

Kenneth A. Olsen
Attorney at Law
33 Philhower Road
Lebanon, New Jersey 08833

Via FedEx Airbill No. 8041 1954 6530

October 29, 2013

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

Dear Madam Secretary:

Re: La Mexicana Express Service, LLC
Docket No. A-2012-2329717
Persons in Paratransit Service Application

As your records indicate, I represent Applicant in the above referred to application proceeding. My Pennsylvania Supreme Court Identification Number is 29681.


Attached hereto, for filing with your Commission in the above application proceeding, find original and three copies of Applicant's Petition For Reconsideration and Exceptions To Order entered October 17, 2013.

Inasmuch as this application is unopposed, I am not forwarding a copy of the attached and aforesaid Applicant's Petition For Reconsideration and Exceptions To Order entered October 17, 2013 on any party.

Kindly acknowledge receipt on the duplicate of this letter attached, showing thereon said Petition and Exceptions was duly filed. A self-addressed stamped envelope is enclosed for your convenience.

If you have any questions relative to any of the above or attached, or require additional information, do not hesitate to contact me. Your courtesies and considerations are appreciated.

Respectfully yours,



Kenneth A. Olsen

KAO:amo

Enc.

cc with enc.: La Mexicana Express Service, LLC ✓

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN THE MATTER OF:
APPLICATION OF
LA MEXICANA EXPRESS SERVICE, LLC
NUMBER A-2012-2329717
A-6415209

PETITION FOR RECONSIDERATION

AND

EXCEPTIONS OF APPLICANT

OF

APPLICANT

TO

ORDER OF THE COMMISSION

ADOPTED OCTOBER 17, 2013, ENTERED OCTOBER 17, 2013

Dated: October 29, 2013

Filed By:

Kenneth A. Olsen
33 Philhower Road
Lebanon, New Jersey 08833
(908) 832-9207
Attorney for Applicant

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN THE MATTER OF:
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PETITION FOR RECONSIDERATION
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OF
APPLICANT
TO
ORDER OF THE COMMISSION
ADOPTED OCTOBER 17, 2013, ENTERED OCTOBER 17, 2013

Comes now, La Mexicana Express Service, LLC, a Pennsylvania limited liability company, with address at 1044 Union Street, Reading, PA 19604 (hereinafter referred to as Applicant), by its Attorney, Kenneth A. Olsen, and in accordance with the Rules of Practice of the Pennsylvania Public Utility Commission ("Commission"), files this, its Petition For Reconsideration And Exceptions to the Order of the Commission, adopted October 17, 2012 entered October 17, 2012, ("Order") in the above entitled proceeding.

I
HISTORY OF THE PROCEEDING

For the purposes of this Petition and Exceptions, Applicant adopts the history of the proceeding set forth in the first full paragraph of the Order under the heading "BY THE COMMISSION."

Also, for the purposes of this Petition and Exceptions, Applicant adopts the discussion and findings set forth in the second full paragraph of the Order under the heading

“DISCUSSION AND FINDINGS”, but takes exception to and requests reconsideration of the findings set forth in the last sentence of the second full paragraph and in the third full paragraph of the Order under the heading “DISCUSSION AND FINDINGS” of the Order.

II
RECONSIDERATIONS AND EXCEPTIONS

1. Applicant requests reconsideration of and excepts to the last sentence of the second full paragraph of the Order under the heading “DISCUSSION AND FINDINGS” to the extent that Applicant did provide documentation to verify that there were two members of Applicant when the limited liability company (LLC) was formed.

