



**Fox Rothschild** LLP  
ATTORNEYS AT LAW

2000 Market Street, 20th Floor  
Philadelphia, PA 19103-3222  
Tel 215.299.2000 Fax 215.299.2150  
www.foxrothschild.com

BARNETT SATINSKY  
Direct Dial: 215-299-2088  
Email Address: BSatinsky@Foxrothschild.com

August 15, 2017

**VIA ELECTRONIC FILING**

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

**Re: Comments to Advance Notice of Proposed Rulemaking Order Pertaining to  
Regulation of Motor Carriers of Passengers and Property  
Docket No. L-2017-2604692**

---

Dear Secretary Chiavetta,

This Firm represents the following passenger motor carriers (the "Carriers"), all of which hold paratransit operating authority and some of which hold call or demand, limousine or group and party (more than 15 passengers) operating authority from the Pennsylvania Public Utility Commission (the "Commission"):

Suburban Transit Network, Inc. t/a TransNet  
Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Yellow Cab and t/d/b/a  
Bux-Mont Transportation Services Co.  
Easton Coach Company t/a Norristown Transportation Co.  
Tri County Transit Service, Inc.  
Bucks County Transport, Inc.

On behalf of the Carriers, this Firm offers comments in response to several areas raised in the Advance Notice of Proposed Rulemaking docketed by the Commission at L-2017-2604692, published in the Pennsylvania Bulletin at 47 Pa.B. 3582.

1. *Fuel Surcharge*

The fuel surcharge that currently applies only to household goods carriers previously had applied to other carriers as well. The cost of fuel is no greater or lower for carriers other than

A Pennsylvania Limited Liability Partnership

California Colorado Connecticut Delaware District of Columbia Florida  
Illinois Nevada New Jersey New York Pennsylvania Texas



Fox Rothschild LLP  
ATTORNEYS AT LAW

Rosemary Chiavetta, Secretary  
August 15, 2017  
Page 2

household goods movers, particularly those driving multiple shorter trips as compared with fewer longer trips (often on the highway) involved in household goods movements.

On the one hand, annual adjustments may not adequately address seasonal fluctuations in fuel prices. On the other hand, monthly adjustments are difficult and costly for the Commission and the carriers to implement. Consideration should be given to quarterly adjustments to be published by the Commission, which each carrier could incorporate into their individual tariff on one day's notice under a simplified procedure. This would allow carriers to make decisions based on the embedded cost of fuel in their respective regular tariff rates and reduce the administrative burden for obtaining Commission approval on a carrier-by-carrier basis.

2. *Fines and Assessments*

We offer no specific comments on this topic.

3. *Granting of Provisional Authority*

During the prior rulemaking at L-2015-2507592 pertaining to reducing barriers to entry for passenger motor carriers and eliminating unnecessary regulations governing temporary and emergency temporary authority, the Commission attempted to eliminate by regulation these statutory provisions. Ultimately, through the rulemaking process, that portion of the proposals was withdrawn. In the current Advanced Notice of Proposed Rulemaking the Commission seems to be trying to accomplish the same end, without any statutory change. Without belaboring the point, if such a change is to occur, it should be made by the General Assembly.

Of equal importance is the potential impact on the riding public if applicants could immediately be authorized to begin operating, without any scrutiny first being given to their technical and financial fitness. This would allow applicants with poor safety records, inadequate financial capability and a lack of operational experience to prey on an unwary public, rendering the Commission as little more than a tax collector. Again, if the General Assembly intends to deregulate the entire industry, then so be it. But when it comes to issues of protecting the riding public, new applicants should not be held to a lesser standard than existing carriers.

4. *Web-based Training*

If the purpose of web-based training would be used as a "primer" on how to complete, file and serve documents, it may be a useful tool. However, if the "training" were to delve into areas of advocacy (for instance, is it "better" to apply for a broad geographical area or a narrow geographical area, and what are the implications of each), then it is respectfully suggested that



Fox Rothschild LLP  
ATTORNEYS AT LAW

Rosemary Chiavetta, Secretary  
August 15, 2017  
Page 3

web-based, “one size fits all” training is ill-advised. Whether an applicant is guided by staff or by private practitioners, there often is no substitute for direct, live interaction.

5. *Motor Carrier Insurance*

As to the current limits of coverage, the current regulations are woefully low, not having been updated since at least July 8, 2000. The Commission may want to look at the limits required by other state and local agencies under programs that they administer (for instance, PADOT’s shared ride program) where, for instance, minimum coverages are often \$1 million (or even \$5 million), as compared with the Commission’s current requirement of \$35,000. Other components of the coverage should be adjusted as well.

On the subject of Form E filings, allowing carriers to file their own Form E (rather than requiring the filing to be made by an insurer or broker) would be an abrogation of important oversight. The Commission would be ceding to unscrupulous carriers the ability to improperly create or modify certificates. The Commission may want to check with other jurisdictions to determine if any of them allow the carrier to file its own Form E, and if so, what their experience has been.

6. *Safety Code for Transportation of Property and Passengers*

We offer no specific comments on this topic.

7. *General Orders, Policy Statement and Guidelines on Transportation Utilities*

As a general standard, the Chapter 41 guidelines, particularly 52 Pa. Code §41.14 have provided a broad envelope that allows a certain amount of discretion, whether on the part of an Administrative Law Judge or the Bureau of Technical Utility Services when reviewing applications. However, as interpreted and applied, the general expressions of “  
“ often amount to a presumption of technical and financial fitness, no matter how small the financial assets, how unlikely it is that the applicant will be able to turn a profit and how inexperienced that applicant may be.

For example, if an applicant with \$3,000 in the bank, no vehicles and the limited experience of having worked as a driver for another carrier for 2 years applies for statewide operating authority, it is difficult to comprehend how that applicant can be deemed “qualified”. This is not to say that only large entities with years of experience in the industry should be allowed to enter the Pennsylvania market. However, as it currently stands, unless an applicant literally fails to submit a statement of assets and projected operating income, the applicant will be deemed financially fit. Similarly, there is no meaningful measure of technical fitness.



Fox Rothschild LLP  
ATTORNEYS AT LAW

Rosemary Chiavetta, Secretary  
August 15, 2017  
Page 4

Applicants often are deemed qualified if they copy and paste policies adopted by other carriers, and explain that they have worked with a particular segment of the population (for instance, senior citizens), with no management experience and no employees with management experience.

In effect, other than serving as an aspirational expression, the current guidelines offer little in terms of concrete metrics. Whether remaining as guidelines, or being transformed into regulations, is not the point. Rather, the emphasis should be on creating meaningful measures. If the guidelines are converted to regulations, a provision always can be included that allows for exceptions to the general rule, but it should be incumbent on the decision-maker to articulate why an exception should be granted in a particular case.

8. *Other Considerations*

We offer no specific comments on this topic.

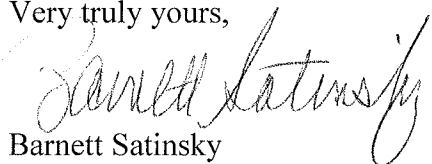
9. *Regulation of Property Carriers*

We offer no specific comments on this topic.

10. *Regulation of Group and Party Carriers*

We offer no specific comments on this topic.

Very truly yours,



Barnett Satinsky

BS:mo

cc: Susan Kopystecki (via email)  
Sam Valenza (via email)  
Mark Glatz (via email)  
Jim Tammaro (via email)  
James Raymond (via email)