 A Well, I worked for H. O. Campfield
11 Company prior to going to work for Westvaco when I came
12 back from military service.
13 Q What kind of job was that?
14 A Motor operator.
15 Q What kind of education do you have?
16 A I have a high school diplomma, and
17 some courses at Dabney Lane Community College, and I
18 completed some courses -- a course in legal investigation
19 with a university correspondence school.
20 CHAIRMAN SHANNON: Is H. O. Campfield down
21 at Iron Gate?
22 A Yes, sir, it is.
23 COMMISSIONER BRADSHAW: What is a legal
24 investigation?
25 A It trains you to work with an attorney.

1 To investigate and do the leg work. I found out an
2 attorney doesn't pay enough money.
3 COMMISSIONER BRADSHAW: You have an
4 honest witness.
5 BY MR. COLLINS
6 Q Mr. Kemper, to what extent have you
7 been involved in the community as far as civic affairs
8 and that sort of thing?
9 A I have been involved in local affairs.
10 I know just about everybody in the community.
11 Q Have you ever been in serious trouble
12 of any kind?
13 A No, sir.
14 Q Now, Mr. Kemper, when did you and Mr.
15 Brown first become interested in getting into the transfer
16 business?
17 A Well, it started back in 1972. We
18 were looking for a business to go into. We looked at
19 different operations. At that time we learned that
20 Covington Transfer and Storage Company was for sale.
21 We made an appointment with Mr. Beels. That was in
22 November 1972, and at various times between then and
23 June we went back with him negotiating, and he explained
24 the selling points on the business and it was a good business
25 to get into, and as my partner said, we talked to other

1 people too. One of the selling points Mr. Beels used
2 was that there was very little competition in the area,
3 and that we pretty much had a free hand, and that we
4 would be buying a good business.
5 So we negotiated with him up to a point
6 along in July of 1973, and at that time the circumstances
7 were that we couldn't come to terms. We had before this
8 time met with Mr. Sponsler, and told him of our intention
9 to try to buy it. He advised us that this was a good
10 business to get into, and he pretty much sold us on the
11 idea that it was a good business. After the deal fell
12 through, he asked us about applying as a United agency,
13 and we told him that we had not applied for that. He
14 asked us if we wanted to be the second agency, so everything
15 looked real good.
16 There were conversations over the telephone
17 with him and at Saint Louis. They assured us that every-
18 thing looked real good, and that there would be a Board
19 meeting in December. But this was a time period from
20 August to December, and in the meantime we had gone into
21 debt. We wanted to be able to provide full service, and
22 our projection at that time was for January 1st.
23 Q Let me stop you there just a minute,
24 if I may. Why do you think that you -- that this need
25 exists in Covington? What is going on in Covington right

1 now, or in the Covington area, that creates this need?
2 A Well, I can't explain why but there
3 is a lot of corporate money being spent in Covington.
4 The Mellow Mall is something that has come in recently.
5 Motels, and the chains.
6 Q When is the Gathright Dam scheduled
7 for completion?
8 A It is scheduled for 1976. It will
9 add to the entertainment and relaxation, and I am sure
10 it will bring more business in.
11 Q You are talking about the Vepco project
12 in Bath County. How far is Gathright above Covington?
13 A Fifteen or twenty miles.
14 Q How far is the Vepco project above
15 Covington?
16 A Vepco?
17 Q Yes, sir.
18 A Between thirty and forty.
19 Q I won't ask you too much about the
20 details of the Gathright project. Do you know how many
21 employees are expected at the peak for Vepco?
22 A I understand it is in the neighborhood
23 of a thousand.
24 Q Twenty-five hundred is probably more
25 accurate isn't it?

1 A Well, if you say -- that is a statement
2 you are making.
3 Q All right. What is the population
4 of Covington?
5 A It is approximately ten thousand now.
6 Q What is the population of Alleghney
7 County?
8 A I would estimate twenty-five thousand.
9 Q And the population of Clifton Forge?
10 A I have no idea.
11 Q All right. Go ahead -- after you made
12 this investigation and determined that there was a need,
13 what did you all do?
14 A On December 3rd, we were notified by
15 telephone by United Van Lines office that the Board of
16 Directors of United Van Lines had decided that there was
17 not room in the Covington area for two United agencies,
18 and that they had decided to give him another chance with
19 a periodic review, and our application was not turned down
20 for any shortcoming of ours. At that time United's
21 representative, Mr. Sponsler, gave me Dick Walker's
22 telephone number.
23 Q And did you get in touch with Mr.
24 Walker?
25 A Yes, sir. He came in in the next few

1 days and started the proceedings with Bekins. That took
2 from December to January to complete the paperwork and
3 so forth with Bekins, and our agency was granted during
4 the week of the 21st of January. That gave us the right
5 to the interstate.
6 We had already met with Mr. Gilbert of
7 Westvaco --
8 Q And he is the traffic manager?
9 A He is the traffic manager, and gave
10 him our intentions and what our plans are. And he told us
11 when we had the proper authority to let him know, and
12 after we got the proper authority -- after we got the
13 franchise I think we got the next Westvaco interstate move.
14 I would like to point out that between the
15 time we actually went into business and the time that our
16 Bekins franchise was initiated, we were paying out on
17 trucks and so forth. We started out with a little bit of
18 capital, but to be perfectly honest with you, we don't have
19 much right now. The hold up drained us considerably.
20 I would like to correct something that
21 Mr. Brown said in error. I keep the books and am more
22 familiar with it. The trucks themselves, there is a lien
23 on both trucks and vans.
24 CHAIRMAN SHANNON: How much do you owe?
25 A It is in the neighborhood of nine

1 thousand dollars.

2 CHAIRMAN SHANNON: What is your total

3 endebtedness?

4 A Twenty-two thousand.

5 CHAIRMAN SHANNON: Twenty-two thousand?

6 A Yes, sir. And we started out with

7 ten thousand dollars that we put into the business.

8 CHAIRMAN SHANNON: Paid-in capital?

9 A Yes, sir. To say we are making a

10 big profit, we are not.

11 CHAIRMAN SHANNON: MR. Brown indicated

12 something about thirty-six hundred dollars. That

13 from a bookkeeping standpoint wouldn't be a

14 profit, would it?

15 A No, sir. Our income since going into

16 the business has been in the neighborhood of four thousand

17 dollars.

18 CHAIRMAN SHANNON: Gross income?

19 A Gross. This income has been dispensed

20 out. So to say that we are making a profit, -- a big

21 profit, we are not.

22 CHAIRMAN SHANNON: What are your current

23 assets? Your total current assets?

24 A I don't have that here. It is on our

25 financial statement.

1 CHAIRMAN SHANNON: How about your current
2 liabilities?
3 A Well --
4 REPORTER: How much, sir?
5 A Twenty-two or twenty-three thousand,
6 and our liabilities are close to that too.
7 CHAIRMAN SHANNON: It is pretty much a
8 washout?
9 A They are close together, yes, sir.
10 CHAIRMAN SHANNON: Go ahead, Mr. Wilson.
11 BY MR. WILSON
12 Q All right. Along that same line, if
13 your honor please, he filed an exhibit b, and at that
14 time, which was December 26, 1973, he had cash on hand
15 in the banks of twelve hundred dollars, and office equipment
16 of three hundred dollars. What is the situation with
17 reference to those figures now? Are they current?
18 A Well, we have added a copier machine.
19 Q Do you still have twelve hundred
20 dollars?
21 A Our bank account is less than five
22 hundred dollars. We have corporate accounts receivable
23 in the neighborhood of fourteen to fifteen hundred.
24 Q Are they currently payable?
25 A Yes, sir. Westvaco Corporation owes

1 eleven hundred , and Hercules owes one hundred and eighty-
2 two.
3 Q So there is no question about
4 collecting those two?
5 A No, sir. One other accounts receivable
6 is a local move -- local individual move of one hundred
7 dollars.
8 Q Now, you had some equipment. You
9 had a 1970 GMC, a 550 tilt cab and a 1970 Ford F 600,
10 197o Ford F 100, 1967 Ford, F 250, and a 1968 International
11 two ton truck. Do you still have those vehicles?
12 A Yes, sir, and we also now have a 1964
13 van.
14 Q As I understand it, you have taken
15 the income from your moves and paid off notes and expenses
16 and equipment?
17 A Yes, sir. Notes, license fees and
18 so forth.
19 Q All right. Now, what demand has there
20 been for your services since you notified the public that
21 you are available for this kind of move?
22 A Well, when we first put our add in the
23 paper in December, the add was supposed to have read, "Office
24 Open from 11 to 3." There was an error, and it was put in
25 "Office Open 9 to 5." We offered twenty-four hour answering

1 service. Since that time, we have averaged, I would say,
2 two moves a week. Some weeks we haven't had any, and some
3 weeks we have had three or four.
4 Q Have your moves been satisfactory, or
5 have you gotten complaints about your moves?
6 A To my knowledge, and I am very proud
7 of it, we have not had any dissatisfied customers. Everyone
8 that we have moved has made a point -- we ask them -- and
9 everyone assured us that they were very satisfied. The
10 two interstate moves, their claims were very minimal,
11 I would say fifty dollars or less, which I think is very
12 good.
13 Q All right. Mr. Kemper, do you have
14 a sampling of letters that you have obtained from people
15 that you have moved?
16 A Yes, I do.
17 Q I wonder if I can show you these
18 and ask you if they are the letters that you have received?
19 A Yes, these are.
20 Q Is it fair to say that the gist of those
21 letters is that these people are pleased with your services,
22 your Company's services?
23 A Yes, sir.
24 Q While Mr. Price is looking at those,
25 have you had demand for your services -- I think you have

1 answered that -- I would like to go one step further than
2 that and ask you if you have had demand for intrastate moves
3 which you have had to turn down?
4 A Yes, we did.
5 Q Did you keep a record of those requests?
6 A Yes. We make a record of it.
7 Q You have a group of those memos in your
8 hand, do you?
9 A There are nine of them here, sir.
10 Nine. All of them came to us or called
11 us about moving them. In these cases we had to tell them
12 that we are not authorized to do this business.
13 Q Can you give us the earliest date on
14 one of those?
15 A The earliest date was in December 1974.
16 CHAIRMAN SHANNON: December 1973.
17 A December 1973, I am sorry. Some
18 don't have a date on them. December was the earliest,
19 and the latest is March. One of those in March is a man
20 to be moved in April.
21 MR. WILSON: Your Honor, we would like
22 to offer both the letters that came in --
23 CHAIRMAN SHANNON: The letters will be
24 passed to the file, Mr. Wilson. I think the
25 others that are records of the Company, I think

1 we can put those in as an exhibit. What is the
2 next number?
3 BAILIFF: Exhibit No. 4, sir.
4 CHAIRMAN SHANNON: The inquiries will be
5 received as Exhibit No. 4. And the letters will
6 be passed to the file, which is in accordance with
7 our rules.
8 MR. WILSON: All right, sir.
9 BY MR. WILSON
10 Q Mr. Kemper, from your personal stand-
11 point, are you in this business for a short period of time,
12 or are you in it to stay, or what are your feelings at
13 the present about it?
14 A Our intentions are to stay in this
15 business. I have no intention of getting out of it.
16 Q I believe you are working full time
17 now for Westvaco?
18 A Yes, I am.
19 Q I gather you do intend to phase out
20 as your business progresses?
21 A Yes, sir. I believe it would be
22 impossible for me to stay with Westvaco if things go the
23 way we hope they will go. There is no way we can come
24 in full time at this minute, but the minute we receive the
25 authority, and the way we hope the business will go, I think

1 within the next few months one of us will be in the business
2 anyway.
3 Q Are you all primarily interested in the
4 local business within the frame of the license that you
5 are talking about here today, or do you have some great
6 ambitions for headquarters in Richmond or Norfolk or
7 other places?
8 A Everybody has great ambitions, but our
9 ambitions are to build a good, stable business in Covington
10 and the Covington area, and we have no intentions whatsoever
11 of opening a branch in eastern Virginia, or northern Virginia
12 or anywhere else. Neither one of us have any plans of
13 leaving Covington.
14 Q And from your studies of the Community
15 and from your experience that you have got at this point,
16 do you think you can make a going business of your
17 corporation?
18 A Yes, I think so.
19 MR. WILSON: All right. That is all I
20 have.
21 CHAIRMAN SHANNON: Mr. Price?
22 MR. PRICE: Yes, sir.
23 CROSS EXAMINATION
24 BY MR. PRICE
25 Q Mr. Kemper, were you at some time

1 employed by Covington Transfer and Storage?

2 A I helped Mr. Beels on one move.

3 Q And what -- was your employment

4 temporary or permanent?

5 A I was on vacation that week, and he

6 called me and wanted to know if I wanted to learn about

7 the business while we were negotiating, and if I wanted

8 to help him in a move. It was a two day move, and it was

9 from Lewisburg, West Virginia into Covington.

10 Q It was not your intention to enter

11 into employment permanently?

12 A No, sir.

13 Q You have mentioned the negotiations

14 with Mr. Beels. Would you be good enough to describe

15 those and tell us in your words why they were broken off?

16 A Yes, sir. The first time I contacted

17 Mr. Beels, we knew nothing whatsoever about the business,

18 so we sat down and told him our intentions. At that time

19 we found out what price he was asking.

20 Q What price was he asking?

21 A He was asking two hundred thousand

22 dollars.

23 Q Two hundred thousand.

24 A Yes, sir. We discussed the possibility

25 of bringing in two of my partner's brothers in. He assured

1 us at that time that if the four of us came in we could make
2 a good living off of this business.
3 CHAIRMAN SHANNON: What did the two hundred
4 thousand dollars contemplate? Did it constitute
5 the warehouse?
6 A The two hundred thousand dollars was
7 for one warehouse, of twelve thousand square feet. It
8 had a scale. A commercial warehouse maybe six thousand
9 square feet, and several trucks, and they were in bad
10 repair. The state rights, and the storage and warehouse
11 facility.
12 COMMISSIONER BRADSHAW: What value was
13 placed on the State rights?
14 A The State rights were tied to the
15 building. Unless we paid him the one hundred and twenty-
16 five thousand for the large building, then he would not
17 let us have the state rights. We were discussing, to
18 start with, where we would buy the business itself, lease
19 both warehouses, under a lease purchase agreement. He
20 was going to offer part of the financing. Without these
21 rights you can't get any business. We discussed our
22 situation with the area banks, and told them what our
23 plans were. Both banks said as far as we as individuals
24 they had no objection to lending us the money with proper
25 collateral, but the only way they could see that they could

1 us buy Covington Transfer was to work out a deal with the
2 present owner to let us have it for two years to run it.
3 This was the statement they made to us.
4 So I made another appointment with Mr.
5 Beels to go back for re-negotiations, but he didn't show
6 up for the appointment. We decided we were wasting our
7 time, and we couldn't get any further negotiations with
8 him, but we were determined at that point that this was
9 the business we wanted to get into. We knew that it would
10 be a rough, rocky road, but we decided to try it.
11 CHAIRMAN SHANNON: Gentlemen, this is
12 a good point to break for lunch. But before
13 I do, there is one question -- it is a legal
14 question. If you look at 56.338.8 of the Code,
15 it has a connotation there that says, "This
16 chapter does not require a point of origin be
17 specified in the certificate, and no such
18 designation is contemplated. The Commission is
19 not converned with the route or routes to be
20 employed by household goods carriers." And
21 it then refers to McDaniel v. Commonwealth,
22 and this is the case, as I recall, in which the
23 original certificate was transferred, and the
24 Commission went and imposed a restriction
25 restricting the certificate, and the Supreme Court

1 reversed it, and in a related case, Farley
2 Motor Lines v. Commonwealth, and it was a
3 very short case, the Supreme Court said the only
4 issue presented is whether the State Corporation
5 Commission has authority under the household goods
6 carrier act, Code section so and so, to limit or
7 restrict the initial certificate to transportation
8 of household goods to and from definite points
9 within the State.
10 Now, it is my understanding that a
11 household goods certificate provides for statewide
12 authority, is that correct, Mr. Rigsby?
13 MR. RIGSBY: Yes, sir, that is correct.
14 CHAIRMAN SHANNON: Now, I realize that
15 there has been a restriction put on by the
16 Applicant here, which is somewhat different than
17 a restriction the Commission would impose, but
18 during the lunch break, I wish all counsel would
19 consider this point, because we certainly want
20 to be within the framework of the law on any action
21 we take here, so I suggest that the counsel get
22 together with Mr. Rigsby, and you may want to give
23 some consideration to this point.
24 MR. PRICE: Your Honor, if I may, when I
25 arrived here this morning there were a number of

1 carriers who advised me for the first time that they were
2 opposing this Application, but will not appear as
3 witnesses. Would it be proper for me at this time to
4 introduce them?
5 CHAIRMAN SHANNON: Do you want to state
6 for the record the names? Why don't you just
7 state for the record the names of the carriers
8 that are opposing?
9 MR. PRICE: All right, sir. Mr. Shelbourne,
10 President of Shelbourne Transfer and Storage
11 Company; Mr. Smith, of Smith Storage and Moving
12 Company; Mr. Thomas, of M. W. Cosby Company;
13 and M. G. Cosby Company, Mr. W. R. Cosby.
14 CHAIRMAN SHANNON: Mr. Price, are you
15 representing these in your opposition here?
16 MR. PRICE: No, sir. I am representing
17 Covington and Hall.
18 CHAIRMAN SHANNON: I think it would be
19 wise if these gentlemen would enter an appearance,
20 as individual interveners, as soon as -- so that
21 they can receive a copy of the record. If they
22 want to testify they can come back later after
23 lunch, but I think for the record if you want
24 their appearance to be noted, being in opposition,
25 they should fill out an appearance slip.

