

BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION

In re: Application of Raiser-PA LLC for : Docket No. A-2014-2449795
Emergency Temporary Authority :

**PROTEST
PETITION TO INTERVENE
AND MOTION TO DISMISS
APPLICATION FOR EMERGENCY TEMPORARY AUTHORITY**

Protestants and Potential Intervenors, Concord Limousine, Inc., Executive Transportation Company, Inc. (“Limousine Protestants”), Aceone Trans Co., AG Taxi, Inc. AGB Trans, Inc., Almar Taxi, Inc. ATS Cab, Inc, BAG Trans, Inc., BNG Cab Co., BNA Cab Co., BNJ Cab, Inc., Double A Cab Co., GA Cab, Inc., GD Cab, Inc. GN Trans, Inc., Grace Trans, Inc., IA Trans, Inc., Jarnail Taxi, Inc., Jaydan, Inc., MAF Trans, Inc., MDS Cab, Inc., MG Trans Co., Noble Cab, Inc., Odessa Taxi, Inc., RAV Trans, Inc., Rosemont Taxicab Co., Inc., S&S Taxi Cab, Inc., Saba Trans, Inc., SF Taxi, Inc., V&S Taxi, Inc., VAL Trans, Inc., VB Trans, Inc., and VSM Trans, Inc. (“Medallion Taxicab Protestants”) BM Enterprises, Inc., t/a A.G. Taxi, Bucks County Services, Inc., Dee Dee Cab Company, Germantown Cab Company, Ronald Cab, Inc., t/a Community Cab, Shawn Cab, Inc., t/a Delaware County Cab and Sawink, Inc., t/a County Cab (“Non-medallion Taxicab Protestants”), by and through their attorney, Michael. S. Henry, Esquire, hereby protest the Application for Emergency Temporary Authority filed by Raiser-PA, LLC, pursuant to 52 Pa. Code §5.75, and to dismiss the Application for Emergency Temporary Authority of Raiser-PA, LLC for the following reasons:

I. BACKGROUND

1. The above Protestants are motor carriers with operating rights in Philadelphia and the Counties of Bucks, Chester, Delaware and Montgomery, none of which are affected by the

liquidation of First Keystone Risk Retention Group (“First Keystone”) and all of which have valid certificates of insurance on file with the Commission and the Philadelphia Parking Authority (“Authority”).

2. On October 21 2014, the South Carolina Court of Common Pleas for the Fifth Judicial Circuit in Richland County, South Carolina, initiated liquidation proceedings against First Keystone and, *inter alia*, ordered that all existing policies of insurance be cancelled as of November 20, 2014, as a consequence of First Keystone’s insolvency.

3. On October 22, 2014, the Authority notified carriers insured by Keystone that they should obtain replacement insurance coverage by October 24, 2014, at 5:00 p.m., or risk being placed out-of-service by the Authority.

4. The Commission has issued similar notices to carriers with operating rights outside of Philadelphia that were insured by First Keystone.

5. None of the Protestants herein received such notice because none of them were insured by First Keystone.

6. All but a handful of the carriers that were covered by First Keystone have obtained replacement insurance coverage and those that have not obtained such coverage expect to do so by week’s end.

7. In the meantime, the First Keystone insurance coverage remains in effect for the handful of carriers waiting to be approved for replacement coverage.

8. The Authority has not placed any carriers out of service and has postponed a status conference next week.

9. Also on October 24, 2014, Raiser-PA, LLC (“Raiser”), filed an Application for Emergency Temporary Authority seeking authorization to provide experimental service in Philadelphia and its surrounding counties.

10. In its application, Raiser asserts that the initiation of liquidation proceedings against First Keystone is an emergency affecting public safety that requires immediate action by the Commission to approve its Application for Emergency Temporary Authority.

11. In its application, Raiser asserts that it is not currently engaged in unauthorized intrastate transportation for compensation between points in Pennsylvania and will not engage in such transportation unless and until such authorization is received from the Commission. See Paragraph 34 of Raiser’s Application for Emergency Temporary Authority.

12. This assertion is patently false.

13. Long before it filed its Application for Emergency Temporary Authority, Raiser was engaged in unauthorized intrastate transportation for compensation between points in the counties surrounding Philadelphia and, shortly after filing its application, Raiser began providing unauthorized intrastate transportation for compensation in Philadelphia.

