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July 27, 2017

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Application of Wenger Works, t/a Tuktuk Lancaster, for the initial right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, limited to sightseeing excursions, from points in Lancaster County, to Points in Pennsylvania, and return – Docket No. A-2017-2585784

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Petition for Rehearing and Reconsideration of Wenger Works, Inc. t/a Tuktuk Lancaster with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Karen O. Moury

KOM/lww
Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the Petition for Rehearing and Reconsideration of Wenger Works, Inc. t/a Tuktuk Lancaster upon the person listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.


Via First Class Mail and Electronic Mail

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Date: July 27, 2017



Karen O. Moury

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Wenger Works, Inc., t/a Tuktuk :
Lancaster, for the initial right to begin to transport, :
As a common carrier, by motor vehicle, persons in : Docket No. A-2017-2585784
paratransit service, limited to sightseeing :
excursions, from points in Lancaster County, to :
Points in Pennsylvania, and return :

**PETITION FOR REHEARING AND RECONSIDERATION OF
WENGER WORKS, INC. T/A TUKTUK LANCASTER**

Pursuant to Sections 703(f) and 703(g) of the Public Utility Code (“Code”),¹ and Section 5.572 of the regulations of the Pennsylvania Public Utility Commission (“Commission”), Wenger Works, Inc. t/a Tuktuk Lancaster (“Tuktuk”), through its undersigned counsel, files this Petition for Rehearing and Reconsideration (“Reconsideration Petition”) of the Commission’s Final Order entered on July 12, 2017 (“Final Order”) in the above-captioned proceeding. By this Petition, Tuktuk respectfully requests that the Commission: (1) reopen the record to receive evidence responding to the inquiries posed by Chairman Gladys M. Brown in her Statement accompanying the Final Order, and other information that is relevant to the discussion of the testing, safety and use of the vehicles in the Commission’s Final Order; (2) reconsider and vacate the Final Order; and (3) adopt an Order granting Tuktuk experimental authority to provide transportation services in connection with sightseeing tours within the City of Lancaster, except during severe weather conditions.² In support hereof, Tuktuk further avers as follows:

¹ 66 Pa.C.S. §§ 703(f) and 703(g).

² By Petition for Declaratory Order filed on July 21, 2017 at Docket No. P-2017-2615559. Tuktuk requested the issuance of a declaratory order by the Commission finding that its transportation services are exempt from Commission regulation. In the event that the Commission determines that the transportation services proposed by Tuktuk are not within the Commission’s jurisdiction, this Petition for Reconsideration would be rendered moot. Alternatively, the Commission could consolidate the Petition for Declaratory Order with this Reconsideration Petition

I. INTRODUCTION AND BACKGROUND

1. On December 27, 2016, Tuktuk filed an application with the Commission seeking authority to transport persons on sightseeing excursions from points in Lancaster County to points in Pennsylvania and return. The application was published in the *Pennsylvania Bulletin* on March 4, 2017. No protests were filed. While the application was pending review, Tuktuk amended the application to request authority to transport persons on sightseeing excursions only within the City of Lancaster, Pennsylvania.

2. By the Final Order entered on July 12, 2017, the Commission denied the application, by a 3-2 vote, citing safety concerns regarding the use of E-Tuk Limos for the proposed services. Commission Robert F. Powelson and Commissioner John F. Coleman, Jr. dissented. In his Statement, Commissioner Powelson indicated his belief that sufficient information was available to grant two-year experimental authority to Tuktuk. He also questioned whether the proposed services are exempt from the Commission's jurisdiction as a circuitous ride or as incidental to a primary sightseeing business.

3. E-Tuk Limos are considered "street legal" motor vehicles by both the U.S. Department of Transportation ("USDOT") and the Pennsylvania Department of Transportation ("PennDOT"). PennDOT has licensed the E-Tuk Limo as a motor vehicle.