1 MR. PRICE: Thank you, Your Honor.

2 MR. WILSON: If Your Honor please, these
3 gentlemen were here on another matter, not in
4 opposition to this Application, but having
5 arrived here and finding out about the case they
6 now want to intervene. I think I am correct, and
7 if I am not correct, I want that to be in the
8 record.

9 CHAIRMAN SHANNON: Well, under our rules,
10 Mr. Wilson, we don't require any advance notice.
11 A person can appear simply by coming in and
12 filling out a slip, and we permit counsel to fill
13 out this form, but individual interveners can
14 come in and note their opposition simply by
15 filling out a form, and putting their name and
16 address.

17 MR. WILSON: I understood. I just
18 wanted the record to show that they have a right
19 to be here and they have a right to oppose, but
20 that is not why they came in the first place, as
21 I understand it. They are down here on another
22 matter than on this particular application.

23 CHAIRMAN SHANNON: Let me say this for
24 the record. I see that copies of the notice have
25 been served on Mr. Carroll B. Jackson, and I think

1 he is the representative of the Virginia Movers
2 and Warehousemen's Association, and these
3 gentlemen that have been indentified here, I
4 recognize them as being members of that
5 Association. I don't know why they are here,
6 but it could be that they are here as a result
7 of the notice that was served by you all on Mr.
8 Jackson.
9 Let me ask you gentlemen, are you here
10 in an incidental way, or are you here as a result
11 of the notice that was served?
12 SPECTATOR: As a result of the notice,
13 sir.
14 CHAIRMAN SHANNON: All of you that are
15 here as a result of the notice, please stand.
16 (Spectators stand.)
17 CHAIRMAN SHANNON: And you are the ones
18 that have been identified in the record. All
19 right, thank you, gentlemen.
20 MR. WILSON: I was misinformed on that
21 point, but that is what I was told.
22 CHAIRMAN SHANNON: I think it has been
23 corrected on the record. The Commission will
24 recess now until two o'clock. 12:35 P. M.
25

1
2
3 2:00 P. M. The Commission
4 resumes its session.
5
6 CHAIRMAN SHANNON: I believe when we
7 recessed for lunch, I believe Mr. Kemper was on
8 the stand.
9 MR. RIGSBY: When we closed this morning,
10 in reference to the case number 199 Virginia,
11 in regard to the restriction, what happened was
12 that the Supreme Court in Farley Motor Lines
13 and McDaniel v. Commonwealth, relied heavily on
14 56-338.8 of the Code of Virginia, which at the
15 time of the case said that a certificate issued
16 by the Commission would authorize service between
17 all points in Virginia. But in 1960 that Code
18 section was amended by the General Assembly, and
19 the language is no longer in the Code section.
20 So counsel for all parties have had a
21 conference, and --
22 CHAIRMAN SHANNON: All counsel agree?
23 MR. PRICE: Yes, sir.
24 CHAIRMAN SHANNON: Thank you, gentlemen.
25 I just wanted to clear that up.

1 CHAIRMAN SHANNON: All right, you can
2 continue, Mr. Wilson
3 BY MR. WILSON
4 Q Just a couple of more questions of this
5 witness. Mr. Kemper, can you tell us briefly what the
6 effect would be of this license not being granted that you
7 seek and the effect of it being granted. Can you give
8 us the difference between those two?
9 A Yes, sir. We have pretty much come
10 to the conclusion that in order to survive as a moving
11 and storage company we are going to have to be able to
12 handle all types of business. For the simple reason if
13 you get the reputation of having to turn people down on
14 intra, this will reflect on the interstate, and we feel
15 that approximately thirty percent of our income would come
16 from intrastate moves.
17 We feel that it would be a pretty rough
18 blow to us not to get the rights, and we would probably
19 end up eventually going broke.
20 Q You would keep on as you are going now
21 and do the best you could?
22 A It would be very difficult to give up
23 the jobs we have now and come into the business unless we
24 had the authority to go into the type operation that we
25 think is necessary, and I think the State rights would be

1 required to build this type of business, and without it
2 you would pretty much be choked.
3 Q And in making this prophesy, do you
4 base any part on conversations with Hercules and Westvaco
5 personnel?
6 A Yes, along with the fact that the moves
7 we have done -- to the best of my knowledge we have gotten
8 ninety percent of the local moves in the Covington area
9 since we have been in business. This tells me that for
10 some reason people are coming to us, and if we had the
11 authority to haul intrastate, I think we would get a fair
12 share of that business.
13 Q Okay. Now, you had a number of people
14 come to you and ask to be moved intrastate and you have
15 had to turn them down, and that is indicated by Exhibit
16 No. 4, which you have filed here. Do you know where these
17 people go, or what effect your having to turn these people
18 down has on your reputation as a mover?
19 A Well, I haven't really heard one way
20 or the other, but it is my feeling that if the word got
21 out that this Company couldn't guarantee the full service,
22 that has got to cost you business in the future. Corporate
23 accounts I feel sure, because a corporation has to deal
24 with a company that they can rely on to do the business.
25 Q So what you are saying is that while

1 you try to keep your head above water, you don't think you
2 can without this particular license?
3 A I think it would be very difficult.
4 MR. WILSON: All right. There may be
5 other questions of Mr. Kemper.
6 CHAIRMAN SHANNON: Mr. Price?
7 CROSS EXAMINATION
8 BY MR. PRICE.
9 Q As I recall, Mr. Kemper, I asked you
10 to explain the negotiations. Would the reporter be good
11 enough to read the last couple of questions. I can't
12 recall precisely where you were in that, sorry.
13 REPORTER: Is this before lunch?
14 MR. PRICE: Yes.
15 REPORTER: Sir, that book is downstairs,
16 and I will be glad to go down and get it.
17 MR. PRICE
18 Q Oh, no, that won't be necessary. Do
19 you recall exactly -- as I recall, you have stated that
20 Mr. Beels asked two hundred thousand dollars for the
21 business --
22 A Yes, sir.
23 Q -- and that you had turned that
24 proposition down?
25 A We went back after the initial offer

1 of two hundred thousand, and we negotiated on the basis
2 of buying the building on a lease purchase agreement.
3 And he came down fifteen thousand dollars, and it was our
4 impression that the fifteen thousand dollars was on the
5 total price.
6 Q That fifteen thousand dollars was what?
7 A Was on the total price. So the next
8 time we met, it was on the second building that he took
9 the fifteen thousand off, not the total price of the
10 Company.
11 Q I am sorry, but I don't quite follow
12 you.
13 A Well, he had two buildings. One building
14 we didn't particularly want, and he had a thirty-five
15 thousand dollar price tag on it. But it was tied in, we
16 were going to buy both buildings and everything.
17 Q And --
18 A So he did come down fifteen thousand.
19 But the fifteen thousand was on the building that we
20 didn't particularly want.
21 Q You mean he withdrew that building
22 from the offer, is that what you are saying?
23 A He brought the whole deal down to one
24
25

1 one hundred and eighty-five thousand dollars.
2 Q But was there a difference between the
3 package that he was offering you at this time? It was
4 still the entire business that he was going to sell you,
5 isn't that correct?
6 A Yes, but the authority, the State
7 authority, was tied only to the big warehouse. The big
8 building.
9 Q He was selling you everything he had,
10 including state rights.
11 A Not necessarily, because it was possible
12 to buy without the little building.
13 Q But he wasn't offering you anything
14 except the entire business, is that correct? I mean he
15 was not offering to sell you a portion of the business,
16 he was offering to sell you everything he had?
17 A He wanted to sell everything he had.
18 Q And he reduced his price by fifteen
19 thousand dollars?
20 A Yes, sir.
21 Q And did you agree to purchase it?
22 A We went back to negotiation on the lease
23 purchase agreement, and he came down -- it came down to
24 fifty thousand dollars for inventory and business, and
25 we felt that possibly we could live with it, and we got a deal.

1 And like I said before --

2 Q But before we go that far, if I might

3 interrupt this, you and your partner agreed with Mr. Beels

4 to purchase the business for one hundred and eighty-five

5 thousand dollars.

6 A We agreed to purchase the business

7 for fifty thousand dollars, with a lease purchase agreement

8 on the building, and at such time, and I think it was ten

9 years, for some reason we didn't buy the building at the

10 end of the ten years, that he would still control the rights

11 and could take them back. This was a verbal agreement.

12 There is nothing in writing.

13 Q But wasn't the total amount agreed to

14 one hundred and eighty-five thousand dollars?

15 A With the buildings and all, the total

16 was one hundred and eighty-five thousand dollars.

17 Q Okay. Now, what happened to -- why

18 wasn't the deal --

19 A We thought we could live with the

20 fifty thousand, so we went to the banks, and told them what

21 our deal had been. And this is when they told us with --

22 about the bad reputation that the Company had achieved in

23 recent years -- that if they were willing to turn it over

24 to us and let us run it for two years, then they would --

25 Q But they would not lend you the money?

1 A They would not lend us the money based
2 on the reputation of the Company at the present time.
3 Q Is that what they told you?
4 A That is what they told us.
5 Q You have introduced into evidence
6 Exhibit No. 4, inter-office memos with regard to eight
7 individuals; Mrs. Pokkock, Taggrett, Poage, Cunningham,
8 Blankenship, Knick, Dreppert, and Clarkston.
9 Do you know what happened to those eight
10 moves?
11 A Mr. Dreppert has not moved yet.
12 Q Why is that?
13 A He anticipates moving in April or May.
14 Q I see. So he hasn't required the
15 services of any movers yet?
16 A No, he hasn't.
17 Q How about the other seven?
18 A I really don't know. Possibly some of
19 them went to one of the others.
20 Q As far as you know they were taken care
21 of?
22 A I can't say one way or the other.
23 MR. PRICE: No further questions.
24 CHAIRMAN SHANNON: Mr. Rigsby?
25 MR. RIGSBY: I have no questions.

1 RE-DIRECT EXAMINATION

2 BY MR. WILSON

3 Q I have just a few more questions.

4 Mr. Kemper, you had an opportunity I understand to look

5 at the books of Covington Transfer and Storage, is that

6 true, before you were getting into, or as you were getting

7 into negotiations about purchase price?

8 A Yes, sir.

9 Q Now, based on that investigation and

10 with these other studies that you did, was the figure of

11 one hundred and eighty-five thousand dollars a fair market

12 value for the business?

13 A Well, we felt it was high.

14 Q Why?

15 A He had twenty-five thousand dollars

16 price tag on his fleet of trucks. This consisted of trucks

17 that were in bad repairs. Some of them were even inoperable.

18 As a whole we felt the trucks -- we would have preferred not

19 having the trucks at all.

20 Q So you wouldn't have wanted the trucks

21 at all if you had had that option?

22 A Right. And I told Mr. Beel that.

23 The storage containers, he had a very fair price on them

24 I felt. Six thousand dollars, and it was worth every penny

25 of it.

1 Q That was on what now? Excuse me,
2 but I didn't get that?
3 A Moving storage containers in the
4 warehouse. I thought that was a very fair price. The
5 storage itself was part of the price tag, and according
6 to his records he was doing something like ten thousand
7 dollars worth of storage a year.
8 Q Did he try to sell you the franchise
9 or what ever you call it, that he had with United?
10 A That was included in the package I
11 understood to start with.
12 Q Did he put any value on it?
13 A I can't say definitely that he did. It
14 was this, and this, and this, and along with that was the
15 franchise which was included. But to come out and put a
16 value on it, I can't say that he did.
17 COMMISSIONER BRADSHAW: Did he tell you
18 what his annual profit was?
19 A The sheets showed it. It showed a
20 loss for two out of the five years. He said he didn't like
21 to show a corporate profit because the union got on him.
22 CHAIRMAN SHANNON: What was the gross
23 income, do you recall it?
24 A It ranged from sixty thousand dollars
25 up to one hundred and eighty-five thousand.

1 CHAIRMAN SHANNON: Now, on this arrangement
2 that you indicated you orally agreed to. Was that
3 fifty thousand dollars cash toward the lease
4 purchase?
5 A Yes, we would have to pay in fifty
6 thousand dollars for the business.
7 CHAIRMAN SHANNON: You mean fifty thousand
8 to purchase the warehouse on a lease purchase
9 agreement?
10 A We would lease the warehouse at so
11 much per square foot, and I forget exactly what it was,
12 with the agreement that we would buy within ten years,
13 and a portion of that lease would have gone toward the
14 purchase price.
15 COMMISSIONER BRADSHAW: And he was selling
16 everything else for fifty?
17 A Yes.
18 BY MR. WILSON
19 Q As I understand it, you all didn't really
20 want the trucks, and you really didn't want that other
21 building?
22 A Yes, sir, that is right.
23 Q And you were complaining about a lot
24 of that value being on the license?
25 A Right.

1 Q I don't know whether you got it
2 finished or not, but you were saying something about why
3 the banks didn't want to go along with this proposition
4 unless, as I understood you, there was a two year trial
5 period. What is that about?
6 MR. PRICE: I want to object to this
7 point unless you intend to introduce a witness
8 from the bank. I think that the bank's comments
9 with regard to Mr. Beels business is hearsay, and
10 I object to it on that basis.
11 CHAIRMAN SHANNON: I believe the best
12 evidence would be the bank's.
13 MR. WILSON: All right, sir. I withdraw
14 the question. If I may just ask one other.
15 BY MR. WILSON
16 Q I think I cut you off a minute ago
17 when you were saying something about Mr. Beel placing a
18 value on the license, and you were going to say something.
19 CHAIRMAN SHANNON: When you say license,
20 you mean the certificate, Mr. Wilson?
21 MR. WILSON; The certificate is what I am
22 probably incorrectly calling a license.
23 CHAIRMAN SHANNON: I just wanted the
24 record to be clear on that.
25 MR. WILSON: Yes, sir.

1 A I think that the price on the license
2 was in the neighborhood of ten thousand dollars. I don't
3 remember the exact amount --
4 BY MR. WILSON
5 Q But he did have it broken down?
6 A Yes, sir. He broke it down. The
7 first was two hundred thousand, and then it was reduced
8 to one hundred and eighty-five thousand. But it was all
9 contingent on buying the whole business.
10 MR. WILSON; All right. I believe that
11 is all.
12 MR. PRICE: I may just have one, Your
13 Honor.
14 RE-CROSS EXAMINATION
15 BY MR. PRICE
16 Q The initial asking price was two hundred
17 thousand dollars, and two businessmen negotiated, and
18 finally agreed to one hundred and eighty-five thousand,
19 is that correct?
20 A Contingent on the fact that we could
21 get financing.
22 MR. PRICE: I have no further questions.
23 Thank you.
24 CHAIRMAN SHANNON: You may stand aside,
25 Mr. Kemper. WITNESS STOOD ASIDE.

1 MR. WILSON: Mr. Reid?

2

3 OLIVER F. REID,

4 a witness introduced on behalf of the Applicant, being

5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. WILSON

8 Q Mr. Reid, will you give your full name,

9 sir?

10 A Oliver F. Reid.

11 Q And you live in Covington?

12 A 419 E. Madison St, Covington, Virginia.

13 Q Mr. Reid, I believe you are here today

14 in two capacities, is that correct?

15 A Yes, sir.

16 Q One as representative of Hercules

17 Corporation, and one as Mayor of the City of Covington?

18 A Yes, that is correct.

19 Q All right, sir. Let me ask you first

20 in your capacity as a representative of Hercules about

21 -- something about Hercules. How large a corporation is it?

22 A Hercules has approximately sixteen

23 hundred employees, of that number about four hundred are

24 management.

25

1 Q How long has the corporation been
2 located in Covington?
3 A The operation started in Covington in
4 February of 1961.
5 Q Okay. Now, just to get the relationship
6 between the businesses, what -- you have Hercules, and
7 then you have Westvaco, an almost comparable corporation
8 as far as size and influence is concerned?
9 A Yes.
10 Q After that, what is the heirarchy
11 as far as industries are concerned? What do we have there
12 in Covington?
13 A I would say the only other industry of
14 any size would be a garment industry of about three hundred
15 located within the city limits.
16 Q And the rest of the businesses there
17 are --
18 A Commercial type of operation.
19 Q What is the need, presently, of Hercules
20 as far as the transfer business is concerned, and in your
21 answer refer particularly to intrastate moves?
22 A Well, Hercules to begin with is a
23 multi-plant company, and we have five locations in Virginia.
24 The larger one being Radford, one in Covington, Hopewell,
25 Franklin and a small operation in Snowdon. And from time-to-

1 time we do have management personnel transferred to -- from
2 one plant to another, intrastate within the State of
3 Virginia. And occasional transfers from out of state to
4 Virginia.
5 Q All right. Can you give us some idea
6 about what the present demand is as far as intrastate
7 moves are concerned, and looking back what it has been over
8 the years that Hercules has been in Covington?
9 A Well, when Hercules first started
10 its operations in Covington, we brought a research group
11 who came in from out of State, and that was a considerable
12 number of transfers. This research facility has been
13 moved to Raleigh, North Carolina.
14 Since that time, the moves generally
15 have been let's say Radford to Covington, Covington to
16 Hopewell, and within the past year or so we -- it has been
17 minimal.
18 We do project a steady growth, as things
19 are happening around Hercules in the fiber and film business,
20 and we anticipate that within the next five years we will
21 be experiencing good, healthy growth in terms of employees
22 and in terms of physical expansion.
23 Q All right. Can you give us an idea
24 from the standpoint of capital outlay and from the standpoint
25 of the number of employees you anticipate along that line?