Applicant submitted a Supplemental Verified Statement (with exhibits) of Daniel S. Caisaguano, dated September 9, 2013, amending Applicant’s application and Mr. Caisaguano’s June 19, 2013 statement. As stated in paragraph 1. AMENDED of his September 9, 2013 Supplemental Verified Statement, Mr. Caisaguano of Applicant verified under oath that he and Jose Narciso Mizhquiri were the original two members of Applicant limited liability company, the application incorrectly stated that Applicant was the sole member, and requested the Commission amend the application and subsequent statements accordingly. Mr. Caisaguano of Applicant also submitted, as Exhibit 3 to his September 9, 2013 Supplemental Verified Statement, an affidavit of Mr. Mizhquiri wherein Mr. Mizhquiri affirmed his withdrawal as a member of Applicant thereby leaving Mr. Caisaguano as the sole authorized member of Applicant. Arguably, Mr. Mizhquiri could not withdraw as a member of Applicant leaving Mr. Caisaguano as the sole authorized member of Applicant to conduct Applicant’s operations unless both Messrs. Mizhquiri and Caisaguano were the original members of Applicant. Messrs. Mizhquiri’s and Caisaguano’s inexperience as lay persons in filing an application with this Commission and in filing a Certificate Of Organization with the Pennsylvania Department of State should not be the basis for denying

Applicant's subject application. For this unopposed application supported by thirteen (13) public witnesses, Applicant's submission under oath of its September 9, 2013 Supplemental Verified Statement (with exhibits) should be the documentation that sufficiently corrects and amends the application, verifies Applicant's membership and ownership, and supports a granting of the amended application.

Counsel for Applicant had a telephone conference with David Thompson, Compliance Specialist, Bureau of Technical Utility Services, of the Commission on August 23, 2013 during which the need to identify Applicant's members, correct the application information, and clarify operational and financial information was discussed. The guidance counsel received from Mr. Thompson was to have Applicant submit a supplemental verified statement in which: (a) the identity of Applicant's members was to be supplied; (b) some operational information (ie. vehicles, drivers, offices) was to be clarified; (c) Applicant's lack of expenses, debts, or income was due to operations not commencing was to be explained; and (d) Applicant's source of monies and assets to commence operations was to be explained. Applicant complied with the guidance its counsel received from the Commission's Mr. Thompson by submitting the September 9, 2013 Supplemental Verified Statement of Mr. Caisaguano, including exhibits, amending the application and supplementing its June 19, 2013 statement.

2. Applicant requests reconsideration of and excepts to the third full paragraph of the Order under the heading "DISCUSSION AND FINDINGS" to the extent that Applicant did provide evidence it possesses the necessary financial fitness to render the proposed service.

Applicant submitted a Supplemental Verified Statement (with exhibits) of Daniel S. Caisaguano, dated September 9, 2013, amending Applicant's application and Mr. Caisaguano's

June 19, 2013 statement. As stated in paragraph 12. AMENDED and Exhibit 2 of his September 9, 2013 Supplemental Verified Statement, Mr. Caisaguano of Applicant verified under oath that Applicant has neither expenses or debts, nor income, since Applicant has not begun operations. However, Mr. Caisaguano, as the sole member of Applicant, also verified under oath that he has at least \$10,000.00 in cash on hand or in the bank, or available to him through lines of credit, to be utilized to commence operations once final approval is received from the Commission. Moreover, Mr. Caisaguano verified under oath that three vehicles, currently in his and his daughter's name, will be transferred to Applicant once final approval is received from the Commission, thereby forming the vehicle basis for Applicant to operate the authority sought and adding an additional \$8,000.00 in asset value to Applicant. Also, Mr. Caisaguano verified under oath operational mechanisms in place to commence operations, the cost of insuring each vehicle, and Applicant's proposed per person trip rate to be charged. For this unopposed application supported by thirteen (13) public witnesses, Applicant's submission under oath of financial and operational documents and information, as contained in its September 9, 2013 Supplemental Verified Statement (with exhibits), is sufficient evidence that Applicant possesses the necessary financial fitness to render the proposed service and supports a grant of authority (as restrictively amended) herein.