4. Chairman Gladys M. Brown issued a Statement accompanying the Final Order indicating her belief that Tuktuk meets the financial fitness standard for being granted a certificate of public convenience, but stating that she did not have sufficient information upon which to base

and determine as part of the application proceeding that it lacks jurisdiction over Tuktuk's proposed services. To the extent that the Commission grants reconsideration and approves Tuktuk's application and later determines that the proposed services are exempt from Commission regulation, it could take steps to cancel the certificate of public convenience at that time. Tuktuk has made separate filings for declaratory relief and reconsideration to offer the Commission sufficient flexibility to address these matters. Since this proceeding is not contested, and therefore communications are not prohibited by Section 334(c) of the Public Utility Code, Tuktuk welcomes the opportunity to engage in a further dialogue with the Commission if any additional information is needed.

a determination regarding the safety of Tuktuk's proposed operations. If the application would be resubmitted in the future, she strongly recommended that additional information be provided about the City of Lancaster's position on the proposed services and the current operations of Tuktuk where transportation services are provided free of charge to the public.

5. By this Petition, Tuktuk is providing responses to the questions posed by Chairman Brown. Particularly since the application is unopposed, Tuktuk respectfully requests that the Commission reopen the record to consider this supplemental information. Such an approach would promote judicial efficiency in that it would avoid a duplication of resources by both Tuktuk and the Commission that would be involved if the application must be refiled, with the entire process being restarted, including publication in the *Pennsylvania Bulletin*.

6. Also, expediting the handling of Tuktuk's request to provide the proposed services would be consistent with the Commission's support for innovative transportation solutions that are responsive to the demands of the public, which are evidenced by the significant support that was expressed for approval of the application.

7. As noted above, Tuktuk has separately filed a Petition for Declaratory Order requesting that the Commission find that the proposed transportation services are exempt from Commission regulation. Tuktuk does not oppose consolidation of these filings to the extent that the Commission determines to address the jurisdictional issues as part of this proceeding.

II. LEGAL STANDARDS FOR REHEARING AND RECONSIDERATION

8. Code Sections 703(f) and 703(g) establish a party's right to seek relief following the issuance of a final decision by the Commission. Such requests must be consistent with Section 5.572 of the Commission's regulations.

9. Pursuant to Code Section 703(f), any party to the proceeding may seek rehearing relating to any matters determined in such proceedings and specified in the request for rehearing.³ Similarly, the Commonwealth Court of Pennsylvania has recognized that the reopening of the record is appropriate for the consideration of new evidence.⁴

10. As to the standards for granting reconsideration, the Commission has said that a party may properly raise any matter designed to convince the Commission that it should exercise its discretion to amend or rescind a prior order, in whole or part.⁵ The Commission has further explained that petitions are likely to succeed only when they raise new and novel arguments not previously heard or considerations that appear to have been overlooked or not addressed by the Commission.⁶

11. By this Petition, Tuktuk demonstrates why both reopening and reconsideration are warranted in this proceeding. Through a rehearing, the Commission can consider the supplemental information that is proffered with this Petition to respond to the questions posed by Chairman Brown and exercise its discretion to grant the application in view of these responses. Further, the Commission's decision relies on some misinformation about the testing, safety and use of E-Tuk Limos that this Petition corrects. On the basis of the application, the responses to the data requests that were provided to the Commission while the application was pending and this additional information proffered by the Petition, substantial evidence has been presented to support approval of the application.

³ See *Pa. PUC v. PECO Energy Company*, 1998 WL 975762 (Pa. P.U.C.), Docket No. M-00960820 (Order entered November 10, 1998).

⁴ *Crooks v. Pa. PUC*, 1 Pa. Cmwlth. 583, 276 A.2d 364 (1971).

⁵ *Duick v. Pa. Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (1982).

⁶ *Id.*

12. Approval of the application in this proceeding, rather than requiring Tuktuk to restart the application process, would promote judicial economy and conserve Tuktuk's resources, as well as those of the Commission and the ratepayers who fund the Commission. This approach would also be consistent with the Commission's commitment to support innovation in the transportation industry and give consumers choices about their modes of transportation.

13. As further explained below, Tuktuk respectfully requests that the Commission grant the Petition, reopen the record to receive the additional evidence proffered by this Petition, vacate the Final Order and adopt an Order granting the application.⁷ Due to the delays that Tuktuk has already experienced during the application process, and the fact that much of the tourism season has been lost for this year, Tuktuk further respectfully requests that the Commission expedite consideration of this Petition so that Tuktuk can salvage some of what is left of this year's tourism season.