1 A To begin with, we are constantly
2 undergoing changes in capital expenditures. It runs into
3 the millions. In the past year we have added approximately
4 one hundred and twenty-five new employees. Projected
5 physical expansion for the future would run somewhere
6 in the high twenty million. Twenty-five to thirty million.
7 The fiber operation is quite different
8 from our other operations. Basically in chemicals you have
9 to have manpower position by position to take care of
10 the increased production, so that we would anticipate
11 in the next year or so adding one hundred to two hundred
12 hourly employees, and we just hazard a guess -- I know
13 that right now we are looking for four or five technical
14 people.
15 This could come by way of satellite
16 recruiting, including -- satellite recruiting within the
17 State -- and from our corporate headquarters in Wilmington,
18 Delaware.
19 Q What do you anticipate the upper level
20 of your employment to be in a reasonable number of years?
21 A I would say within the next ten years
22 twenty-five hundred to three thousand people.
23 Q Now, who is in charge at your plant
24 there in Covington of moving in the type that we are talking
25 about here today?

1 A Actually, as in the situation with
2 Westvaco, most of the moves are handled in our traffic
3 department. Our office manager, for example, will have
4 an opportunity to contact them. I have had occasion in
5 the past to do that, particularly when moves were made
6 locally within the State or outside of the state.
7 If there is no preference expressed,
8 generally it is handled out of the corporate office in
9 Wilmington, Delaware.
10 Q I believe Judge Shannon asked a while
11 ago if you all put your transfers out for bids.
12 A Not as a rule. I understand they make
13 arrangements with a number of transfer companies that are
14 in the business and they know them.
15 Q Now, what is available in the Covington
16 area as far as movers?
17 A The only one I am familiar with of
18 course is Covington Transfer and Storage, Mr. Hall, and
19 now I assume that Triangle, under the Bekins system.
20 Q Now, has Hercules used the services of
21 Covington Transfer and Storage and Mr. Hall's Company in
22 the past?
23 A Yes, sir.
24 Q What is the present policy about using
25 either of those two companies?

1 A Well, I don't know that there is
2 a policy, certainly not locally. I believe the most recent
3 use was to move from Tarre Harte, Indiana, to Covington.
4 I am not that close working with Wilmington in that
5 situation.
6 CHAIRMAN SHANNON: What is your official
7 position with Hercules?
8 A I am Personnel Manager.
9 CHAIRMAN SHANNON: As Personnel Manager,
10 are you in charge of routing traffic, do you have
11 anything to do with traffic?
12 A No, sir. My basic function is
13 industrial relations.
14 CHAIRMAN SHANNON: What about moving
15 personnel?
16 A Only from the standpoint of recruiting.
17 CHAIRMAN SHANNON: Well, let me ask you
18 this. When you have a move to be made, say
19 intrastate Virginia, how does the employee, the
20 affected employee go about arranging his move
21 with Hercules?
22 A Basically, there are several ways he
23 could do it, sir. Basically, this move is known to our
24 corporate headquarters, and someone at the plant would be
25 in touch with our traffic department, and this person who is

1 making this intrastate move could have a choice as to
2 preference of movers. In other words, you can say I want
3 "X" movers to move me on a certain date.
4 CHAIRMAN SHANNON: And would they honor
5 that?
6 A I would say generally they would honor
7 that, yes, sir.
8 CHAIRMAN SHANNON: Proceed.
9 BY MR. WILSON
10 Q Does your Company frequently get into
11 recommendations as to which company to use and that sort
12 of thing?
13 A I have on occasions.
14 Q Now, Mr. Reid, are you here on behalf
15 of your Company to make a recommendation on the question of
16 this certificate one way or the other?
17 A No, I think Hercules is a billion
18 dollar company, one of the ten largest of this type in
19 America, and we are always interested in healthy competition.
20 I think they are interested that proper service be provided
21 our employees, particularly our higher echelon of manage-
22 ment.
23 In going back to the numerous moves we
24 had in the early years, I can recall that one of the more
25 disturbing situations was the fact that the relocation was

1 not orderly, or something went wrong, and all of this I
2 think tends to go to the frame of mind of relocating a
3 new member of management, particularly in the technical
4 aspect.
5 Q You have -- you may have just answered
6 the questions that I am going to ask you, but when people
7 come into Covington to locate, how important is it that
8 they come in in a good frame of mind?
9 A I think it is very important. To
10 start up with the operation and having the impossible task
11 of locating one hundred and twenty-five people when you
12 know there is not adequate housing in and around Covington.
13 Of course, some of these have to go to Roanoke. The things
14 people are concerned about primarily are schools, and
15 good housing. Inasmuch as they have been dislocated by
16 the move, they want it to be orderly and get about their
17 business as soon as possible. These are the things that
18 are expressed, particularly by the wives.
19 Q Do you have in Covington, from the
20 standpoint of your industry, a hard time getting people to
21 come and especially those that come without any prior
22 experience, to come and locate and stay?
23 A Yes, sir. It is always difficult to
24 get technical people to come from the larger cities into
25 the smaller town. You do not have the opportunity, for

1 example to attend graduate school as you would if you lived
2 in the city. The shopping facilities are not as good as
3 what they came from. Recreational activities. So we
4 have found it difficult to get technical people to come
5 and stay.
6 Now, moves within the Company, that is
7 somewhat of a different situation, because these people
8 generally have already had service with the Company, and
9 it is an elevating type of thing, with promotion.
10 Once they are there, once they have seen
11 the qualities of the area, they like it very much and they
12 frequently are reluctant to leave. This is because of the
13 hunting activities, the golfing activities, and this type
14 of thing.
15 Q So as I understand it, you are here
16 on behalf of your customers -- on behalf of your Company
17 to recommend or not recommend the granting of this
18 certificate?
19 A I -- speaking as a representative of
20 Hercules, I would urge that it be granted as a matter of
21 providing additional service to the people in that area.
22 Q Now, Mr. Reid, do you know both Mr.
23 Kemper and Mr. Brown, the applicants here on behalf of
24 their corporation?
25 A Yes, I have known both for several years

1 Q How long have you known these two men?
2 A At least ten years.
3 Q Ten years. Can you tell us just in a
4 general way, in a nut shell, something about them, what
5 kind of men they are, their reputations for either being
6 good workers or not?
7 A As far as I know, and I know their
8 families too, I think both have good reputations in the
9 community and good characters, and having integrity, and
10 I think are aggressive, alert, and enterprising two men.
11 Q Now, I am sure that Hercules, and
12 I feel any other industry, would not want to go on record
13 behind a fly-by-night business of any kind. Are you
14 satisfied that these two men are not -- do not represent
15 a fly-by-night company? That they mean what they say
16 and that they are going about it in the right way?
17 A My impression is that these young
18 men coming in will have a struggle, but that they will come
19 out very well and that they will be a very valuable addition
20 to the business. Mr. Brown called me for an appointment
21 to come over and discuss this matter. He did, along with
22 Mr. Kemper, and we spent an hour perhaps, and they provided
23 me with some information about the company. I was quite
24 impressed with their enthusiasm and willingness to provide
25 this type of service, and their dedication.

1 I, in turn, passed on the information
2 to the other members of our plant, that hopefully it
3 would end up in Wilmington.
4 Q In your capacity there at Hercules,
5 have you received any complaints recently about Covington
6 Transfer and Storage?
7 A Only one that was reported to me.
8 This happened to be a member -- I also have jurisdiction
9 over the medical department -- the plant physician.
10 Q What is his name?
11 A Doctor William W. Harris. We were
12 just talking. He was talking about the service that was
13 to be provided by Mr. Brown and Kemper. He expressed to me
14 a dissatisfaction with the recent move he had with Covington
15 Transfer and Storage. The details we really didn't get
16 into other than the extension of the time it took to
17 consume this, and apparently the price.
18 Q All right, sir. Now, Mr. Reid, if we
19 move along, to your testimony in your capacity as Mayor
20 of the City of Covington, briefly so as not to go any
21 longer than necessary, what is the situation in Covington
22 from the standpoint of Mayor and the standpoint of the
23 Chamber of Commerce, as far as expected growth. You
24 mentioned Hercules and Westvaco, but in addition to those
25 two large corporations, what is the expected growth in the

1 -- not only in the City of Covington and Alleghney County,
2 but in the surrounding area?
3 A Well, Covington as some of you know is
4 rather isolated city. For various reasons, principally
5 for lack of area for desirable sub-divisions, and of course
6 a moratorium on annexation, we have been experiencing
7 a declining population in Covington as such. I would say
8 the bulk of these people are moving into the County. I
9 do not feel that overall the area is suffering from the
10 decline in population.
11 As a result of this, we have focused our
12 attention upon the developing -- developing the business
13 and the commercial climate in and around Covington. Not
14 only Covington, but in most cases the periphery. To
15 locate there is going to be helpful to Covington.
16 With the things that have been mentioned,
17 with the Gathright Dam which will be completed some time
18 in 1976, this was accompanied by construction personnel
19 living in Covington, and led to the development of a trailer
20 park within the City, and the completion of Gathright we
21 will see a tremendous new area in recreation; boating,
22 fishing, and this type of thing. This coupled with the
23 completion of I-64 from Lexington to Clifton Forge, and
24 the completion of 220, I think we are going to see a very
25 large transition in the business and commercial profile

1 there.

2 Q The Court may know, but what size

3 is the Gathright lake going to be?

4 A Twenty-three to twenty-four acres,

5 I think.

6 Q Now, what is happening that you know

7 to the land values for cottages and that sort of thing,

8 homesites around the lake, as a result of the lake going

9 through?

10 A Certainly it is escalating in most

11 areas. Land in that area, of course, is scarce. I would

12 say a better than normal increase in the value of land.

13 I would also foresee the result of these apartment complexes.

14 As you also know, we are just completing a new vocational

15 school just outside of Covington which will mean it will

16 need personnel to operate it. There is movement afoot at

17 the moment to build a new hospital in the area that

18 will bring in additional personnel.

19 Q You mentioned the completion of 220.

20 Actually, 220 is already completed?

21 A Yes, sir. Four laning it. From

22 Fincastle into Clifton Forge.

23 Q Is it already completed from Roanoke

24 to Fincastle?

25 A To Fincastle, yes, sir.

1 Q How much of I-64 is remaining to be
2 completed?
3 A The only lag is from Lexington, and
4 there is work going on at the moment -- the interchange
5 in Lexington bypassing the City of Lexington. From
6 Lexington to Clifton Forge.
7 Q How many miles have been completed?
8 A I would say approximately thirty
9 miles.
10 Q Now, you were talking about the
11 back creek project when I interrupted you. Go ahead.
12 A Well, as I understand the back creek
13 project, Vepco's, it is one of the largest projects in the
14 world of its kind. It is going to employ around twenty-five
15 hundred people, at peak construction. This will tail off
16 after that. This will also mean relocating families in the
17 area. This, although it is perhaps thirty to thirty-five
18 miles away from Covington, already there is activity to
19 expand our local mobile trailer park for people that are
20 going to be working up there.
21 Q Do you have any idea -- and you mentioned
22 twenty-five hundred employees, do you have any idea how
23 many in addition to the employees would come as part of
24 their family?
25

1 A I understand six or seven hundred
2 families would be involved.
3 Q Are there facilities in Bath County
4 or in the vicinity of this proposed lake to take care of
5 these people?
6 A Absolutely not. I do not believe
7 that there are facilities to handle this type of influx
8 of people, so far as housing is concerned.
9 Q What you are saying is that some of
10 that is going back toward the Covington area?
11 A Hopefully it will be in the Covington
12 area.
13 Q All right, sir. Now, Mr. Reid, did
14 you bring with you resolutions which were enacted by the
15 City of Covington Council and by the Board of Supervisors
16 of Allegheny County?
17 A I am aware of them. I did not bring
18 them with me.
19 Q All right, sir. I will show these
20 to you and ask you if they are the resolutions?
21 A Yes. This is a resolution that was
22 passed in our April meeting in regard Transfer -- Triange
23 Transfer and Storage Company regarding application for
24 a certificate of convenience and necessity.
25 Q Will you look briefly at the Alleghany

1 Board of Supervisors resolution, and does that recommend
2 the same thing?
3 A I have been asked to read, if necessary,
4 this. Here again it is support on the part of the Board
5 of Supervisors to the granting of a certificate of
6 convenience and necessity, signed by the Clerk of the
7 Council, to operate in the Covington, Alleghney County
8 area.
9 MR. WILSON: We would like to offer those
10 into evidence, for what weight the court thirks
11 they deserve.
12 CHAIRMAN SHANNON: Do you want to receive
13 these collectively as an exhibit?
14 MR. WILSON; Any way that the Court
15 thinks proper.
16 CHAIRMAN SHANNON: All right. They
17 will be received collectively and marked as
18 Exhibit No. 5.
19 MR. WILSON: No more questions.
20 CHAIRMAN SHANNON: Mr. Price?
21 MR. PRICE: Yes, sir.
22 CROSS EXAMINATION
23 BY MR. PRICE
24 Q Mr. Reid, I believe you mentioned that
25 Doctor Harris had a complaint about Covington Transfer?

1 A Yes, sir.

2 Q But you are not familiar with the

3 details of that?

4 A No, sir.

5 Q To your knowledge, has there ever been

6 any other complaints of any kind with regard to either

7 Covington or Hall?

8 A Not to my knowledge.

9 Q Did you authorize the statement in the

10 Applicant's application that the personnel and traffic

11 departments in your Company indicates that they receive

12 poor service or frequent cancellations?

13 A I did not.

14 Q Who is responsible for assigning moves

15 in your company. The individual.

16 A Our home office.

17 Q Do you know the name?

18 A No, I do not, sir.

19 Q Do you know a Mrs. Degan?

20 A I have heard of her, yes.

21 Q But you don't know whether she is the

22 one or not?

23 A No, sir, I do not.

24 MR. PRICE: I have no further questions.

25 CHAIRMAN SHANNON: Any questions, Mr. Rigsby?

1 MR. RIGSBY: No questions.
2 CHAIRMAN SHANNON: Any re-direct, Mr.
3 Wilson?
4 MR. WILSON: No, sir, none except Mr.
5 Reid, I believe at the beginning of this hearing
6 there was a letter from Doctor Harris, which was
7 sent to the Commission.
8 A I have heard there was one.
9 COMMISSIONER BRADSHAW: I have a letter
10 from a Doctor McGuire.
11 CHAIRMAN SHANNON: It would be passed
12 to the file. You may look through that if you
13 want to.
14 MR. WILSON: It is probably still in the
15 mail, if your honors please.
16 CHAIRMAN SHANNON: You may stand aside,
17 Mr. Reid.
18 WITNESS STOOD ASIDE.
19
20
21
22
23
24
25

1 MR. WILSON: That is our case.

2 CHAIRMAN SHANNON: All right. Mr. Price?

3 MR. PRICE: Yes, sir. Mr. Lawrence, will

4 you take the stand, please.

5

6 WELDON T. LAWRENCE,

7 a witness introduced on behalf of the Interveners, being

8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. PRICE

11 Q Will you please state your name and

12 address?

13 A Weldon T. Lawrence, Jr., 742 Ridge

14 Crest Drive, Hollins, Virginia.

15 Q And your occupation?

16 A President of Lawrence Transfer and

17 Storage Corporation.

18 Q Are you also connected with United

19 Van Lines?

20 A I am an agent of United Van Lines,

21 and I am a stockholder of United Van Lines, and I am on

22 the Board of Directors of United Van Lines.

23 Q In your capacity as a Director, were

24 you familiar with the application of Triangle?

25 A Yes, sir.

1 Q Will you describe that to us?
2 A Well, the Board of Directors has to
3 pass on all agents that are new agents, and the application
4 for Triangle did not come before the Board for a vote.
5 I reviewed it in the finance committee.
6 Q And what were the conclusions?
7 A Our conclusions were that -- let me
8 preface this by the fact that the Interstate Commerce
9 Commission has very diligently told corporate companies
10 when they take an agency under MC 19.9, that they set out
11 specific rules and regulations about what they expect of
12 an agency, and we felt that the carrier Triangle Transfer
13 did not have the experience necessary to perform full
14 services, and that they were very poorly capitalized.
15 Q Were there any other reasons in
16 rejecting them?
17 A These were the basic reasons. We
18 had a full investigation. We had Dunn & Bradstreet, and
19 commercial credit and so forth. It is the standard
20 procedure that we go through.
21 When you set up an agency, and they have
22 facilities and you put shipments in their facilities and
23 so forth, you as a carrier, in this case United Van Lines,
24 has to continue to accept all the liability, and we didn't
25 feel that we could put shipments in the facilities, which

1 in this case was a place which was used as a store
2 previously, of about three thousand feet, and it was a
3 very poor security risk as far as putting shipments in and
4 this type of thing. It did not meet the standards of
5 United Van Lines.
6 Q Are you familiar with Covington's
7 facilities?
8 A Not completely.
9 Q Do you do any interstate business
10 to and from the Covington area?
11 A Yes, interstate, intrastate.
12 Q Have you conducted any kind of a study
13 as to the number of shipments to and from that area?
14 A I have made a quick calculation
15 yesterday of two interstate's and seven intrastates handled
16 within the last six to eight months.
17 Q To and from Covington?
18 A To and from Covington, Clifton Forge,
19 plus we handled approximately in the same period of time
20 from our Waynesboro branch and our Roanoke office, seventy-
21 five to a hundred shipments of electronic equipment and
22 machines and this type of thing.
23 Q Would you be able to -- do you feel
24 that your Company has the capacity to handle any intrastate
25 business to and from that area?

