

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
LEWIS TOWING L.L.C. for a motor)
carrier certificate.)
_____)

Case No. 27842

At the April 12, 1999 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner

OPINION AND ORDER

On December 2, 1998 and January 20, 1999, a hearing was held on the application of Lewis Towing L.L.C. for a motor carrier certificate. At the conclusion of the hearing, Administrative Law Judge James N. Rigas (ALJ) issued an oral Proposal for Decision (PFD) recommending that the Commission deny the application and impose sanctions. On March 11, 1999, the day before exceptions were due, Lewis Towing filed a letter seeking to withdraw the application.

A request to withdraw is not effective unless approved by the Commission. In light of the recommendations in the PFD, the Commission concludes that the application should not be withdrawn. Having obtained an adverse ruling, an applicant should not be permitted to avoid that ruling by the procedural device of withdrawing the application. It may be that the Commission will ultimately conclude that the ALJ's recommendation should be rejected or altered, but that should occur by a decision on the merits. Accordingly, the applicant's request to withdraw is denied, and

the parties have 14 days to file exceptions to the PFD and another 14 days to file replies. The Commission will then issue a ruling on the merits, taking into account any exceptions and replies that the parties decide to file.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1933 PA 254, as amended, MCL 475.1 et seq.; MSA 22.531 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.

b. The request to withdraw the application should be denied.

THEREFORE, IT IS ORDERED that:

A. The request to withdraw the application is denied.

B. Commencing with the date of this order's issuance, the parties shall have 14 days to file exceptions to the Proposal for Decision and another 14 days to file replies.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

By its action of April 12, 1999.

/s/ Dorothy Wideman
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Suggested Minute:

“Adopt and issue order dated April 12, 1999 denying the request to withdraw the application of Lewis Towing L.L.C. and setting a schedule for the parties to file exceptions and replies, as set forth in the order.”