III. ARGUMENT

14. It is well-established that the Commission's adjudications must be based on substantial evidence.⁸ Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion. A mere "trace of evidence or suspicion of the existence of a fact" is insufficient.⁹

⁷ Two-year experimental authority as suggested by Commissioner Powelson's Statement would be acceptable to Tuktuk. However, Tuktuk does not believe it is necessary to prohibit winter operations. Rather, Tuktuk proposes that it not operate during severe weather conditions. This language would afford Tuktuk flexibility to operate, such as for holiday events or special occasion, or when there are warm spells during the winter season.

⁸ *Mill v. Pa. PUC*, 447 A.2d 100 (Pa. Cmwlth. 1982); *Edan Transportation v. Pa. PUC*, 623 A.2d 6 (Pa. Cmwlth. 1993); 2 Pa.C.S. § 704.

⁹ *Norfolk and Western Railway Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Dep't. of Public Welfare*, 480 A.2d 382 (Pa. Cmwlth. 1984).

15. In denying Tuktuk’s application by a 3-2 vote, with Commissioner Powelson and Commissioner Coleman dissenting, the Commission cited safety concerns regarding use of the E-Tuk Limos. Notably, during the proceeding, Tuktuk had no opportunity to address many of the factors that were relied upon by the Commission to deny the application. Indeed, much of the information referenced by the Commission was not substantiated and is in fact refutable. As a result, the Commission’s Final Order is not based on substantial evidence but rather on speculation. In addition to providing answers that are responsive to Chairman Brown’s inquiries, Tuktuk is correcting the misinformation that the Commission relied upon in denying the application and is also offering additional details that the Commission either did not have available or appears to have overlooked.

16. Based upon this supplemental information, the corrections to some misinformation upon which the Commission previously relied and the need for Commission decisions to be supported by substantial evidence, Tuktuk respectfully requests that the Commission grant this Petition and approve its application.

A. Approval of the Application Would Promote Innovation and Customer Choice.

17. The Commission has expressed strong support for innovative transportation solutions. Recently, Chairman Brown and Commissioner Powelson observed that “we want innovative companies to choose to do business in the Commonwealth. Encouraging this type of investment creates jobs, improves the economy and benefits consumers.” They added that Pennsylvania is a place “where innovative companies....can invest and grow.”¹⁰

18. Approval of this application will allow an innovative transportation solution to be introduced to the City of Lancaster. It will further support the efforts of an entrepreneur who is

¹⁰ *Application of Freed Man Autonomous Vehicles LLC*, Docket No. A-2017-2585722 (Joint Statement dated February 9, 2017).

eager to share with tourists his passion for the City of Lancaster and its history, places of interest and people.

19. The Commission has also long been a proponent of customer choice. In the transportation industry, the Commission recently adopted final regulations to eliminate unnecessary barriers to entry for various types of passenger carriers.¹¹ Removing those barriers, the Commission found that promoting competition in the industry will provide consumers with more choices, which ultimately benefits consumers.

20. Permitting Tuktuk's business to move forward will also give consumers the opportunity to choose the transportation mode they wish to utilize. While some members of the public may not view the E-Tuk Limo as a safe way to be transported during a sightseeing tour, that is their choice and they are free to choose other ways of enjoying the City of Lancaster. However, the reluctance of some members of the public to ride in an E-Tuk Limo should not preclude the rest of the public from having that vehicle as an option for their sightseeing tour. Once a vehicle has met the applicable federal standard and is licensed by the state government, consumers should be free to make their own decisions among the options that are available in a competitive market.

B. Chairman Brown's Inquiries.

21. As to the questions raised by Chairman Brown's Statement, Tuktuk provides the following responses:

Q.1. Does the City of Lancaster have any safety concerns regarding Tuktuk vehicles operating on City streets alongside heavier 4-18 wheel vehicles?

A.1. No. As explained in the Statement of the City of Lancaster, which is attached as Appendix A, the City does not have any safety concerns regarding Tuktuk vehicles operating on City streets alongside heavier vehicles. Since the vehicles meet the standards established by the United States Department of Transportation and

¹¹ *Final Rulemaking Amending 52 Pa. Code Chapters 1, 3, 5, 23 and 29 to Reduce Barriers to Entry for Passenger Motor Carriers and to Eliminate Unnecessary Regulations Governing Temporary and Emergency Temporary Authority*, Docket No. L-2015-2507592 (Order entered October 27, 2016).