1 A Yes, sir. We have a salesman that
2 calls on the area, that calls on the two accounts that
3 are here today, plus other accounts. And we go as far
4 away as the Homestead and Hot Springs. And we service
5 them out of -- we also have our own ICC Authority that
6 encompasses this area.
7 MR. PRICE: All right. No further
8 questions.
9 CHAIRMAN SHANNON: Mr. Wilson?
10 CROSS EXAMINATION
11 BY MR. COLLINS
12 Q Mr. Lawrence, in your connection with
13 the Board of Directors of United Van Lines, are you
14 acquainted with L. D. Miller?
15 A Yes, sir.
16 Q Was his letter to Mr. Brown pursuant
17 to the feelings of the Board of Directors or your finance
18 committee, or whoever evaluated the Triangle Transfer and
19 Storage?
20 A He is management, and I do not know
21 what he wrote.
22 Q Well, briefly, let me ask you a
23 couple of questions about it. In paragraph two, his
24 letter says: The decision to not approve the agency
25 -- you are aware --

1 CHAIRMAN SHANNON: Excuse me, if I may,
2 I don't believe he has seen a copy of that.
3 BY MR. COLLINS
4 Q Oh, I am sorry. Excuse me. You will
5 note that in paragraph two it says, "The decision was made
6 not due to any deficiency in your application, but rather
7 due to the nature of the market in which you are located."
8 Was that, in fact, you say, not the
9 decision. That it was based on their inability,under
10 capitalizaton and warehousing.
11 A Mr. Miller wrote the letter, and he is
12 not a member of the Board and was not present in any of the
13 discussions about this.
14 Q Which is the position of United Van
15 Lines? Would it be what they suggested in the letter or
16 what you do in executive session?
17 A It would be on what the Board recommends,
18 or the Committee recommends.
19 Q Oh, I see. And are you aware it says
20 in the final paragraph, "It has, in effect, been decided
21 to afford our present agent an opportunity to revitalize
22 his agency with periodic performance reviews to insure an
23 appropriate coverage of the market." On the Board of
24 Directors, were you aware of any concern of United Van
25 Lines with existing service in the Covington -- performed

1 by Covington Transfer?

2 A I don't think -- you have a limited

3 market, and Covington Transfer -- I have known Mr. Beels

4 for quite some time, and I have worked with him as a United

5 agent, and with the size population he has to work with I

6 think he has done a very good job.

7 Q I am asking you if you were aware

8 and your position on the Board of Directors in these

9 Committees, of a feeling of United Van Lines that he was

10 in fact not doing the job, and that they should give him

11 an opportunity to revitalize his business with periodic

12 checks?

13 A This was not brought before the Board

14 and there was no question -- because the cancellation of

15 an agent would have to come before the Board. Mr. Beels

16 was never brought before the Board for any cancellation.

17 Q Let me ask you, if Mr. Beels was in

18 fact a United Agent operating in Covington, why was there

19 this much investigation into the possibility of getting a

20 new agent there?

21 A You can't discriminate on taking an

22 application. If a man wants to make an application, you

23 take the application.

24 Q Even if you already have an agent in

25 that area and don't need it?

1 A You take the application. We have
2 multiple representation in some cities.
3 Q And once you get an application, Dunn
4 and Bradstreet comes onto the scene, look at their
5 equipment and everything, even if you knew you already had
6 enough agents?
7 A That is correct.
8 Q So your position -- from your position
9 then you would just say, I take it, that the criterion
10 referred to in this letter of November 29th is not correct?
11 A That is correct.
12 CHAIRMAN SHANNON: How many members are
13 on the Board?
14 A Eighteen.
15 CHAIRMAN SHANNON: And where did you meet?
16 A Fenton, Missouri.
17 CHAIRMAN SHANNON: That is near St. Louis?
18 A Suburbs. United Van Lines is unique
19 in the moving industry, in that it is more like a co-op.
20 There are one hundred and thirty of us and we own thirty-
21 five shares of stock each, even though we have six hundred
22 and some agents. It is owned by one hundred and thirty of
23 us, and the stockholders elect a board of eighteen, which
24 is a management board as well as a working board.
25 CHAIRMAN SHANNON: At your Board meetings

1 you do review each one of these applications
2 for an Agency?
3 A Yes, sir. And what you do you go
4 through a Committee first before it goes before the whole
5 board.
6 CHAIRMAN SHANNON: What Committee would
7 it go through?
8 A It would go through the Finance
9 Committee and the Sales and Marketing.
10 CHAIRMAN SHANNON: And do they make
11 recommendations to the Board?
12 A They make recommendations to the Board.
13 CHAIRMAN SHANNON: Were you on either
14 of these Committees?
15 A I am on the Finance Committee.
16 CHAIRMAN SHANNON: And what was the
17 Finance Committee's recommendation?
18 A Our recommendation was that it was
19 under-capitalized from our standpoint.
20 CHAIRMAN SHANNON: Excuse me. Go ahead,
21 Mr. Collins.
22 BY MR. COLLINS
23 Q Are you acquainted with a Mr. Sponsler?
24 A Yes, sir.
25 Q Who in fact dealt directly with these

1 people, is that correct?

2 A Yes, sir.

3 Q And you did not deal directly with

4 them?

5 A No, I did not deal directly with them.

6 Q And you have heard the testimony that

7 -- about the conversations that he had with them about

8 and additional agency and of the problems with Covington

9 Transfer?

10 A Otto Sponsler did not relate it to me

11 of any problems with Covington Transfer. If there were any

12 major problems, he would find the closest Board of Directors

13 member.

14 Q Is there any explanation for why the

15 problems they say he talked with them about are identical

16 to the reference in Mr. Miller's letter from Fenton,

17 Missouri, or what they were going to do regarding Mr. Beels?

18 A I will say this, that these people are

19 in the marketing department of United Van Lines. They

20 investigate every person that wants to make an agency

21 application. In some cases they go in and find that we

22 can come up with a better agent than we have, and in some

23 cases they don't. They treat every application the same.

24 COMMISSIONER BRADSHAW: Did I understand

25 you to say you had some problems with the present

1 agent that you would not have in the bigger
2 city?
3 A No, sir. What I meant is that there
4 is a limited population. You have to have a population
5 that is moveable before you can have a moving and storage
6 company that is healthy or can do everything perfectly or
7 to the best of their ability. The area that Covington is,
8 you just don't have that many people moving to have all
9 the services available . I don't know of any problems,
10 no.
11 COMMISSIONER BRADSHAW: Did you folks
12 get a Dunn & Bradstreet Report?
13 A Yes, sir.
14 COMMISSIONER BRADSHAW: Did it kick back
15 favorably or unfavorably?
16 A They don't give you an impression one
17 way or the other. They just tell you the facts, and you
18 have to draw your conclusions from that. From what we
19 could see, it was grossly under-capitalized.
20 CHAIRMAN SHANNON: Is that what you based
21 your recommendation on, on the Dunn & Bradstreet
22 Report?
23 A That is part of it.
24 CHAIRMAN SHANNON: What else was
25 considered?

1 A Well, the same information that the
2 Bekins man was talking about this morning. We read it
3 a little differently, in that the personal items involved.
4 Also the information from the banks. After we delved into
5 it a little bit we heard of them talking and negotiating with
6 Beels.
7 COMMISSIONER BRADSHAW: You knew about
8 their negotiations?
9 A We knew about it only when this
10 Board meeting was. We did get information about that.
11 In this case, had they bought Covington
12 Transfer, they did not buy the franchise of United, because
13 there is a requirement that he would be getting a new
14 agency number. We don't transfer agencies when the owner-
15 ship is transferred.
16 CHAIRMAN SHANNON: So you can't sell an
17 agency agreement?
18 A That is right, you cannot sell it, and
19 we would go through the same investigation as in this case.
20 CHAIRMAN SHANNON: Well, let me ask you
21 this. If Mr. Brown and Mr. Kemper had purchased
22 Covington, do you think your result would have
23 been the same?
24 A Possibly.
25 CHAIRMAN SHANNON: Possibly?

1 A Possibly.

2 CHAIRMAN SHANNON: But you can't say?

3 A I can't say, no, sir.

4 BY MR. COLLINS

5 Q Have you personally examined the

6 facilities available in Covington?

7 A No, sir.

8 Q To your knowledge, has Mr. Sponsler

9 done that?

10 A Yes, sir.

11 Q And you are saying -- if these people

12 indicate that he said, or as they have done, that these

13 were adequate facilities, you would disagree with that.

14 You would say he has told you, and pass the word up the

15 line, that they were not adequate facilities?

16 A The sales and marketing division --

17 I didn't pass on that, but I do know this is part of it.

18 The facilities were not adequate for United Van Lines to

19 put storage.

20 Q Where would that come from, if it were

21 not Mr. Sponsler? Who else would have examined the

22 facilities?

23 A They sent a picture of the facility.

24 The limited space, and it showed the type building it was.

25 The Sales Marketing Department.

1 Q In other words, he could have approved
2 it, but then based on pictures they might have had a
3 different conclusion?
4 A Right. You just don't go out and hand
5 out an agency any more. There has to be an investigation.
6 Q I don't expect you continue an agency
7 if it is not an advantage to the Company?
8 A That is right.
9 COMMISSIONER BRADSHAW: Is Bekins governed
10 by the same standards?
11 A Yes, sir.
12 BY MR. COLLINS
13 Q Now, are you familiar with the
14 capitalization and so forth of Covington Transfer and
15 Storage?
16 A No, sir.
17 Q You were only concerned about a new
18 agent. You don't keep any sort of records?
19 A If Covington Transfer was having
20 financial problems with United Van Lines, I would know
21 that.
22 CHAIRMAN SHANNON: What is the arrangement
23 on an interstate move, Mr. Lawrence? What
24 percentage does -- the agent fee?
25 A According to what they do. There is

1 a fifteen percent booking commission. Five percent
2 commission if the agent is at the origin, so that makes
3 twenty percent.
4 If he hauls the shipment, then he gets
5 seventy-one and a half percent. United Van Lines gets
6 eight and one-half percent.
7 CHAIRMAN SHANNON: Of the interstate
8 rates?
9 A Yes, sir.
10 CHAIRMAN SHANNON: What about packing?
11 A That is broken down now in Interstate
12 to three different levels. The packing material, the
13 packing charge and the unpacking charge. The agent gets
14 one hundred percent of the packing material cost. They
15 get ninety percent of the packing charge, and a hundred
16 percent of the unpacking.
17 CHAIRMAN SHANNON: And what are the
18 -- what about the storage charges?
19 A The agent gets one hundred percent
20 of the storage.
21 CHAIRMAN SHANNON: And does United assume
22 any liability, any reponsibility for an interstate
23 shipment while it is in storage?
24 A Yes, sir. It is what we call on a
25 storage in transit, and they have control of it from the

1 origin to the ultimate destination, and they are
2 responsible while it is in the warehouse.
3 COMMISSIONER BRADSHAW: Does the agent
4 have an opportunity to become a shareholder?
5 A Yes, sir. Later on they can buy
6 stock just like we did.
7 COMMISSIONER HARWOOD: Is that stock
8 held outside of agents?
9 A We have fourteen blocks of stock
10 that is held by non-agents, that have sold their business
11 or retired.
12 COMMISSIONER HARWOOD: But it is not
13 traded on the open market?
14 A It is not traded on the open market,
15 no, sir.
16 BY MR. COLLINS
17 Q Mr. Lawrence, you say that you feel
18 that your Company operating out of Roanoke has the capacity
19 to handle the movements to and from Covington?
20 A Yes, sir.
21 Q And you are basing that on what?
22 A On the service we have available.
23 We offer service to the area, we solicit business in the
24 area.
25 Q All right. What is your closest

1 location to Covington?

2 A Roanoke.

3 Q How far is that from Covington?

4 A About thirty-five miles -- air miles.

5 About fifty miles --

6 Q Do you do much air freight?

7 A No.

8 Q How far is it just driving, which is

9 what we are talking about here.

10 A Fifty miles.

11 Q You don't anticipate -- you don't claim

12 that you are doing a substantial portion of the business

13 at this time, do you? Or are you?

14 A I would say that we are. We are

15 getting our share, and there are five other movers in

16 Roanoke that also service that area.

17 Q When you say service that area regularly,

18 what do you mean? Do you go call on people? Accounts?

19 A Yes, sir. We call on accounts. We

20 have a salesman.

21 Q Does he report to you?

22 A Yes, sir.

23 Q Would he call on, say, Westvaco?

24 A Yes, sir.

25 Q Has it been brought to your attention

1 that for the last year and a half or so that the Company
2 policy has been not to give any of those to Covington
3 Transfer?
4 A No, sir.
5 Q Your salesman hasn't reported that
6 to you?
7 A No, sir.
8 Q Until today. You heard the traffic
9 representative make that announcement today. Let me ask
10 you, with your agency or with your position on the Board
11 have any reprimand from United against Covington Transfer
12 Company come to your attention?
13 A No, sir.
14 Q You have indicated that if Mr. Beel's
15 sold, or attempted to sell his agency agreement, that it
16 could not be done, that that was improper, is that right?
17 A Yes, sir.
18 Q In other words, the new applicant
19 would have to stand on their own merit?
20 A Right.
21 Q But if the franchise or agency agreement
22 was accepted, would you have any way of knowing what the
23 consideration was for the sale of the business?
24 A No, sir.
25

1 Q Now, would you negotiate actively
2 with the sale of one of your agent's businesses?
3 A No, sir.
4 Q So if he did, in fact, put a price
5 of twenty thousand dollars, or one thousand or what have
6 you, on the agent fee and it was approved, you would have
7 no knowledge of that?
8 A No, sir.
9 Q What did you say you had intrastate
10 moves from Covington in the last -- did you say year?
11 A It is a shorter time than that.
12 The salesman has given me some since June of 1973.
13 Q Well, that would be almost a year.
14 And how many was it?
15 A Seventy-five to a hundred he says.
16 This is just household moves. We have two or three trucks
17 a week in Covington delivering Xerox machines, IBM,
18 Burroughs and this type thing.
19 Q How many household moves?
20 A He gave me seven intras during that
21 period of time.
22 Q That either originated or terminated
23 in the Covington area.
24 A Yes, sir.
25 Q And do you have -- can you venture an

1 average intra dollar cost of gross profit on seven moves
2 or one move? You are obviously limited to the State of
3 Virginia. How much income would that represent?
4 A Well, it varies in size.
5 Q Well, I mean you must have a feel for
6 an average in your experience, an average?
7 A An average move in the area is five
8 thousand pounds, and it would all be according to where
9 it went. One that was done for Westvaco from Covington
10 to Brookneal probably would be in the area of eight hundred
11 dollars.
12 Q Would that be a fair figure on the
13 average? We are talking about less than five to ten thousand
14 dollars, aren't we?
15 A Our volume of business, in our Company,
16 that goes to and from the Covington area, either from our
17 Waynesboro office or our Roanoke office, will probably be
18 in the area of twenty-five thousand dollars.
19 Q How far did you say -- now your
20 Waynesboro office would be how far from Covington?
21 A About sixty miles.
22 Q From Waynesboro through Lexington --
23 A Sixty or seventy miles.
24 Q And you say that right now you feel
25 like you are doing approximately twenty-five thousand

1 dollars worth of business with a -- in competition --
2 A This is my own.
3 Q I am saying in competition with a
4 United agent?
5 A You have to remember that you are asking
6 for five counties, and one of them is Rockbridge and one is
7 Botetourt. This goes right into the heart of the area where
8 we operate.
9 Q You mean on the application?
10 A Yes.
11 Q Well, I understand that. You are --
12 A You are not asking just for Covington.
13 You are talking about five counties.
14 Q I am asking about the figures right
15 now, these figures are simply Covington?
16 A Yes.
17 Q Twenty-five thousand dollars you say?
18 A Yes, sir.
19 MR. COLLINS: All right. I think that
20 is all.
21 CHAIRMAN SHANNON: Any questions, Mr.
22 Rigsby?
23 MR. RIGSBY: Yes, sir.
24 CROSS EXAMINATION
25 BY MR. RIGSBY

1 Q If one were to call from Covington
2 to your office in Roanoke, would that be a long distance
3 telephone call?
4 A Yes, sir.
5 Q Does your Company advertise in Clifton
6 Forge or Covington?
7 A Not in Covington and not in Clifton
8 Forge, but in Lexington, Fincastle, and that area.
9 Q Well, how would a member of the public
10 in Clifton Forge or Covington know to call upon your
11 Company for service?
12 A Well, the business we get in the area
13 I don't think comes very much for the telephone. We talk
14 to the real estate, and we find out who is moving.
15 Q On your moves from your equipment
16 point in Roanoke, do you have some sort of a deadhead
17 mileage that applies?
18 A No, sir.
19 Q So if you took your equipment from
20 Roanoke to Covington, and say moved me from my house
21 to the -- within the State, would I have to pay for that
22 equipment from Roanoke to Covington?
23 A No, sir. Just from point of origin
24 and destination.
25 MR. RIGSBY: That is all I have.

1 CHAIRMAN SHANNON: Any re-direct, Mr.
2 Price?
3 MR. PRICE: No, sir.
4 CHAIRMAN SHANNON: You may stand aside,
5 Mr. Lawrence, and thank you.
6 WITNESS STOOD ASIDE.
7 CHAIRMAN SHANNON: It is three fifteen.
8 The Commission will take a short recess before
9 the next witness. 3:15 P. M.
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3 3:25 P. M. The Commission
4 resumes its session.
5
6 MR. PRICE: I would like to call Mr.
7 Hall.
8 WILLIAM H. HALL,
9 a witness introduced on behalf of the Interveners, being
10 first duly sworn, testified as follows:
11 DIRECT EXAMINATION
12 BY MR. PRICE
13 Q Would you please state your name and
14 address?
15 A I am William H. Hall, 921 Jefferson
16 Street, Clifton Forge, Virginia.
17 Q And what is your principle occupation,
18 Mr. Hall?
19 A Moving transfer and storage.
20 Q You are connected with what company?
21 A My Trade name is Arthur B. Hall Transfer
22 Company and we are also agents for North American Van Lines.
23 Q And what is your title?
24 A I am the owner.
25 Q Mr. Hall, would you please describe the

1 personnel and equipment of your Company?