II. GROUNDS FOR PROTEST AND FOR DENYING RAISER’S APPLICATION FOR EMERGENCY TEMPORARY AUTHORITY

14. Emergency Temporary Authority is defined under 52 Pa. Code §3.383 as follows:

Limited duration operating authority issued under 66 Pa.C.S. §§ 1103(d) and 2509 to authorize the transportation of passengers or household goods in use *to meet an emergency situation* and when time or circumstances do not reasonably permit the filing and processing of an application for TA.

15. The procedure for obtaining emergency temporary authority are set forth in 52 Pa. Code §3.383 which provides:

(4) *Procedures for filing ETA application.* Procedures for filing ETA applications are as follows:

- (i) An ETA application may normally be filed only when a corresponding application for permanent authority has been filed and emergency conditions exist which do not permit sufficient time to afford the notice required by paragraph (5)(i). If the application demonstrates the existence of emergency conditions, the Bureau of Transportation will make a reasonable effort to identify and communicate with those carriers who may hold the authority to provide the emergency service being sought by the applicant and those unions described in paragraph (3)(i)(H) and (ii)(K). An ETA application will be granted for an initial period not to exceed 60 days.
- (ii) If the urgency of the situation warrants, the supporting statement of those having the immediate need for service may be furnished by telegram. The telegram shall contain substantially the factual information described in paragraph (3). The telegram shall be sent to the Director, Bureau of Transportation and Safety.
- (iii) The filing of ETA applications by telegram or telephone shall be acceptable in exigent circumstances. Confirmation shall be made by filing written application—Form C—with the supporting statements, within 5 working days from the filing by telephone or telegram.

16. An “emergency” is defined under 52 Pa. Code §3.1 as follows: “A situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting.

17. The Application Raiser-PA LLC for Issuance of Emergency Order must fail for the simple reason that no emergency exists.

18. The First Keystone liquidation does not present a clear and present danger to life or property because nearly all of the carriers that were insured by First Keystone have obtained replacement coverage and the small number remaining will have replacement coverage before the Commission has a chance to act on Raiser’s petition.

19. In addition, none of the Protestants herein are affected by the First Keystone liquidation and continue to operate in Philadelphia and the counties that surround Philadelphia.

20. In addition, the small number that have not yet obtained replacement coverage remain insured by First Keystone until November 20, 2014.

21. To the extent it even matters at this point, Raiser exaggerates the financial condition of First Keystone.

22. Raiser has no evidence concerning the nature or extent of First Keystone's insolvency and therefore has no basis for asserting that First Keystone is not able to pay any insurance claims filed against the taxicab companies it insures.

23. More importantly, no taxicabs have been placed out-of-service as a result of the First Keystone liquidation and, in all likelihood, none will.

24. There is no need for service on an emergency basis as the number of carriers unable to small and other carriers with insurance are able to provide full service in Philadelphia and the counties surrounding Philadelphia.

25. Raiser's petition is a thinly veiled attempt to profit from a non-existent crisis.

26. Furthermore, the application contains materially false representations concerning past unauthorized intrastate transportation service for compensation by Raiser-PA and its intent to wait for Commission authorization prior to beginning intrastate transportation service for compensation.

WHEREFORE, the Protestants respectfully request that this Honorable Commission deny Raiser's Application for Emergency Temporary Authority for the reasons set forth above.

Respectfully submitted,

Michael S Henry

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Date: October 29, 2014

VERIFICATION

Understanding that false statements herein made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities, I verify that the facts alleged in the foregoing Petition are true and correct to the best of my knowledge, information and belief, under penalty of applicable statutes.

Dated October 29, 2014

Joseph Gabbay

Joseph Gabbay

CERTIFICATE OF SERVICE

I, Michael S. Henry, Esquire, hereby certify that I have caused a copy of the foregoing petition to be served on the following via electronic mail in accordance with the Commission's regulations:

Karen O. Moury, Esquire
Buchanan Ingersoll & Rooney, PC
409 North Second Street
Harrisburg, Pennsylvania 17101-1357

Dated: October 29, 2014

Michael S Henry

Michael S. Henry

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