PennDOT has already licensed the vehicles, the City is satisfied that the E-Tuk Limos may be safely operated on the City's streets. The City understands that the vehicles do not exceed 25 miles per hour, which is the speed limit for all traffic within the City. Further, to ensure that motorists drive and the speed limit, the City's signal intersections are interconnected and synchronized to operate at intervals of 25 miles per hour.

Q.2. Do City Police have any concerns about Tuktuk vehicles impeding the normal flow of traffic?

A.2. No. As explained in the City's Statement, the Lancaster City Police Bureau does not have any concerns about Tuktuk vehicles impeding the normal flow of traffic, particularly since the vehicles are licensed by PennDOT and legally permitted to be operated on the streets of the City. Since the speed limits within the City are 25 miles per hour, and the Tuktuk vehicles operate at the same speed, there is no expectation that they will impede the flow of traffic. Also, the Tuktuk vehicles do not stop at every tourist attraction but rather the tour guide points them out and describes them as the vehicle passes. The vehicle stops only when it is unable to move forward due to traffic congestion or when it is safe to pull over for tourists to enjoy a particular attraction.

Q.3. Has the City of Lancaster considered how it will notify the public that these vehicles will be sharing the road?

A.3. Yes. The City will use its normal forms of communication, such as social media and email blasts, to let the public know about the Tuktuk vehicles legally operating on the City's streets.

Q.4. Are there bike lanes that would be more appropriate for Tuktuk vehicle operation?

A.4. No. The City of Lancaster has very limited bike lanes and such lanes would not be wide enough to accommodate Tuktuk vehicles. Additionally, it would pose a safety hazard to bicyclists to have a licensed motor vehicle sharing its lanes and may encourage motorists to also use bike lanes that are designed specifically for bicyclists.

Q.5. It appears that Wenger Works is currently operating free of charge in the City of Lancaster. Have there been any moving violations or incidents? If so, please provide details.

A.5. No moving violations or incidents have occurred.

Q.6. How many drivers does Wenger Works currently have providing the service free of charge?

A.6. Wenger Works has used two part-time drivers while providing the service free of charge.

Q.7. What is the current route or area of operation for Wenger Works' free service?

A.7. The sightseeing tours begin at The Hotel Lancaster on the corner of North Queen and East Chestnut Streets, two blocks north of Penn Square and the Lancaster City Visitor Center. This is also where the tours end. The route of the sightseeing tour is as follows: Queen, Chestnut, Shippen, Howard, Lime, Vine, Old Trinity Place, Vine, Queen, McGovern, Duke, Clay, Harrisburg, Charlotte, Chestnut, Prince, King, and Queen.

C. Vehicles Meet or Exceed Applicable Federal Standards.¹²

22. e-Tuk USA announced the first street-legal electric tuk tuks in the United States on May 18, 2015. While these vehicles had previously been a widely-used form of transportation around the world, e-Tuk USA spent over nine months conforming the vehicles to meet or exceed all applicable Federal Motor Vehicle Safety Standards ("FMVSS") set forth by the USDOT and the National Highway Traffic Safety Administration ("NHTSA").¹³

23. NHTSA (pronounced "NITS-uh") is a branch of USDOT that drafts and enforces the FMVSS, which are contained in the U.S. Code of Federal Regulations, Title 49, Part 571. NHTSA does not test vehicles for compliance with the FMVSS. Rather, it is the responsibility of manufacturers to certify the vehicles as compliant with these standards.¹⁴

24. Importantly, the Commission acknowledges that the E-Tuk Limo is recognized by the federal and state government and is licensed by PennDOT. Yet, in denying the application,

¹² A verification, executed by Mr. Colin Sommer, Director of Engineering and Manufacturing for e-Tuk USA, accompanies this Petition to support the facts set forth in Sections C and D relating to testing, safety and use of the E-Tuk vehicles. Mr. Sommer oversees the technical and engineering design of the vehicles and was directly responsible for ensuring that the e-Tuk vehicles complied with the applicable federal motor vehicle safety standards. (This verification is in addition to that executed by Mr. Timothy Wenger on behalf of Tuktuk).