2 A We have nine tractor trailer units

3 that we lease to North American Van Lines permanently.

4 We don't use them for anything else but that. We have

5 three tractor trailer units, and five that we call straight

6 jobs, that we use intrastate and under trip lease agreement

7 with North American Van Lines.

8 Q And your personnel, sir?

9 A We have about twenty employees. Thirteen

10 of them are drivers, actually they do anything. These

11 drivers, we use them for everything. We use them for

12 packing, warehousing. Do some contract hauling within the

13 state.

14 Q But you have thirteen available?

15 A Thirteen available, yes.

16 Q For moving?

17 A Right.

18 Q Would you describe the principle areas

19 in which your Company operates?

20 A Well, actually we work out of Covington

21 and Clifton Forge, for the most part. We have authority to

22 go any place in the State.

23 Q When did your Company obtain its

24 certificate of public convenience and necessity?

25 A My brother got the certificate in

1 November 1948. I bought this from him in 1951.

2 Q During the time that you have been in

3 operation, have you ever had to turn down prospective

4 moves?

5 A Not to my knowledge, unless somebody

6 wanted to move early in the morning or something like that.

7 It may have happened, but --

8 Q If they did that, what would you tell

9 them?

10 A I would tell them I would get there if

11 I could.

12 Q What would be the minimum period of

13 time -- the maximum period of time it would take you to

14 move someone?

15 A I will tell you one instance. A man

16 called me on Saturday and somebody had no showed up for

17 moving him, and he asked me if I could get him on Saturday,

18 and I told him I couldn't, but I could the next morning.

19 We moved him out about five o'clock on Sunday morning.

20 Q What was that case?

21 A That was one in which Mr. Beels

22 transfer Company had been given the move, and he was in

23 Pittsburg, I understand from him, that he was in Pittsburg

24 unloading, and that they called him and the man had quit

25 that was supposed to move him, and he said he would be there

1 the next morning to move them.

2 Q The man that was supposed to move them

3 did what?

4 A He had quit his job.

5 Q Quit?

6 A Yes, sir. And this gentleman's name

7 was Mr. Foulkes. Gerald Foulkes. And we moved him. We

8 moved him on a Sunday.

9 Q And you arrived at five o'clock the next

10 morning?

11 A We started packing and loading at five

12 o'clock the next morning. And we had him in Appomatox that

13 evening.

14 Q Was that the case that was mentioned

15 this morning as the basis of complaint against Mr. Beels?

16 A I think that was one of them.

17 Q You say you have seven pieces of moving

18 equipment presently available, is that correct?

19 A Yeah. We use I expect it seventy

20 percent of the time under lease to North American, because

21 we don't have that much business.

22 Q But this is what you have available for

23 intrastate business, is that correct?

24 A That's right. We have the household

25 goods authority.

1 Q What would be the maximum number of
2 pieces that you have ever used for an intrastate shipment
3 at one time?
4 A On June 21st last year, we moved five
5 ministers, for a Ministers Conference. We used five trucks
6 that day, and I can't remember ever using five on a single
7 day, intrastate.
8 CHAIRMAN SHANNON: You must be a Methodist,
9 Mr. Hall.
10 A No, sir. I am a Baptist.
11 BY MR. PRICE
12 Q For the benefit of the Commission, I discover
13 the Methodist's move on the very same day of the year?
14 CHAIRMAN SHANNON: They do --
15 A They do, and all of them want to move
16 into the house that day. It was the 21st of June.
17 COMMISSIONER BRADSHAW: You mean you have
18 five Methodist Ministers in Clifton Forge.
19 A No, didn't any of them come from Clifton
20 Forge. One from Lynchburg to Keysville. One from Keysville
21 to Fredericksburg, Rev. Carrolls Scottsville to Lynchburg,
22 Rev. Johnson from Drecks Branch to Fredericksburg, and Rev.
23 Thomas Carlton from Lexington to Drecks Branch.
24 We had a truck down there loading at the
25 same time we were unloading another one.

1 Q So that in all the years that you have
2 been in business, June 21st was the only time you have ever
3 been required to utilize five pieces of equipment for
4 intrastate movements?
5 A Intrastate, yes, sir.
6 Q And you still had two pieces of equipment
7 left that you could have used?
8 A Yes, sir.
9 Q Did you, Mr. Hall, at my request, look
10 into your records to determine the volume of your intrastate
11 and interstate moves during the past few years?
12 A Yes, sir.
13 Q Do you --
14 A I would like to explain that now. I am
15 going to give a dollar volume of intrastate moves and dollar
16 volume of money that I received from North American Van
17 Lines.
18 CHAIRMAN SHANNON: Mr. Price, do you want
19 to identify that, have that marked as Exhibit No. 6?
20 MR. PRICE: Yes, plese, Your Honor.
21 CHAIRMAN SHANNON: All right. This will
22 be identified as Exhibit No. 6.
23 WITNESS: The money that I got from --
24 the volume of business that I got from North American Van
25

1 included these permanent leased trucks -- I mean these
2 nine permanent leased trucks -- which did not generally
3 move shipments that I had booked, but rather they were
4 hauling under dispatch from North American from say
5 the Washington area into the West Coast or Florida or
6 wherever. So that might be a little bit confusing, but
7 our intrastate business in 1971 was twenty-eight thousand,
8 four hundred and twenty-eight dollars. The interstate
9 -- receipts from interstate operations was two hundred
10 and sixty-four dollars, six hundred and seventy-one dollars.
11 Q I don't think it is necessary to read
12 them all, unless the Commission --
13 CHAIRMAN SHANNON: Well, I think it
14 speaks for itself.
15 BY MR. PRICE
16 Q You might explain, however, the reason
17 for the increase in intrastate, for 1973.
18 A Intrastate for 1973 we had about a ten
19 thousand or little bit more than that increase, and the
20 reason for that was that our Company in Landover, Maryland
21 gave us all the intrastate moves within the State of
22 Virginia. That was based on a service records, and we had
23 moved some other personnel when they couldn't get them
24 moved.
25 For instance, from Hampton to Bristol, and

1 places that they would just call us and ask us if we could
2 handle them. When they did that, then they gave it all to
3 us. I suppose we are getting it all now.
4 Q And I think it would be fair to
5 summarize from what you have said, that you would be and
6 are at the present time in a position to transact much more
7 intrastate business than you can lay your hands on?
8 A I think that most anybody that is in
9 this business now would welcome three or four times as much
10 business as they do.
11 CHAIRMAN SHANNON: What percentage of
12 capacity do you operate, Mr. Hall?
13 A Sir?
14 CHAIRMAN SHANNON: Percentage of capacity?
15 I know that fluctuates, but on the average?
16 A Never to full capacity. Like I said,
17 we bill about twenty to twenty-five thousand dollars worth
18 of skids for Canfield, and the other plants around.
19 CHAIRMAN SHANNON: H. O. Canfield?
20 A Right. And actually it is not a big
21 profit. The reason we do this is so that we can keep
22 personnel busy so that we will have good men for the peak
23 season for the moving business. Business is not good right
24 now. Business is real slow, and we want to keep the men
25 working.

1 CHAIRMAN SHANNON: Did you operate at
2 a profit last year?
3 A Yes, sir, a small profit. I don't
4 believe we did operate at a profit last year. No, sir,
5 we had a net loss last year.
6 CHAIRMAN SHANNON: How much?
7 A Forty-one hundred.
8 CHAIRMAN SHANNON: How about the year
9 before that?
10 A We had a small profit.
11 CHAIRMAN SHANNON: What is your operating
12 ratio?
13 A Last year it was a cost of one point
14 zero two.
15 CHAIRMAN SHANNON: A hundred and two
16 percent?
17 A Right.
18 CHAIRMAN SHANNON: What do you consider to
19 be a good operating ratio? From your business?
20 A I would say ten percent would be mighty
21 fine.
22 CHAIRMAN SHANNON: Ninety percent?
23 A Ninety percent, right.
24 CHAIRMAN SHANNON: I guess that would be.
25 That would be a lot better than average, wouldn't it?

1 A Yes. Actually, you can say how does
2 a man live when he is operating at a loss, when you have
3 as much equipment as we have. We have eleven household
4 good trailers and we own seven tractors, and there is a
5 big depreciation there. Our depreciation was twenty-two
6 or twenty-three thousand last year. So actually, we are
7 living off of depreciation.
8 CHAIRMAN SHANNON: Excuse me. Go ahead,
9 Mr. Price.
10 BY MR. PRICE
11 Q Did you pay yourself a salary last year?
12 A No, sir.
13 Q Mr. Hall, are you familiar with Westvaco
14 or Hercules Corporation?
15 A Yes, sir, some.
16 Q Has the personnel and traffic departments
17 of either of those Corporations ever requested Hall Transfer
18 and Storage Company to move their personnel?
19 A Yes, sir.
20 Q And have there been any complaints?
21 A Not that I know of, not on service, no,
22 sir.
23 Q Was there any complaints that you are
24 aware of --
25 A We have had a claim or two on some

1 interstate shipments that I didn't have anything to do with,
2 again with North American Van Lines. I can't recall any
3 claims on anything intrastate.
4 Q Do you know who at Hercules is
5 responsible for assigning moves?
6 A A Mrs. Carroll Deggins. The first
7 business we ever had with Hercules was through a Mrs.
8 Penneck, who has since retired, and she directed us not
9 to contact her people...
10 Q Not to contact ..
11 A Her personnel.
12 Q You mean her local people?
13 A Not to contact people that were going
14 to move, interstate or intrastate. She said we have a lot
15 of friends in the moving business, and we will call them.
16 So we don't really call on Hercules.
17 Q Do you know who is presently assigning
18 that work?
19 A Yes, Mrs. Carroll Deggins.
20 Q Did she call you recently?
21 A She called me yesterday.
22 Q Will you state the nature --
23 CHAIRMAN SHANNON: Who was that? Mrs.
24 Carroll --
25 A Mrs. Carroll Deggins. I think she is

1 the head of the Transportation Department in Wilmington,
2 Delaware as far as household goods movement. As far as
3 we know, she is the person that does this.
4 BY MR. PRICE
5 Q And why did Mrs. Deggins call you
6 yesterday?
7 A She had a conversation with Mr. Beels
8 and he had told her about the application, and the inference
9 had been made that Hercules Traffic Department was
10 dissatisfied with the service or something to that effect.
11 Q And what was her reaction to that?
12 A Well, she said, "When is the meeting?"
13 and I said, "Tomorrow." She said, "Do you know the name
14 of somebody that I can call down there?" I said,"No, but
15 I can find out." I turned around on my other phone, and
16 called down here, and got a number of one of the offices
17 downstairs. It wasn't Mr. LeDreux, but it was in his
18 office. And this person told me that she thought the man
19 to talk to if you want to talk to anybody would be Mr.
20 Rigsby.
21 Q Did she say that she --
22 A She said that she was going to call.
23 I am not sure that she did.
24 MR. RIGSBY: At this point it might be
25 appropriate to state that I talked with the woman

1 yesterday who said she was Mrs. Carroll Deggins, and that
2 she was employed by Hercules, and she said she understood
3 the application had reference to poor service, and she
4 said she was pleased with the service and would write a
5 letter.
6 CHAIRMAN SHANNON: This is Mrs. Deggins
7 of the Traffic Department of Hercules in
8 Welmington?
9 MR. RIGSBY: Well, all she said was that
10 she was with the Traffic Department with Hercules.
11 BY MR. PRICE
12 Q Mr. Hall, do you know whether any
13 household goods carriers in the Covington area have
14 disposed of their certificates of public convenience and
15 necessity?
16 A Yes, sir. In 1954, Frank L. Cook
17 sold a certificate to I believe Gray Van Storage Company
18 of Norfolk, Newport News, or Hampton. When Frank applied
19 for this certificate, I opposed his application, and the
20 Commission gave him the certificate. He kept it about three
21 or four years and sold it.
22 Q And that was in 1954, when the franchise
23 was sold to who?
24 A It was sold, I believe, to Gray Van
25 STorage Corporation.

1 Q And where are they located?
2 A I believe in the Tidewater area.
3 Q If it please the Commission, I would
4 like to enter this as an exhibit.
5 CHAIRMAN SHANNON: This is a copy of the
6 Commissions order dated November 5, 1954, in case
7 number 11693.
8 MR. WILSON: If your honor please, I
9 frankly don't see what possible weight this could
10 have with the Commission, being twenty years old.
11 I would object to it simply on that basis.
12 I don't know anything about this Corporation,
13 and the certificate doesn't explain any of the
14 circumstances. I don't see where it would have
15 any probative value to this Commission.
16 CHAIRMAN SHANNON: What is the purpose
17 of this?
18 MR. PRICE: If it please the Commission,
19 the purpose is to prove that there is some history
20 of flight of carriers from the Covington area to
21 other sections of the State, which I think is
22 indicative of the fact that the area cannot support
23 an additional carrier. I do have a more recent
24 example, however, if you would like to --
25 COMMISSIONER BRADSHAW: Do you know what

1 it was sold for?

2 A You mean the amount of money?

3 COMMISSIONER BRADSHAW: Yes.

4 A No, sir, I do not.

5 COMMISSIONER BRADSHAW: That might be one

6 reason for the flight.

7 CHAIRMAN SHANNON: Well, I think your

8 objection goes to the weight to be given to this.

9 I think the Commission can take official notice of

10 its own records, if it is concurred in by my

11 colleagues, and we will go ahead and mark this

12 for identification as Exhibit No. 7.

13 BY MR. PRICE

14 Q Are you familiar with any other cases

15 where a Covington carrier has sold --

16 A Yes, sir. Sam Smith had a set of rights,

17 and he sold them to a company in Norfolk. A company in the

18 Tidewater area, and this was in 1966, I believe, and I

19 don't remember the name of that company.

20 Q Would that be Colonial Transfer and

21 Storage?

22 A That is the one, yes, sir. Grover

23 Barnett in Covington had a set of rights, and Mr. Beels,

24 of Covington Transfer and Storage Company applied to the

25 Commission for a certificate along about 1958-1959, in

1 that time, and I opposed that. And the Commission denied
2 his certificate, then he --
3 Q I don't think we want to --
4 CHAIRMAN SHANNON: Mr. Price, do you want
5 to submit this order in Case 16 -- February 6,
6 1964, case No. 16675?
7 MR. PRICE: Yes, sir, Your Honor.
8 CHAIRMAN SHANNON: I assume you are going
9 to make the same objection to that?
10 MR. WILSON; Yes, sir.
11 CHAIRMAN SHANNON: All right. I think
12 the objection goes to the weight here. This
13 is something the Commission will take official
14 notice of. That will be Exhibit No. 8.
15 COMMISSIONER BRADSHAW: Is your's for sale?
16 WITNESS: If you get part-time movers up
17 -- if you get many part-time movers up there it is going to
18 be for sale.
19 BY MR. PRICE
20 Q Mr. Hall, have you had an occasion
21 recently to have a financial statement of your company
22 prepared?
23 A We had one prepared last September.
24 Q Do you have that with you?
25 A Yes, sir, it is somewhere here.

1 Q Now, this was as of last September.
2 Is the statement substantially true and correct as of the
3 present date?
4 A There have been some changes in it,
5 but I am sure it would be pretty close to the same thing.
6 Q And what is the extent of your net
7 worth?
8 A Two hundred and thirty-one thousand,
9 six hundred and thirty-five dollars, and thirty-four cents.
10 CHAIRMAN SHANNON: Do you wish to submit
11 this?
12 MR. PRICE: Yes, sir.
13 CHAIRMAN SHANNON: This will be identified
14 as Exhibit No. 9.
15 MR. PRICE: I have no further questions.
16 A If it is proper I would like to say
17 something about part-time movers. I think if a -- if the
18 Commission gives a certificate to the part-time mover, it
19 will have to give it to another part-time mover. If you
20 give it to part-time movers, after a while there won't be
21 anybody but part-time movers. And I think the full time
22 movers will have to turn to something else.
23 CROSS EXAMINATION
24 BY MR. WILSON
25 Q Mr. Hall, I take it from your testimony

1 that you have opposed all applications up to this point?
2 A I did not opposed Mr. Beels purchase
3 of Mr. Barnett. I didn't oppose the amendment.
4 Q You are apparently making a right good
5 living out of this business, are you not?
6 A I have been working at it for about
7 twenty-five years.
8 Q I just notice in here as of September
9 the 1st of 1973, you had twenty-one thousand, two hundred and
10 some dollars in the bank.
11 A I guarantee you that didn't last three
12 days.
13 Q You had a net growth of two hundred
14 thirty-one thousand, six hundred and thirty-five dollars.
15 You say you are not taking out any salary. What are you
16 taking out of the business?
17 A I am taking my living out of the
18 business.
19 Q What did you take out in 1973?
20 A I suppose ten thousand dollars.
21 Q Is that a fair figure for the last
22 several years.
23 COMMISSIONER BRADSHAW: How do you take
24 it out if you don't take it out in salary?
25 A Just stick it in my pocket on Saturday

1 night.

2 CHAIRMAN SHANNON: This is a proprietorship,

3 it is not a corporation. Mr. Hall, when did Mr.