¹³ https://www.bizjournals.com/prnewswire/press_releases/2015/05/18/MN08970

¹⁴ <https://www.nhtsa.gov/>

the Commission concluded that “use of the E-Tuk is not as safe as transportation rendered by conventional four-wheeled vehicles.”¹⁵

25. The eTuk vehicles are manufactured by eTuk USA at their facilities in Denver, Colorado. Each e-Tuk vehicle bears a certification label and has a 17 character vehicle identification number allowing it to be registered and plated at the state level.¹⁶

26. The E-Tuk Limo owned by Tuktuk, which is a three-wheeled battery operated vehicle, is equipped with seats for six passengers. The maximum speed of the E-Tuk Limo is 25 miles per hour and it has hydraulic brakes, which are single disc in the front and dual disc in the back. The curb weight is 2,185 pounds and the gross vehicle weight rating is 2,907 pounds. The E-Tuk Limo is 157 inches in length, 55 inches in width and 73 inches in height. It is equipped with 3 Type 2 (3-point) seatbelts and 4 Type 1 (2-point) seatbelts. It comes standard with headlamps, front and rear turn signals, tail lamps, stop lamps, side mirrors, rear mirrors, laminated safety glass on the windshield, parking brake, wipers, horn and ignition kill switch. Tuktuk’s vehicle is also equipped with optional rain covers and seat heating.¹⁷

D. Responses to Safety Concerns Raised by the Commission.

(1) Static Stability Factor.

27. During the pendency of the application, Commission staff sought additional information from Tuktuk about the stability of the E-Tuk Limos. In response, Tuktuk provided a document prepared by the NHTSA entitled “Trends in the Static Stability Factor of Passenger Cars, Light Trucks, and Vans” (“SSF Report”) to show that any Static Stability Factor (“SSF”)

¹⁵ Final Order at 5.

¹⁶ <http://etukusa.com/faq/>

¹⁷ <http://etukusa.com/wp-content/uploads/2017/05/specs.pdf>

rating above 1.0 is considered safe.¹⁸ Noting that the SSF rating for the E-Tuk Limo has been calculated to be 1.4, Tuktuk showed that the SSF rating is satisfactory under NHTSA standards. This SSF rating also compares favorably to ratings of various motor vehicles manufactured by Chrysler, Ford, General Motors and other major manufacturers.¹⁹

28. The Commission was dismissive of the satisfactory SSF rating for the E-Tuk Limo because the manufacturer was the source for the SSF rating, utilizing NHTSA's formula, and no independent testing was performed. In failing to give credence to the SSF rating determined by the manufacturer, the Commission appears to have overlooked the fact that vehicle manufacturers were the source of all of the SSF ratings in the SSF Report. USDOT relies on manufacturers to determine these ratings.²⁰

29. Further, Tuktuk explained why the vehicle has an acceptable SSF rating, describing its low center of gravity due to the almost 900 pounds of batteries located in the lowest location in the vehicle possible and positioned towards the rear to further stabilize the rear axle. Tuktuk also noted that the manufacturer has performed significant testing, although not required, to validate the stability of the vehicle. The manufacturer has been unable to roll the vehicle in any test configuration. The Commission appears to have overlooked this explanation and these additional details that support the satisfactory 1.4 SSF rating.

30. Other statements in the Commission's discussion of the vehicle's SSF rating are not relevant to the E-Tuk Limo. For example, the Commission observed that the static rollover

¹⁸ <http://www.puc.pa.gov/pdocs/1522958.pdf>

¹⁹ See SSF Report, pages 18-37. For instance, a 1984 Ford Crown Victoria, a 2003 Cadillac CTS 4-DR and a 1984 Honda Civic Hatchback are reported as having the same 1.4 SSF rating as the E-Tuk Limo. Manufacturers of sports utility vehicles and minivans reported significantly lower SSF ratings.