4 Beels buy that certificate that you are referring

5 to?

6 A I believe it was 1960 or 1961. I am

7 not real sure about that.

8 COMMISSIONER HARWOOD: How did your

9 brother get started in the business?

10 A He came back from the service and he

11 started hauling coal from West Virginia, and every now and

12 then somebody would ask him to move, so he finally went over

13 and saw Mr. Arnold, of Arnold Transfer and Storage, and he

14 sold him a household goods van and told him how to get the

15 rights. He would have to make application before the end

16 of 1948, and he made application in November of 1948, and

17 that is how he got his rights.

18 CHAIRMAN SHANNON: Was this a Grandfather

19 Certificate?

20 A Yes, sir.

21 COMMISSIONER HARWOOD: Is he still hauling

22 coal?

23 A Yes, sir.

24 COMMISSIONER BRADSHAW: So he started off

25 as a part-time mover?

1 A Yes, he started off as a part-time
2 mover.
3 MR. WILSON: You have to start somewhere.
4 A Yes, you do, but if you get too many
5 of them, there isn't going to be anything but part-time
6 movers.
7 COMMISSIONER HARWOOD: Mr. Hall, this
8 isn't quite germain to this, but how much in
9 general in the whole household goods moving
10 business do you have of individual homeowners
11 moving their own furniture? Does that cut
12 appreciably into the business?
13 A They evidently are doing a nice part
14 of it. I don't blame people for moving themselves.
15 COMMISSIONER HARWOOD: A young couple
16 would rent a van and --
17 A Sure. And I don't blame those people
18 for doing that, as they have a perfect right to do it.
19 COMMISSIONER BRADSHAW: Can you rent
20 a truck in Clifton Forge to move yourself?
21 A You can rent one in Covington. I don't
22 believe they have a U-Haul place in Clifton Forge.
23 CHAIRMAN SHANNON: Is there much of that
24 going on?
25 A I think so, yes, sir.

1 CHAIRMAN SHANNON: Go ahead, Mr. Wilson.

2 BY MR. WILSON

3 Q Mr. Hall, is there any U-Haul business

4 in Clifton Forge or Covington?

5 A There is in Covington, yes, sir. Rap

6 Shell is the U-Haul dealer.

7 Q Clarence Foreign station up there, is

8 that where it is?

9 A It is the shell service station, I think

10 they call in Rap Shell.

11 Q On the west side of town?

12 A It is not too far from Covington Motor

13 Company. Right in that general area.

14 Q Do you stay pretty busy, Mr. Hall?

15 A In everything that I do, I stay pretty

16 busy.

17 Q You stay pretty busy. Now, there has

18 been testimony here from Westvaco, Hercules, and these

19 two applicants here, and do you think, from their standpoint,

20 that there is going to be a little boon in Covington?

21 A I hope so.

22 Q I hope so too, but have you-- do you

23 expect the same sort of boon? Do you agree with these

24 men?

25 A No, because I heard more about it today

1 than I have ever heard before.

2 Q Have you read the Chamber of Commerce

3 report that was filed this year-end?

4 A Right.

5 Q Would you agree that that report is

6 very optomistic about what is taking place now in Covington?

7 A Yes.

8 Q Am I correct in understanding your

9 testimony that you don't want any fly-by-night, any part-time

10 operators to come in there. Is that what you are saying?

11 A I say this. I don't think it is going

12 to be healthy for any kind of a business if you get a number

13 of part-time operators. Pretty soon the full-time operators

14 those people are going to quit the business, and it will be

15 so that you will have all part-time operators.

16 Q Were you aware that Westvaco had

17 completely stopped doing business with Mr. Beels Company?

18 A I didn't know they had quit.

19 Q You didn't know that. Westvaco and

20 Hercules are satisfied when they use you, but there is this

21 difficulty with Covington Transfer and Storage?

22 A Well, last year in 1973, I had one

23 intrastate job with Hercules. That was Michael S. Wade

24 from Richmond.

25 CHAIRMAN SHANNON: How many did you have

1 with Westvaco?

2 A I had two.

3 CHAIRMAN SHANNON: In 1973?

4 A Yes, sir.

5 BY MR. WILSON

6 Q Now, with Westvaco down here in

7 Richmond, and Hercules down here in Richmond, and the

8 City of Covington with the resolution and the County of

9 Allegheny with the resolution, and all this projected

10 growth that you apparently agree with, do you think you

11 can handle all that volume of business.

12 A I just want my share.

13 Q You don't want it all do you?

14 A No, but I want all of his.

15 MR. WILSON: That is all I want to ask.

16 CHAIRMAN SHANNON: Mr. Rigsby?

17 MR. RIGSBY: Yes, sir.

18 CROSS EXAMINATION

19 BY MR. RIGSBY

20 Q Mr. Hall, you indicated that you are

21 in the moving business full-time, is that right?

22 A Yeah -- well, I am in the transfer

23 business down there. I do everything, really. We lease

24 some trucks to a couple of factories down there.

25 Q I was just looking at the accounts

1 receivable on the statement, and it shows that you have some
2 local and contract hauling. You don't do that under house-
3 hold goods certificate?
4 A No, sir.
5 Q And you show accounts receivable from
6 Jane Colby, Division of U. S. Industries?
7 A Right.
8 Q What is that?
9 A We rent a truck to them.
10 Q And this S. L. Hall; H. O. Canfield?
11 A That is my wife's name, and that is
12 my truck. That truck is leased to them, and they furnish
13 the drivers. All we do is furnish the trucks.
14 Q And H. D. Canfield, Division of
15 Panosota, what do they owe you money for?
16 A We rent a building to them at Iron
17 Gate, storage facilities at Clifton Forge. And they do
18 lease this truck from us.
19 Q And your storage accounts?
20 A This is not a storage account with
21 Canfield. I bought an old school building at Iron Gate,
22 and made a warehouse out of it. They do have some floor
23 space in my warehouse.
24 Q And you indicate four thousand dollars
25 accounts receivable for your storage accounts?

1 A Yes, sir.

2 Q And then you have seventeen thousand

3 as balance due from North American Van Lines?

4 A Yes, sir.

5 Q Actually, you are an all-around business-

6 man, isn't that correct?

7 A Yes, sir.

8 Q Could you tell the Commission approx-

9 imately what percentage of your revenue comes from your

10 moves on your intrastate household goods certificate?

11 A Percentage of moves as against what?

12 Q Well --

13 A Total revenue from my base?

14 Q Yes, sir.

15 A I thought I gave that.

16 CHAIRMAN SHANNON: Exhibit No. 6 shows the

17 breakdown of dollar volume from inter and intrastate.

18 A Right. The intrastate is nine point

19 seven in 1971, and nine point zero in 1972, and thirteen

20 point two in 1973.

21 BY MR. RIGSBY

22 Q Now, does your intrastate that you

23 show on your Exhibit No. 6 include your local and contract

24 hauling?

25 A No, sir.

1 CHAIRMAN SHANNON: I see you own one-third
2 interest in Hall Transfer Company in Lexington.
3 A Yes, sir. My two sons and I went over
4 and bought Mrs. Mays certificate and her warehouse
5 facilities.
6 CHAIRMAN SHANNON: Is that a full intrastate
7 certificate?
8 A Well, it is just to and from Rockbridge
9 County. It is restricted.
10 CHAIRMAN SHANNON: I see you have total
11 ownership of Clifton Forge Grocery Company. Are
12 you in the grocery business too?
13 A No, sir. They own the warehouse that
14 I am presently in, and they have depreciated this building fully
15 and if they sold the building they would have to sell it
16 for about twice as much as they would have to sell the stock
17 for. In other words, if they sold the building and closed
18 the corporation down, they are going to have to pay income
19 tax on fifty percent or maybe more on whatever this building
20 brought, but they would sell me the stock in Clifton Forge
21 Grocery Company for about half the price that I would have
22 to pay for the building. So, instead of buying the building,
23 I bought the stock. And that is the only thing that
24 Clifton Forge Grocery Company has is the building.
25 MR. RIGSBY: No more questions.

1 CHAIRMAN SHANNON: Any further re-direct?
2 MR. PRICE: No, sir.
3 CHAIRMAN SHANNON: Any further questions?
4 MR. WILSON: Just one.
5 RE-DIRECT EXAMINATION
6 BY MR. WILSON
7 Q Mr. Hall, do you mingle the Lexington
8 and Clifton Forge businesses? Do you use your trucks in
9 both businesses?
10 A We don't have enough volume of business
11 that we can keep sufficient personnel over there, in
12 Lexington. We have one man we keep over there, and now and
13 then he will pick up a college boy to help us. We do send
14 people to Clifton Forge over there.
15 MR. WILSON: All right, sir. That is all
16 I have.
17 CHAIRMAN SHANNON: You may stand down,
18 Mr. Hall.
19 WITNESS STOOD ASIDE.
20
21 MR. PRICE: Mr. Beels?
22
23
24
25

1 ERNEST BEELS,

2 a witness introduced on behalf of the Interveners, being

3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PRICE

6 Q Will you please state your full name

7 and address?

8 A Ernest Beels.

9 Q What is your occupation?

10 A Transportation Moving.

11 Q And what Company are you connected with?

12 A Covington Transfer and Storage Company.

13 Q Are you the owner of that business?

14 A President and sole stockholder.

15 Q Is that Company also an agent for a

16 national moving company?

17 A United Van Lines.

18 CHAIRMAN SHANNON: Will you spell your

19 last name, please?

20 A B-E-E-L-S.

21 CHAIRMAN SHANNON: Thank you, Mr. Beels.

22 BY MR. PRICE

23 Q Mr. Beels, will you please describe

24 your personnel and equipment?

25 A Yes, sir. I have three truck drivers

1 besides myself, and I have six helpers.

2 Q And your equipment, sir?

3 A I have seven pieces of equipment.

4 Q That are available for intrastate

5 moves?

6 A And intra. Intra and Inter. At the

7 present time we are replacing all of the equipment. We

8 have received one new unit and another unit is on its way.

9 Q Will you describe the principal

10 geographic areas in which you operate?

11 A Covington, Clifton Forge, Allegheny

12 County, Bath County, Bottecourt, and Rockbridge County

13 mostly.

14 Q When did you obtain your certificate

15 of public convenience and necessity?

16 A July 27, 1961.

17 Q Since that time, Mr. Beels, have you

18 ever had to turn down a prospective move?

19 A Never had to turn down any prospective

20 moves, no, sir.

21 Q I believe you stated you have seven

22 items of equipment available for moves. What is the maximum

23 number of pieces of equipment that you have ever had to use

24 at any one time for intrastate moves?

25 A Three pieces.

1 Q Was that also June 21st of last year?
2 A Yes, sir. Methodist ministers.
3 COMMISSIONER BRADSHAW: Where did your
4 ministers come from?
5 A From Covington. I think from Covington.
6 BY MR. PRICE
7 Q Do you have figures available on your
8 intrastate and interstate moves?
9 A Yes, sir. From the first day to the
10 last.
11 Q I apologize to the Commission, but I
12 did not know until last night that I was going to be
13 representing Mr. Beels.
14 A The gross took backwards, you know.
15 We had in 1973 nineteen, which one of them was Westvaco.
16 CHAIRMAN SHANNON: Let me get this straight.
17 In 1973 you had 19 intrastate moves?
18 A Intrastate moves. One of them was
19 Westvaco; no Hercules. In 1972, we had thirty-one, and
20 three were Westvaco, and no Hercules. In 1971, we had
21 thirty-eight, and there was no Hercules or Westvaco. In
22 1970, we had forty-seven, and there were nine Westvaco
23 moves. In 1969, we had forty-one, and there were two
24 Westvaco moves, and no Hercules. In 1968, we had forty-six
25 and there were three Westvaco moves. In 1967, there were

1 forty-three moves, and seven Westvaco moves.

2 In 1966, there were fifty-three state

3 moves, and eight were Westvaco. In 1965, there were fifty-

4 five state moves, and five were Westvaco. In 1964, we

5 had fifty-six state moves, and one Westvaco. In 1963, we

6 had thirty-eight, and three were Westvaco. In 1962, we

7 had forty-seven, and five were Westvaco, and in 1961, this

8 was about half a year, we had sixteen, and two were Westvaco.

9 Now, in 1966 we had one Hercules move.

10 In 1964 we had one Hercules move, and in 1963 we had three.

11 That is a total of five. Over the twelve and a half years

12 we had the certificate, we had four hundred and ninety-two

13 moves, and forty-nine were with Westvaco and five with

14 Hercules.

15 Q You had four hundred -- excuse me.

16 Four hundred and ninety-two intrastate moves in twelve and

17 a half years?

18 A In twelve and a half years, and there

19 was ten percent Westvaco.

20 Q Mr. Beels, have you ever had any

21 complaints with regard to your service for any reasons

22 from Hercules?

23 A No, sir. Mrs. Deggins praised us.

24 She said she was very satisfied with our moves, and we

25 got all our moves direct from the main office in Delaware

1 from Mrs. Deggins.

2 Q And did she indicate to you her

3 chagrin that your Company's name has been used in this

4 application?

5 A No, she said she didn't know nothing

6 about it.

7 Q Have you had any complaints from

8 Westvaco?

9 A I had one complaint in January 1973.

10 We moved a man from Beauno Vista to Kentucky, about thirty

11 miles out of Ashland. We packed a man on the arranged date,

12 on the 4th, on a Wednesday, we loaded him on Thursday,

13 and he wanted delivery on Saturday. I told him we would be

14 foolish to move until we had a full load, and we had some

15 ladies whose mother had died in Covington, and the only

16 time the people can come down and open the apartment is

17 Saturday afternoon. So we can't deliver until Sunday.

18 And he said, "I want it Saturday." Nobody

19 else mattered. So I told him we couldn't deliver it on

20 Saturday. So we loaded it Saturday, and we delivered on

21 -- we delivered in Kentucky on Saturday -- on Sunday

22 morning, and his goods on Sunday afternoon. It was the

23 person that Mr. Sinclair mentioned.

24 We had the one that Mr. Hall did for us,

25 the only one we ever had from Westvaco last year. We had

1 promised to pack and load it on Saturday, and I had the
2 men lined up. Everything was lined up, and the driver
3 quit, and the reason the driver quit was this; I was in
4 contact with Mr. Kemper -- and he had talked with Mr.
5 Kemper and Mr. Kemper indicated that he wouldn't have another
6 job after he bought the business, so the man started
7 looking around for another job.
8 Q How do you know that?
9 A The man told me so.
10 Q Not Mr. Kemper?
11 A No, no. The man told me so, my
12 driver. And we contacted the customer right away, and we
13 said we were sorry, but we couldn't move him. I was on
14 my way and would be there Sunday morning, and we will do
15 everything to get him out of the house on Sunday, and he
16 said no, that he wanted to be moved on Saturday.
17 COMMISSIONER BRADSHAW: What was Doctor
18 McGuire's complaint?
19 A He wanted to be moved illegally. He
20 didn't want to pay the tariff charges. I contacted Mr.
21 Nunnally, and he said all my tariffs -- all my charges
22 are legal.
23 BY MR. PRICE
24 Q They were legal or illegal?
25 A Legal. Legal.

1 He told us the Xray machine was worth
2 six and a half thousand dollars. We packed it in a
3 china pack, and he said, "what is the nine and a half
4 dollars for?" And I said it was for the china pack,
5 and he blew up at me. He hit me. And we went to court
6 over it, and Mr. McGuire had to pay a fine.
7 Sixteen months later after the move,
8 Doctor McGuire filed a complaint on all missing equipment
9 and I have a piece of paper here. And the claim is
10 exactly the amount he had to pay ordered by the court,
11 nine hundred and fifty dollars and twenty cents.
12 CHAIRMAN SHANNON: Do you want to put
13 that in the record?
14 MR. PRICE: I am not familiar with that
15 document.
16 MR. WILSON: He -- I think he has testified
17 to it and I don't think it is germain to public
18 convenience and necessity.
19 BY MR. PRICE
20 Q Mr. Beel, there has been testimony
21 here today that the quality of your equipment is poor.
22 A If my equipment is poor, then that is
23 a very nice compliment. Here are some awards that I have
24 received from United Van Lines.
25 MR. PRICE: I would like to offer that as

1 an exhibit.

2 CHAIRMAN SHANNON: These are original

3 certificates. You don't want to put those in

4 the record do you, Mr. Price, or do you?

5 MR. PRICE: Yes, I would like to put

6 them in.

7 CHAIRMAN SHANNON: Let me say this,

8 Mr. Collins and Mr. Price. Would you all agree

9 to put a photostat cope in?

10 MR. WILSON; Yes, sir. As I understand,

11 these are offered to show his equipment --

12 CHAIRMAN SHANNON: My understanding is

13 that they are presented to show what they say

14 on the service.

15 MR PRICE

16 Q Would you explain to the Commission,

17 who prepared that computer printout, Mr. Beels?

18 A United Van Lines.

19 Q It was not prepared by you?

20 A No, sir.

21 Q And what does that computer printout

22 show in terms of outstanding quality? In what respect?

23 A Claims are low. Perfect service.

24 Q Could you be specific, Mr. Beels? The

25 percentage?

1 A Point four percent. And that was
2 in the warehouse.
3 Q During what period of time.
4 A The whole year 1973.
5 CHAIRMAN SHANNON: Mr. Beel, we will
6 identify the certificates you put in here,
7 the accommodations, as Exhibit No. 10. They
8 will be received collectively as Exhibit No. 10.
9 COMMISSIONER BRADSHAW: You mean United
10 paid out four dollars if you broke one hundred
11 dollars worth of --
12 A No, no. Four tenths of one percent.
13 COMMISSIONER BRADSHAW: Oh. Four tenths
14 of one percent.
15 COMMISSIONER BRADSHAW: What year was
16 that?
17 A 1973.
18 COMMISSIONER BRADSHAW: Now, would you
19 have to pay anything yourself?
20 A We have to pay the first one hundred
21 dollars of claims.
22 CHAIRMAN SHANNON: This four tenths of
23 one percent, is this all claims?
24 A That is what is in the warehouse. You
25 get a shipment in from another carrier who brings it in,

1 and say for instance there is twenty dollars breakage
2 inside the china pack, then we have to pay half, so
3 we pay half and the carriers pay half.
4 CHAIRMAN SHANNON: What was your total
5 claim expense for the year 1973?
6 A Fifty dollars.
7 CHAIRMAN SHANNON: I mean everything?
8 A That is in the warehouse.
9 CHAIRMAN SHANNON: And how about on the
10 van?
11 A None.
12 CHAIRMAN SHANNON: No claims paid on the
13 van?
14 A No, sir.
15 BY MR. PRICE
16 Q Mr. Beels, the computer printout grades
17 you on a numerical basis, one,two,three or four.
18 A Yes, sir.
19 Q What does the number one mean?
20 A Outstanding.
21 Q And what is your rating?
22 A One.
23 Q And that is the highest rating?
24 A Yes, sir.
25 Q Mr. Beels, have you ever been approached

1 by Bekins to act as an Agent?

2 A Yes, sir. Twice.

3 Q Would you please give us the details

4 of that?

5 A Around 1966, a representative of Bekins

6 came in and he looked around and he said, "I don't think

7 you want to change." and I said no, I have no reason to

8 change. And he left, and about, oh, two years ago they

9 came in and he offered that they would put free payment

10 with Bekins and all that to get me as an agent.

11 Q And you say that they approached you

12 another time?

13 A Twice, yes, sir. Again in 1971.

14 Q Mr. Beels, you were present I believe

15 when Mr. Kemper testified with regard to the negotiations

16 between you for the purchase of your business. Do you

17 recall that testimony?

18 A Yes, sir.

19 Q In the interest of time, I would just

20 like --

21 A Mr. Kemper and Mr. Brown walked in on

22 an evening around five o'clock, and we sat for about an

23 hour talking, and the very first thing I told them was that

24 the moving business is not a very easy business. It is a

25 hard job and hard work, and it is long hours. Mr. Kemper

1 said he liked it and he would like to go into it. He said
2 he and Mr. Brown were making around thirteen thousand a
3 year at the paper mill. I think Mr. Kemper makes twelve
4 and a half thousand, and Mr. Brown thirteen thousand, and
5 he said they didn't want to give up that standard of
6 living, and it was explained the wives were working, and
7 I said I personally, since 1966, I have been taking a
8 sslary and get nine thousand, and I have never been able
9 to raise it. I told them that Covington is a small town,
10 the area is small, and the U-Haul business takes away
11 from all business, and I said I would like to sell it to you,
12 and it would be four men in the group. I told him I wanted
13 two hundred thousand dollars.
14 I have two huge warehouses, fully equipped.
15 I have a five thousand pound tow motor, which now would be
16 worth about fifteen thousand dollars. I have my scales,
17 equipment, which was not new at that time, but Mr. Kemper
18 said he didn't want to buy the equipment, because at a
19 certain time he wanted new trucks, because he said if I
20 have to live in it it has to be good. So, I said Okay.
21 He set the price on the equipment at fifty thousand dollars,
22 and one hundred and twenty-five thousand dollars on the
23 big warehouse, and he set the price of thirty-five thousand
24 dollars on the smaller warehouse.
25 COMMISSIONER BRADSHAW: That is over two

1 hundred thousand dollars.

2 A Yes, but then we go to twenty-five

3 thousand on this smaller warehouse. He wanted me to tell

4 him how I got to the two hundred thousand dollars. And

5 that is the way I explained it to him. I said that

6 includes the rights, that includes all the storage, that

7 includes the contract with Getty Oil Company, a contract

8 with Hercules. And I said besides, you have rights that

9 are worth at least seven thousand. I bought them for four

10 thousand in 1961. We talked about everything in general,

11 and he said he wanted to talk it over with the other two

12 partners, and come back later.

13 They didn't come back -- we are unionized,

14 we are teamsters, and they said they didn't want anything

15 to do with the Teamsters, as they wanted to make it a family

16 operation. Mr. Kemper wanted to bring in his brother.

17 I told him we had good men working if he wanted them.

18 It starts out at two-fifty an hour, and then climbs up.

19 We had a secretary at that time, and I thought she was good,

20 but was disappointed. If you are going to sell the business

21 you try to keep the people their job.

22 I told them about the franchise with

23 United, you have to talk this over with United. When you

24 get to the point that you can buy it, we go to Mr. Sponslor

25 and go to United and see if they won't make you a United

1 agent. I said that Bakins wants you badly, because twice
2 they wanted -- twice they tried to get me.
3 I didn't hear from them until the end of
4 March, I would say, and they came back to me and they wanted
5 a financial statement, and they went over the financial
6 statement -- they went over the warehouse, and they said
7 they were very interested, and I told them it would take
8 at least from one to two years to learn the business. You
9 know, to do it in quality. We are in quality business, not
10 in quantity. And I said it would take from one to two
11 years.
12 And then they wanted to start the first
13 of June. I told them from the beginning, I said now, this
14 is our busy season, and I have no time to go through a lot
15 of rigamaro. It all has to be finished by the first of
16 June, and they agreed that they would both come in on the
17 1st of June and come to work for me.
18 And Mr. Brown never showed up for work.
19 Mr. Kemper worked seventeen hours. They let me down, and
20 that is why I run into trouble. I figured on two drivers
21 and neither one showed up. My man quit, and that put me
22 in a real bad spot.
23 Q Thank you, Mr. Beels. The price you
24 finally agreed to was what?
25 A We had a price of two hundred thousand

1 thousand, and Mr. Kemper came in one afternoon and said
2 he wants to go gradually into the business, if you will
3 agree to a price of one hundred and eighty-five thousand
4 I might be able to talk my partner into it. He said Mr.
5 Brown --- he said Mr. Brown advised him not to say anything
6 and just let it go, and in a couple of months I will come
7 down on the price. I agreed with Mr. Kemper on that.
8 And Mr. Kemper came back to me and said
9 yes, I am going to buy it.
10 Q For what price?
11 A One hundred and eighty-five thousand
12 dollars.
13 Then, I made arrangements with Mr.
14 West in the Covington National Bank, and they went down
15 there and they came back very disappointed, and they said
16 he would not grant them any money. I said there are other
17 banks.
18 Q I didn't mean for you to get involved
19 in this.
20 A Then I told -- then I called Covington
21 National Bank to find out why he wouldn't at least talk
22 to them, so Mr. West told me that Mr. Kemper and Mr. Brown
23 didn't have more than seven thousand dollars between the
24 two, and that they were very heavily in debt, and that Mr.
25 Brown was a little better off than Mr. Kemper.

1 At the end of July they called my
2 secretary -- Mr. Kemper called my secretary, and said --
3 I said I will finance for you if you can get ten or twenty
4 thousand dollars to pay down on this equipment, but I said
5 you lease the buildings from me, or mortgage, or whatever
6 way you want to buy it, but the certificate is with the
7 buildings until you buy the buildings completely. And
8 I said after one or two years you might get set up. And
9 I said the certificate stays as long -- until you have paid
10 everything finally.
11 Mr. Brown said to me then if he can pay
12 you off in two or three years, is that all right, and I
13 said, "Yes." That is perfectly all right.
14 I told Mr. Kemper that you never showed
15 up to do your work, that is the agreement you have with me
16 to start learning the business in your time, and I was
17 going to give my time free to teach him the business. He
18 comes up and he says to me, he says, "You know, my family
19 comes first. If I have to choose between my family and the
20 business, my family comes first, and I will let go of the
21 business."
22 MR. PRICE: Thank you, Mr. Beels. I have
23 no further questions of Mr. Beels.
24 CHAIRMAN SHANNON: Mr. Wilson?
25 MR. WILSON: Yes, sir.

1 CROSS EXAMINATION

2 BY MR. WILSON

3 Q Mr. Beels, Mr. Kemper indicated that

4 your corporation had lost money two out of the last five

5 years. Is that correct?

6 A Yes, sir.

7 Q Are you in financial trouble at the

8 present time?

9 A No, sir.

10 Q Have you been trying to get somebody

11 to buy your business? Are you trying to get out of the

12 business? Have you spread that around Covington pretty

13 heavily, that you are trying to get out of the business?

14 A There is no "For Sale" sign in the

15 window.

16 Q Well, give us an idea for the models,

17 the ages, the year, the make, the model, of some of the

18 vehicles that you own now?

19 A Well --

20 Q If you will, you have four moving van

21 trucks.

22 A I have seven.

23 Q You have seven?

24 A Yes, sir.

25 Q Are two of those inoperative, or three

1 of those inoperative?

2 A No, sir. We are --

3 Q Are they all licensed, Mr. Beels?

4 A One has no license --

5 Q Five are licensed. What are the ages

6 on those trucks?

7 A I believe the newest is a 1974.

8 Q Tell us briefly.

9 A We just received this one in October

10 of last year, and it just arrived.

11 Q Tell me the ages of the trucks, if you

12 will please?

13 A One 1974.

14 Q All right. One 1974.

15 A Yes, and one 1974 on order that has

16 not been delivered yet. One 1974 body on order that will be

17 delivered May 1st.

18 Q Is that the one on order? The body?

19 A No, sir. The body on order besides

20 the two trucks. Then we have one, two, three, 1967 trucks.

21 Q All right.

22 A One --

23 Q Are all of those licensed and running?

24 A Yes, sir.

25 Q All right.

1 A One 1965 truck.
2 Q Is that running?
3 A Yes, sir.
4 One truck is not running. That is
5 being replaced by one that is on order.
6 Q I thought you said all three were
7 running?
8 A No, two are.
9 Q Two are. Just two of them are licensed,
10 is that right?
11 A Yes, sir.
12 Q All right. Go ahead.
13 A One 1965 that is not licensed. And
14 one 1962 truck that is licensed. Out of the seven, six
15 are running and licensed, and the seventh one as soon as
16 the new one comes in it will be licensed.
17 Q All right, sir. Now, you heard the
18 testimony here that Westvaco has refused to deal with you.
19 Apparently it is the first that Mr. Lawrence has heard of
20 it too. In other words, Westvaco has refused to deal with
21 you, a fact that you have known how long? A year? A year
22 and a half?
23 A No.
24 Q How long have you known that?
25 A The last move we got in the warehouse

1 from Westvaco was in February. We delivered it out on
2 March 1st.
3 Q Well, was the first you heard of this
4 testimony by Mr. Sinclair today?
5 A Today, yes, sir. I talked to Mr.
6 Sinclair at Christmas, and he never said one word about
7 it. I talked to Mr. Sinclair's assistant even, and he
8 never said a word about it. I talked to Mr. Hilston and
9 he told me that the first move coming up I would get.
10 I -- when I found out I couldn't move
11 that man, I said I am very sorry that happened, but it
12 is one of those things, and I said I hope that doesn't
13 hit me too hard, but he said you will get some backfire
14 from it, but he said we have always been very satisfied
15 with you.
16 Q Now, you have referred to Doctor
17 McGuire. I ask you, have you received complaints or
18 heard about complaints from Doctor Harris?
19 A No, sir.
20 Q How about Jerry Foulkes?
21 A Foulkes? Foulkes? Who is Foulkes?
22 Q I don't know. Have you received a
23 complaint from him?
24 A No, sir.
25 Q How about Doug Miller?

1 A That is the man we couldn't move. We
2 told him we would be there on Sunday, and he wouldn't
3 wait.
4 Q All right. How about Doug Miller?
5 A Doug Miller? How long ago was that?
6 Q Do you recall a complaint from him
7 or not?
8 A Well, you know, you give me names.
9 Q How about Dave Mongole?
10 A Was that the man we moved to Kentucky?
11 I don't know.
12 Q How about Gary Curtis? Do you remember
13 him?
14 A No, sir.
15 Q What is your number there in Covington,
16 Mr. Beels?
17 A Five, three, one.
18 Q Five, three, one. Now, apparently on
19 November 29th, 1973, the Company which granted you a
20 franchise, United Van Lines, was of the opinion that your
21 business needed to be revitalized.
22 A They never talked to me about that.
23 Q They never said anything about that?
24 A They never said it that way. The
25 representative, Mr. Sponslor, he had something against me.

1 Q A grudge against you?

2 A He had a grudge against me.

3 Q All right. Will you look at the last

4 paragraph of the letter, this letter here.

5 CHAIRMAN SHANNON: That is an exhibit.

6 MR. WILSON: Yes, sir, but I don't have

7 the number of it in front of me. But the letter

8 is dated what, Mr. Beels?

9 A November 29, 1973.

10 BY MR. WILSON

11 Q Read the last paragraph, if you will?

12 A "It has, in effect, been decided to

13 afford our present agent an opportunity to revitalize his

14 agency with periodic performance reviews to insure an

15 appropriate coverage of the market."

16 Q So Mr. Miller, out of Fenton, Missouri,

17 I think it is, felt on that date when he wrote the letter

18 to Mr. Mr. Brown --

19 MR. PRICE: If it please the Commission,

20 I think if he is going to offer into testimony

21 what North American Van Lines has to say, they

22 should have called someone from North American

23 Van Lines. We have put a member of the Board of

24 Directors on the stand, who has testified with

25 regard to this letter, and I really don't think

1 it is appropriate to ask Mr. Beels what somebody
2 meant.
3 CHAIRMAN SHANNON: I know we admitted
4 the letter. It has been admitted into the record
5 as having been written, but we didn't admit it
6 as evidence as to what was necessarily said
7 unless he was available for cross examination.
8 You can ask him if he knows about it.
9 BY MR. WILSON
10 Q That is my next question. At the
11 bottom of this letter, which is an exhibit in this case,
12 it says, "Copy to 531," which you have admitted as your
13 number, as I understood you, in Covington. And you say
14 you never received that?
15 A I have never seen it. It might have
16 come in and the girl filed it away. I have never seen
17 it myself.
18 Q And you are not aware of the Westvaco
19 policy of having cut you off --
20 A No, sir --
21 CHAIRMAN SHANNON: Gentlemen, we want
22 to get a record here, and we have to ask that
23 only one gentleman talk at a time. If you don't,
24 we will never have a record. Go ahead and give
25 your answer.

1 Gentlemen, let me ask you this. We are
2 thirty-two minutes beyond our adjouring time.
3 How much more do you have?
4 MR. PRICE: I have nothing more.
5 CHAIRMAN SHANNON: And how much more
6 cross examination do you have, Mr. Wilson?
7 MR. WILSON: Not very much, Your Honor.
8 CHAIRMAN SHANNON: I am not trying to cut
9 you off. If necessary we can continue this over
10 to another day if you desire. We want to give
11 everybody an opportunity to have his full day in
12 court.
13 MR. WILSON; I don't anticipate but a
14 question or two more.
15 CHAIRMAN SHANNON: Well go ahead. Go
16 ahead.
17 BY MR. WILSON
18 Q Mr. Beels, how many employees do you
19 have working for you? I am a little hazy on your testimony
20 along that line?
21 A I have got three drivers besides
22 myself. So there are four drivers.
23 Q Are they full-time?
24 A Three are full-time, and there is one
25 that comes in during the summer, during the peak load season.

1 Q All right. And who else?
2 A We have school helpers.
3 Q And how often do they come in?
4 A Every day.
5 Q Eight hours a day?
6 A No, they come in after school.
7 Q How old are they?
8 A Seventeen, eighteen. They are high
9 school boys.
10 Q What do you pay them?
11 A Two twenty-five an hour.
12 Q And who else do you have?
13 A Three or four, like in any moving
14 business.
15 Q People you go in and get off the street?
16 A No, sir. We have them on file and
17 we phone them and they come out.
18 MR. WILSON; That is all.
19 CHAIRMAN SHANNON: Mr. Rigsby, any questions?
20 MR. RIGSBY: No questions.
21 CHAIRMAN SHANNON; Let me ask you a
22 question. My question is this. You indicated
23 I believe in response to a question asked by Mr.
24 Wilson, that you had lost money. Did you say in
25 three of the last five years?

1 A It was two in the last five years.
2 CHAIRMAN SHANNON: How much did you lose
3 in 1973?
4 A Well, 1973, our books --
5 CHAIRMAN SHANNON: All right. What did
6 you lose in 1972?
7 A About a couple of thousand dollars.
8 You see, the losses from the year before you bring over
9 to the next year.
10 CHAIRMAN SHANNON: I understand that. But
11 how much -- what operating loss did you sustain
12 in 1972?
13 A Oh, several thousand dollars.
14 CHAIRMAN SHANNON: And how about 1971?
15 A That was another bad year.
16 CHAIRMAN SHANNON: Was 1970 a bad year
17 too?
18 A No, That is when it started. We were
19 unionized in 1967. I had to pay four and a half dollars
20 per man to ride sleeping next to me while I was driving.
21 CHAIRMAN SHANNON: You are operating in
22 the black in 1970. You had a profit.
23 A Yes, I had a profit.
24 CHAIRMAN SHANNON: And then you lost money
25 in 1971 and 1972, and you said 1973 is not complete?