²⁰ See, e.g., SSF Report, page 17 (describes NHTSA as having obtained these ratings).

measurement was limited to the E-Tuk's rear axle, which has two wheels, and excluded the single-wheel front axle. It would be impossible to perform the measurement on the single-wheel front axle. Due to the concerns expressed by the Commission, however, e-Tuk USA has performed additional roller and slide calculations, which are attached as Appendix B and provide further support for the 1.4 SSF rating that was previously computed. Specifically, these calculations show that both the rear wheel and front tire would slide before tipping, and they confirm that the vehicle will not rollover in any test configuration.

(2) Collision Protection Features.

31. In response to a Commission staff data request suggesting that the vehicle affords no protection in the event of a collision, Tuktuk explained that the vehicle is equipped with numerous safety features designed to ensure the safe transportation of passengers, including its top speed of 25 mph, safety belts, rear roll bar and hydraulic disc brakes. Tuktuk also provided detailed diagrams to support the safety aspects of the vehicle. None of this information appears to have been taken into consideration by the Commission in denying Tuktuk's application.

32. The E-Tuk having a maximum speed of 25 miles per hour is a major safety feature that the Commission did not consider. Rather, the Commission dismissed the safety aspect of this feature by speculating that the other vehicle involved in a collision "may be....travelling at a much greater speed."²¹ Despite confirming that the speed limit within the City of Lancaster is 25 miles per hour, the Commission found the vehicle to present a safety hazard because "it is undeniable that many drivers exceed the posted speed limit regularly."²² These conclusions are speculative and are not based on substantial evidence or any evidence at all. Indeed, as a frequent operator

²¹ Final Order at 4.

²² *Id.*

on the streets of the City of Lancaster, Tuktuk notes that often traffic is congested and moves at a slower pace than the prescribed speed limit. Moreover, the City's traffic signals are interconnected and synchronized at 25 miles per hour intervals to encourage motorists to operate at the speed limit.

33. Notably, the federal standards that are applicable to low-speed vehicles, which could not be used for the E-Tuk Limo due to it being a three-wheeled vehicle, are far less demanding than the federal standards that were applied to the E-Tuk Limo. Low-speed vehicles, which have a maximum speed of 25 miles per hour, are only required to be equipped with headlamps, turn signal lamps, tail lamps, stop lamps, reflex reflectors, mirrors, a parking brake and a windshield.²³ By contrast, the E-Tuk Limo complies with much more extensive standards placed on other motor vehicles.²⁴ From a review of the difference between these standards, it is clear that the sheer fact that the vehicles do not exceed speeds of 25 miles per hour is a safety feature that should carry significant weight in determining whether to approve the application.

(3) Incidents in Other Countries.

34. The Commission refers to actions taken earlier this year by the New Zealand Transportation Agency of revoking licenses after people were injured when the E-Tuk in which they were riding was blown over by a gust of wind.²⁵ In denying the application, the Commission appears to have relied heavily upon the incident, while having incomplete information.

35. Specifically, the Commission may not have been aware that the vehicle involved in the incident in New Zealand was not manufactured by e-Tuk USA and was not compliant with the

²³ See 49 C.F.R. § 571.500.

²⁴ See 49 C.F.R. §§571.101 *et seq.*

²⁵ Final Order at 5.

NHTSA standards or “street legal” in the United States. For instance, that version of the vehicle had drum, not disc, brakes. The Commission likewise appears to have lacked information about the road conditions and the extreme hurricane-type of weather conditions. The Commission may also not have been aware that the incident occurred on a public highway where the vehicle was traveling straight downhill in a mountainous terrain at a speed in excess of 35 miles per hour. It is also noteworthy that the accident has been attributed to driver error – specifically to poor judgment in operating the vehicle under the conditions that existed. Given all of this additional information, the New Zealand incident should be afforded no weight in a determination of whether to approve Tuktuk’s application.

36. Similarly, the incident discussed in the Final Order that occurred in Brighton, England, involved a completely different type of vehicle that was capable of travelling at a speed of 60 miles per hour. It was also not manufactured by e-Tuk USA and is a gas-powered version of a three-wheeled vehicle, which is more like a golf cart or what Pennsylvania refers to as a “Neighborhood Electric Vehicle.”²⁶ Whereas golf carts weigh between 500 and 800 pounds, the gross weight of the E-Tuk Limo is nearly 3,000 pounds and is more in line with the weight of small cars.²⁷ In short, banning the E-Tuk Limo because of an incident involving a high speed gas-powered three-wheeled vehicle would be akin to banning a four-wheeled vehicle because of a motor cycle accident.

(4) Use in the United States.

37. The Commission likewise discounted the value of Tuktuk’s assertion regarding the absence of E-Tuk Limo accidents in the United States involving any serious injury or fatality due

²⁶ <http://www.dot.state.pa.us/public/dvsubforms/BMV/BMV%20Fact%20Sheets/fs-nev.pdf>

²⁷ <http://owners.honda.com/vehicles/information/2017/Civic-Sedan/specs#mid^FC2E5HEW>

to its unsubstantiated conclusion that E-Tuk Limo operations are extremely limited in the United States.

38. Nothing in the record supports that claim and the Commission provided no basis for this conclusion. Indeed, with E-Tuk Limos in use in 49 cities in 26 states throughout the United States, it seems that there is no basis for this conclusion. To the contrary, the E-Tuk Limos are currently being used for public transportation, with regulatory approval in Denver, Colorado; Scottsdale, Arizona; Naperville, Illinois; and Oxford, Mississippi.

39. Therefore, the Commission should have accepted as credible and considered the evidence offered by Tuktuk about the lack of serious accidents in the United States as supporting its assertions regarding the safety of the vehicles.

(5) International Use.

40. The Commission references wide-spread use of E-Tuk vehicles in third world countries. This information is not accurate. The three-wheeled vehicles that have been used in third world countries are not E-Tuk vehicles but rather are the high-speed gas powered three-wheeled vehicles referenced above that would not meet the applicable federal standards in the United States.

41. By contrast, the use of E-Tuk vehicles is growing in popularity throughout Europe. For example, in Lisbon, Portugal, in just a couple of years, about 300 of the motorized, three-wheel vehicles have swarmed the narrow cobblestone streets, offering tourists an alternate way of navigating this hilly city. This mode of transportation has addressed concerns of the local population about pollution and noisier streets caused by the surge of tourists to this port city in recent years.²⁸

²⁸ <https://www.nytimes.com/2015/10/27/world/europe/tuk-tuks-lisbon-portugal.html>

IV. CONCLUSION

Based upon the foregoing, Wenger Works, Inc., t/a Tuktuk Lancaster respectfully requests that the Commission reconsider its July 12, 2017 Final Order and approve its application to provide transportation services to the public for compensation in connection with its sightseeing tours within the City of Lancaster. Such approval would promote innovation, competition, and customer choice. Particularly given the additional information contained in this Petition about the safety of the vehicles and the support from the City of Lancaster, Tuktuk has provided a clear path for moving forward with approval of the application.

Respectfully submitted,



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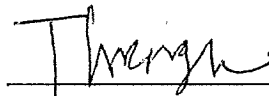
July 27, 2017

*Counsel for Wenger Works, Inc.,
t/a Tuktuk Lancaster*

VERIFICATION

I, Timothy Wenger, hereby state that: (1) I am President and Treasurer of Wenger Works, Inc., t/a Tuktuk Lancaster; (2) I am authorized to verify the facts in this document on behalf of Tuktuk Lancaster; and, (3) the facts set forth in this document are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 27, 2017

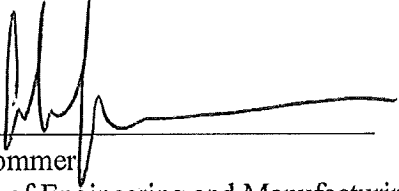


Timothy Wenger
President and Treasurer
Wenger Works, Inc. t/a Tuktuk Lancaster

VERIFICATION

I, Colin Sommer, am Director of Engineering and Manufacturing for e-Tuk USA, where I oversee the technical and engineering design of the vehicles, focusing on the drivetrain, including the battery, motor and electronics. In this position, I also evaluate new technology and manage vehicle testing. I was directly responsible for ensuring that the e-Tuk vehicles complied with the applicable federal motor vehicle safety standards. By this verification, I hereby state that the facts set forth in Paragraphs 22 through 41 of this document relating to testing, safety and use of the e-Tuk vehicles and the calculations in Appendix B are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 27, 2017