1 A No. 1973 is the 31st of March.
2 COMMISSIONER BRADSHAW: You entered into
3 business in 1962.
4 A No, no. In 1958. June 1958. We went
5 into business in 1958, and then in January 22, 1959, we
6 applied to Judge Hooker for a certificate, and it was
7 denied.
8 COMMISSIONER BRADSHAW: Did you buy an
9 existing business?
10 A No, sir. I started from scratch.
11 CHAIRMAN SHANNON: And you filed in 1958
12 for an original certificate with the State
13 Corporation Commission?
14 A We applied for a certificate in
15 January -- I think it was January 22, 1959 for a certificate
16 and it was denied. And I operated two and a half years
17 without a certificate.
18 CHAIRMAN SHANNON: You operated two and
19 a half years without a certificate?
20 A Yes. I didn't buy the certificate
21 until July 1961. A man can make it without a certificate.
22 COMMISSIONER BRADSHAW: Since 1961, you
23 have bought these two warehouses and the trucks,
24 and built the business up?
25 A When we were unionized we had eleven

1 trucks.

2 CHAIRMAN SHANNON: Mr. Beels, I don't

3 want the record to be closed showing that

4 somebody was operating a business profitably

5 without a certificate. You mean you were

6 operating as a local carrier.

7 A Yes, sir. For United Van Lines.

8 CHAIRMAN SHANNON: Mr. Price, do you

9 have any more witnesses?

10 MR. PRICE: No your Honor, I don't.

11 CHAIRMAN SHANNON: Anything further,

12 Mr. Wilson?

13 MR. WILSON: Your Honor, we did have a

14 couple of questions of Mr. Kemper.

15 CHAIRMAN SHANNON: You may stand aside.

16 WITNESS STOOD ASIDE.

17 MR. WILSON: There is about three questions

18 of Mr. Sinclair, and we will be very brief. And

19 we will conclude with Mr. Kemper.

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1 ROBERT SINCLAIR,
2 a witness having previously been sworn, resumes the stand
3 and testifies as follows:
4 DIRECT EXAMINATION
5 BY MR. COLLINS
6 Q Mr. Sinclair, a couple of points. There
7 was some reference made that the sole cause of any decision
8 on the part of Covington Transfer no longer handling any
9 moves of Westvaco was one move in particular that has been
10 bandered around. Is that true?
11 A That is not true.
12 Q What was it?
13 A These complaints coming in, they very
14 often aren't documented. I have four names, three of which
15 were specific complaints to me. Perhaps I was negligent
16 in not relating them as they come up to the mover in
17 question, Mr. Beels, but --
18 MR. PRICE: Excuse me, but if it please
19 the Commission, I don't want to prolong this
20 either. But it seems to me that these questions
21 were gone over before, and I asked my witness
22 to respond to specific complaints, and I think
23 he has responded to them all, and I do believe
24 that it is late in the day to introduce additional
25 complaints.

1 CHAIRMAN SHANNON: Is this in the nature
2 of rebuttal?
3 MR. COLLINS: Well, I am not -- yes. This
4 was not done, as indicated, on one sole complaint.
5 There were some other names that were mentioned.
6 I don't want to go into a whole lot of detail.
7 MR. PRICE: I do object to bringing in
8 any complaints at this stage of the proceeding
9 that were not specified to.
10 MR. COLLINS: Frankly, I just wanted
11 to clarify that one point.
12 CHAIRMAN SHANNON: Well, let me ask the
13 witness one question: Mr. Beels testified about
14 -- if I understand his testimony correctly -- that
15 in the last three years, 1973, 1972, and 1971,
16 only four shipments were handled for Westvaco.
17 Do you take issue with that?
18 A I do not take issue with that.
19 CHAIRMAN SHANNON: When you get back
20 beyond 1971 you are getting back to a pretty
21 remote period I think.
22 MR. WILSON: That, of course, is what
23 I thought about 1954.
24 CHAIRMAN SHANNON: Mr. Beels went on
25 back to 1952. He covered the waterfront. I

1 think that any evidence on complaint ought to
2 be of recent origin.
3 MR. COLLINS: Can I ask him to identify
4 the dates of these particular moves, and again,
5 I don't plan on going into a lot of details.
6 BY MR. COLLINS
7 Q What about this Gary Curtis? Was
8 he an employee of Westvaco?
9 CHAIRMAN SHANNON: I wish you would
10 identify whether it was an intrastate or inter-
11 state move.
12 A Interstate.
13 CHAIRMAN SHANNON: Are all of these
14 complaints connected with Interstate moves?
15 A Your honor, with the exception of
16 the Gary Foulkes complaint, he went to Brookneal. With
17 the exception of that complaint, they were interstate.
18 Foulkes was intra. I know he went to Brookneal.
19 That name was the other complaint that eluded me in the
20 previous testimony.
21 CHAIRMAN SHANNON: Foulkes?
22 A Foulkes. Yes, sir.
23 BY MR. COLLINS
24 Q You have listed since then a couple
25 of additional ones. Were they within that period of a

1 few years?

2 A The reason I listed them was because

3 I mentioned specifically Del Mongo and Gary Curtis, and

4 Mr. Price made mention of only one.

5 Q And Foulkes is the one that eluded you

6 and you said you also recall Mr. Miller. Was that within

7 the last two or three years?

8 A Yes, sir.

9 Q The main reason that I recalled you

10 was relevant to the testimony of Mr. Lawrence. He indicated

11 I believe that a salesman of his called on your Company

12 regularly and attempted to do business. Is that correct?

13 A Mr. Allen Scott called approximately

14 monthly.

15 Q And how long has this been going on?

16 A Roughly six to eight months.

17 Q And have you given any business to

18 Lawrence Transfer and Storage?

19 A Lawrence Transfer got the one move

20 to Lynchburg area, because of their warehousing facility.

21 Q Was this Allen Scott?

22 A Allen Scott.

23 Q Was he aware of the situation between

24 you and Covington Transfer?

25 A Yes, he was.

1 Q Did this come from you, or did he have
2 independent knowledge of it when he talked to you about it?
3 A I cannot say for sure whether he had
4 independent knowledge or not. I know if he didn't have, he
5 got some knowledge from me.
6 Q You discussed the situation with him?
7 A Yes, sir.
8 Q Have you talked personally with the
9 gentleman that testified today, Mr. Lawrence?
10 A I never met Mr. Lawrence before today.
11 Q You don't know whether his sales people
12 are in contact with him?
13 A I do not, sir.
14 MR. COLLINS: I think that is all.
15 CHAIRMAN SHANNON: Any questions?
16 MR. PRICE: No, sir.
17 MR. RIGSBY: No questions.
18 CHAIRMAN SHANNON: You may stand aside.
19 WITNESS STOOD ASIDE.
20 CHAIRMAN SHANNON: Come around, Mr. Kemper.
21
22
23
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25

1 LOUIS D. KEMPER,

2 a witness having previously been sworn, resumed the stand

3 and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. COLLINS

6 Q Mr. Kemper, there has been some questions

7 raised by the testimony of Mr. Beels which I would like you

8 to address yourself to. First of all, there was some

9 discussion about the testimony -- some discussion in his

10 testimony about the warehouse that you all have there, as

11 to whether or not it was suitable. I ask you, if you did

12 not agree with what Mr. Beels testified to in that regard

13 to tell the court what happened.

14 A That was Mr. Lawrence's testimony.

15 Q All right, excuse me. Go ahead then.

16 A Otto Sponsler came and took pictures

17 of the warehouse, and said it was ideal. It was ideally

18 located with a loading dock. It was of brick construction.

19 It is approximately three thousand square feet, and it has

20 the office built in. He said it was ideal for a small

21 company to start, and he said it would have no trouble

22 meeting the standards of United.

23 Mr. Sponsler did tell me -- in fact, he

24

25

1 showed me a letter where Mr. Beels had received from United,
2 about financial --
3 Q About financial troubles?
4 A Yes, sir. He was holding back money
5 that belonged to them. I think the way it works is that
6 he sends the money in and they send his portion back, or
7 something similar. And I read the letter personally, and
8 it said he did not have the right to do this, and they
9 ordered him to cease and desist on this. He was holding
10 it back for operating capital, and they said in the letter
11 that he did not have the right to use United's money for
12 operating capital.
13 Q Now, this letter indicates that the
14 one in November, which we referred to here as an exhibit,
15 and I forgot the number, it indicates that there was some
16 thinking that Covington Transfer and Storage might be
17 revitalized. In your conversations with the district
18 director, what was his feeling as to whether the Covington
19 Transfer and Storage was in trouble financially, or whether
20 they were in trouble as far as quality of trouble was
21 concerned?
22 MR. PRICE: May it please the Commission,
23 again, I object to this whole line of questioning.
24 Mr. Sponsler is not here. As I said before, we
25 did have a representative of United Van Lines here

1 who was on the stand, and testified. I do not
2 think the testimony of Mr. Kemper with regard to
3 what Mr. Sponsler said is proper.
4 CHAIRMAN SHANNON: Mr. Wilson, this is
5 hearsay. I don't think Mr. Kemper can testify
6 as to Mr. Sponsler's feeling on a given matter
7 was. I think that is evidence that should be
8 put on by Mr. Sponsler.
9 MR. WILSON: Well, that may be true,
10 if your honor please, but throughout this hearing
11 -- the testimony of Mrs. Deggin, or whatever her
12 name was, came in. The testimony of the bank
13 officials came in, and there is no limit to the
14 amount of hearsay that has come into this, and I,
15 not knowing the policies of this Commission, went
16 right along without objection.
17 Now, this is the same sort of thing. We
18 are talking about an agent of United who has made
19 certain statements and declarations here, which
20 apparently Mr. Lawrence is not aware of, and we
21 offer those to rebut Mr. Lawrence's testimony
22 and also to rebut Mr. Beels' testimony.
23 CHAIRMAN SHANNON: There is a certain
24 latitude, Mr. Wilson, as you understand, in an
25 administrative or legislative type hearing as this,

1 but I think there are limits. I think we do
2 let a certain amount of hearsay in, but the basic
3 issue here in public convenience and necessity,
4 and I think it goes to the public need, and while
5 there is always evidence in a case like this of
6 dissatisfaction with existing carriers, I believe
7 that evidence should be put on by somebody who
8 could testify, rather than try to put it in
9 through hearsay.
10 COMMISSIONER BRADSHAW: If it makes you
11 feel any better, we treat all hearsay the same.
12 CHAIRMAN SHANNON: That is the reason we
13 pass them to the file rather than receive them as
14 evidence, because the moment you receive them as
15 evidence you get into a situation such as we got
16 in here today, but we do feel that a letter has
17 some value in letting us know that somebody has
18 expressed some interest in it. When you go through
19 the question of the facts that are set forth in the
20 letter, our policy has been that we do not accept
21 them as evidence.
22 MR. WILSON: Well, I, not knowing fully
23 the procedures of the Commission, assumed that
24 you would give even hearsay evidence the weight
25 that it deserves, or no weight, as you saw fit.

1 Since it has come in all day long, from one
2 degree to another, this is no worse than that
3 which has already come in, and maybe I am
4 rebutting hearsay with hearsay, but I think --
5 CHAIRMAN SHANNON: Well, I think hearsay
6 probably is permissible so long as somebody doesn't
7 object to it, but I think there has been objections
8 on both sides of hearsay.
9 MR. WILSON; I don't know. Knowing that,
10 I move to strike out all the hearsay that has
11 come in here today.
12 CHAIRMAN SHANNON: I am afraid we would
13 have to start over.
14 MR. WILSON; Well, we would, wouldn't we.
15 CHAIRMAN SHANNON: Mr. Collins?
16 MR. COLLINS: I might make one brief
17 observation. All of Mr. Lawrence's testimony --
18 he indicated he had no personal knowledge what-
19 soever of any of this, yet he gave observations
20 contrary to everything that has been said as
21 to why they were not granted a franchise, and
22 what the situation was, without any personal
23 knowledge.
24 CHAIRMAN SHANNON: As I understand Mr.
25 Lawrence's testimony, Mr. Collins, he testified

1 under oath that he was a member of the Board of
2 Directors of United Van Lines. He testified to
3 that, that he was a member of the Finance Committee.
4 He also testified that he was one of eighteen
5 members that reviewed the application. So this
6 is all first-hand testimony.
7 MR. COLLINS: He said -- for example --
8 CHAIRMAN SHANNON: As far as the
9 application and the treatment, he did say that
10 he didn't have any knowledge of Mr. Sponsler's
11 contract --
12 MR. COLLINS: Or ever actually talked
13 to the people, or ever actually seen the facilities,
14 or personally gone over any of the financial
15 records, or have any knowledge of the letters
16 written, or Mr. Sponsler's, who is actually the
17 agent in charge of this, or any of his contacts.
18 I think really everything that he said is based
19 on people working under him, and I think, if
20 a letter, for example, denying the agency between
21 two corporations, two companies, is certainly a
22 normal business letter. It is addressed to Mr.
23 Brown, and he identified it. It is from United
24 Van Lines, and it states the position of that
25 Company. I think it is among the business records

1 of that company.

2 CHAIRMAN SHANNON: I realize there are

3 well known exceptions to hearsay on particular

4 records -- correspondence that is received in

5 the ordinary course of business. But let me

6 say this.

7 I think if you gentlemen want to bring

8 the writer of this letter in here, we would be

9 willing to grant you a continuance, to bring

10 him in here, if you feel it is that important.

11 MR. COLLINS: Well, he is in Missouri,

12 first of all, if Your Honor please. Having come

13 to grips as we have in this court with the

14 issue, and having probably created the intra-

15 corporate conflict in the United Corporation

16 itself, I don't know that we have much of a

17 possibility of getting him in here. But we

18 think at this point that Mr. Lawrence has

19 testified as to what took place in the Board

20 meeting, about what they did from their Board.

21 Now, we are talking about what an agent

22 of this Corporation came over to Covington to

23 review the situation, who dealt with the Westvaco

24 people, and with these Applicants here, told them

25 about the quality of service, the financial troubles

1 of this Covington Transfer and Storage Corporation.
2 Now, I don't see why that wouldn't have some
3 probative value before this Commission.
4 CHAIRMAN SHANNON: No one, I think,
5 questions the fact that Mr. Beels is financially
6 in trouble. He indicated that he has had a loss
7 in 1972 and 1971, so I don't think there is any
8 question about that.
9 In all fairness, the letter is not
10 evidence. When we accepted the letters this
11 morning, we said we accepted it to the fact that
12 a letter was written, but it is not evidence as
13 to what the contents -- the validity of the
14 contents.
15 MR. COLLINS: I think the fact that the
16 letter was written -- the evidence that we are
17 offering now at this point is corroborative of
18 that letter, and is contradictory to what Mr.
19 Lawrence has testified to, and what Mr. Beels
20 has testified to.
21 CHAIRMAN SHANNON: I believe the best
22 way is to bring the author of the letter in here.
23 COMMISSIONER BRADSHAW: What is the
24 question?
25 MR. WILSON: Well, my question to him

1 was about certain declarations which have been
2 made to Mr. Kemper regarding the financial status
3 of Covington Transfer and Storage, and also
4 regarding quality of service of Covington Transfer
5 and Storage. Declarations and communications that
6 have been made. Of course, I was going to ask him
7 about the warehouse.
8 CHAIRMAN SHANNON: Well, go ahead and ask
9 your questions.
10 BY MR. WILSON
11 Q Mr. Kemper, in your dealings with the
12 gentlemen you describe as Director, or regional director,
13 did I understand you to say that?
14 A Yes, sir.
15 Q Of United Van Lines?
16 A Yes, sir.
17 Q What was the substance of any statements
18 you he might have made to you concerning the financial
19 status of Covington Transfer and Storage, and any statements
20 that he might have made to you concerning the quality of
21 the service which was being rendered by Covington Transfer
22 and Storage, which would include any complaints about
23 improper service or inadequate service, that sort of thing?
24 A I don't think Mr. Sponsler had any
25 knowledge of Covington Transfer's problems from within.

1 All he knew was that they weren't getting their money
2 from him, because he was holding it back for operating
3 capital.
4 Q All right. Was he aware of the situation
5 with Westvaco?
6 A At the time he was talking with us, us.
7 Q Did you tell him about it?
8 A I told him that I had talked to
9 Westvaco, and that they had problems. He agreed that they
10 did.
11 Q And he agreed they did. Was it before
12 or after that that he wrote this letter of November 1973?
13 The one in which he said they were going to give Covington
14 Transfer and Storage a chance to revitalize its business?
15 A That was before.
16 Q Before?
17 A Before the letter was written.
18 Q In Mr. Lawrence's testimony, there
19 were certain reasons given as to why you all were not
20 qualified to take this franchise from United. In your
21 dealings with the agents of United, were any of those
22 reasons ever given to you?
23 A No, sir. In fact, Mr. Sponsler has
24 been to us since we made our decision, and asked us if we
25 would file another application with United within eighteen

1 months.

2 MR.WILSON: That is all.

3 CHAIRMAN SHANNON: Any further questions?

4 MR. PRICE: No, Your Honor.

5 CHAIRMAN SHANNON: You may stand aside,

6 Mr. Kemper.

7 WITNESS STOOD ASIDE.

8

9 CHAIRMAN SHANNON: Anything further to

10 come before the Commission in this case?

11 (No response)

12 CHAIRMAN SHANNON: Well, if not, then

13 the Commission will take the matter under

14 advisement, and the Commission will rise.

15 5:00 P. M.

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4 CERTIFICATE OF COURT REPORTER
5
6 I, Garrett J. Walsh, Jr., hereby certify that I
7 was the court reporter in Case No. HF-86, held on
8 April 16, 1974.
9 I further certify that the foregoing transcript is
10 a true and accurate record of the testimony and other
11 incidents of the hearing therein.
12 Given under my hand this 31st day of October 1974.
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14
15 (Signed)
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