Colin Sommer
Director of Engineering and Manufacturing
eTuk USA LLC

Appendix A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Wenger Works, Inc., t/a Tuktuk :
Lancaster, for the initial right to begin to transport, :
As a common carrier, by motor vehicle, persons in : Docket No. A-2017-2585784
paratransit service, limited to sightseeing :
excursions, from points in Lancaster County, to :
Points in Pennsylvania, and return :

STATEMENT OF THE CITY OF LANCASTER

The City of Lancaster offers this statement in support of the application of Wenger Works, Inc., t/a Tuktuk Lancaster (“Tuktuk”) for the right to transport persons on sightseeing tours in E-Tuk Limos within the City of Lancaster. Tuktuk offers tourists to our City the opportunity to observe and experience the history, architecture, attractions and the people of Lancaster. In a Statement accompanying the Commission’s Order denying Tuktuk’s application, Chairman Gladys M. Brown posed several questions directed at the City of Lancaster. The City appreciates this opportunity to provide feedback to the Commission and the City’s responses are shown below.

Chairman Brown inquired whether the City of Lancaster has any safety concerns regarding Tuktuk vehicles operating on City streets alongside heavier 4-18 wheeled vehicles. The City of Lancaster does not have any safety concerns regarding Tuktuk vehicles operating on City streets alongside heavier vehicles. Since the vehicles meet the standards established by the United States Department of Transportation’s National Highway Traffic Safety Administration and the Pennsylvania Department of Transportation (“PennDOT”) has already licensed the vehicles, the City is satisfied that the E-Tuk Limos may be safely operated on the City’s streets. The City

understands that the vehicles do not exceed 25 miles per hour, which is the speed limit for all traffic within the City. Furthermore, to ensure motorists drive at the speed limit and to reduce congestion at signalized intersections, the City of Lancaster's signal intersections are interconnected and synchronized to operate at intervals of 25 miles per hour to ensure that traffic moves as smoothly and safely as possible and that pedestrians are protected when crossing city streets.

Chairman Brown next inquired whether the Lancaster City Police Bureau has any concerns about Tuktuk vehicles impeding the normal flow of traffic. The Lancaster City Police Bureau does not have any such concerns, particularly since the vehicles are licensed by PennDOT and are legally permitted to be operated on the streets of the City. Since the speed limits within the City are 25 miles per hour and the Tuktuk vehicles operate at the same speed, the Lancaster City Police Bureau has no expectation that they will impede the flow of traffic. The Lancaster City Police further notes that no moving violations or incidents have occurred to date involving the Tuktuk vehicle that has been providing sightseeing tours.

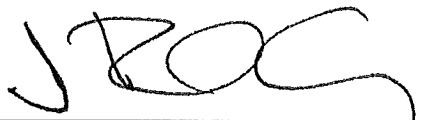
As to Chairman Brown's question concerning how the City of Lancaster will notify the public that these vehicles will be sharing the road, the City does not believe that any special notifications are necessary since the vehicles have been licensed by PennDOT to operate on the streets. However, in view of Chairman Brown's concern, the City will use its normal forms of communication, such as social media and email blasts, to let the public know that Tuktuk vehicles are legally operating in the City.

Chairman Brown's last question directed to the City of Lancaster is whether bike lanes would be more appropriate for Tuktuk vehicle operation. The City of Lancaster has very limited bike lanes and such lanes would not be wide enough to accommodate Tuktuk vehicles.


Additionally, it would pose a safety hazard to bicyclists to have a licensed motor vehicle sharing its lanes and may encourage motorists to also use bike lanes that are designed specifically for bicyclists.

Again, the City of Lancaster appreciates this opportunity to provide information that will hopefully be helpful to the Commission in reconsidering its decision regarding Tuktuk's application. If any additional information is needed, the City would welcome the chance to provide it to the Commission.

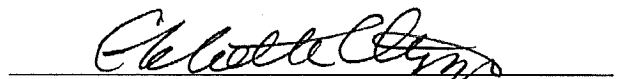
Respectfully submitted,



J. Richard (Rick) Gray
Mayor of Lancaster



Keith R. Sadler, Chief of Police
Lancaster City Police Bureau



Charlotte Katzenmoyer, Director of Public Works
City of Lancaster

July 27, 2017

Appendix B