Again, counsel for Applicant had a telephone conference with David Thompson, Compliance Specialist, Bureau of Technical Utility Services, of the Commission on August 23, 2013 during which the need to identify Applicant's members, correct the application information, and clarify operational and financial information was discussed. The guidance counsel received from Mr. Thompson was to have Applicant submit a supplemental verified statement in which: (a) the identity of Applicant's members was to be supplied; (b) some operational information (ie. vehicles, drivers, offices) was to be clarified; (c) Applicant's lack of expenses, debts, or income

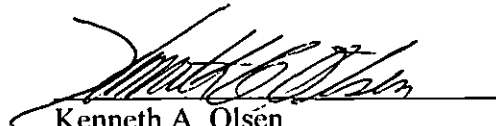
was due to operations not commencing was to be explained; and (d) Applicant's source of monies and assets to commence operations was to be explained. Once again, Applicant complied with the guidance its counsel received from the Commission's Mr. Thompson by submitting the September 9, 2013 Supplemental Verified Statement of Mr. Caisaguano, including exhibits, amending the application and supplementing its June 19, 2013 statement. .

III
CONCLUSION AND PRAYER FOR RELIEF

Wherefore, the above premises being considered, Applicant seeks the relief set forth in this Commission's rules and regulations, and respectfully prays the Commission reconsider its Order, reconsider the Order's discussion and findings regarding no documentation or evidence provided about Applicant's members or financial fitness, grant Applicant's within Petition, find that Applicant has provided verified documentation of its membership and financial fitness to render the proposed service, and approve the granting of the instant application (as restrictively amended).

Dated: October 29, 2013

Respectfully submitted,




Kenneth A. Olsen
33 Philhower Road
Lebanon, New Jersey 08833
(908) 832-9207
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the original and true copies of the foregoing document, Applicant Petition For Reconsideration and Exceptions to Order entered October 17, 2013, upon the persons listed below, via Federal Express, prepaid, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

The Hon. Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, 2nd Floor, Keystone Bldg., 400 North Street, Harrisburg, PA 17105-3265 as to an original and three copies; and no further copies on any other party inasmuch as the instant application is unopposed.

Dated this 29th day of October, 2013


KENNETH A. OLSEN
Attorney for Applicant

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OCT 29 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

FedEx Package Express **US Airbill**

FedEx Tracking Number

8041 1954 6530

Form ID No. 0215

Recipient's Copy

1 From [REDACTED]
Date 10/29/13

Sender's Name KENNETH OLSEN Phone 908 832-9207

Company KENNETH A OLSEN LAW FIRM

Address 33 PHILHOWER RD
Dept./Floor/Suite/Room

City LEBANON State NJ ZIP 08833-4537

2 Your Internal Billing Reference LA MEXICANA EXP. APPL

3 To Recipient's Name ROSEMARY CHIAVETTA ^{SECY} Phone 717-757-1168

Company PENNSYLVANIA PUBLIC UTILITY COMM.

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- FedEx First Overnight
Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
 - FedEx Priority Overnight
Next business morning. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
 - FedEx Standard Overnight
Next business afternoon. Saturday Delivery NOT available.
- 2 or 3 Business Days**
- FedEx 2Day A.M.
Second business morning. Saturday Delivery NOT available.
 - FedEx 2Day
Second business afternoon. Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
 - FedEx Express Saver
Third business day. Saturday Delivery NOT available.

5 Packaging * Declared value limit \$500.

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6 Special Handling and Delivery Signature Options

- SATURDAY Delivery
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- No Signature Required
Package may be left without obtaining a signature for delivery.
- Direct Signature
Someone at recipient's address may sign for delivery. Fee applies.
- Indirect Signature
If no one is available at recipient's address, someone at a neighboring address may sign for delivery. For residential deliveries only. Fee applies.

Does this shipment contain dangerous goods?
One box must be checked.

No Yes Yes Yes
As per attached Shipper's Declaration. Shipper's Declaration not required.

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Dry Ice, 6 U.S. 1845 to _____ to _____

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- Sender Account No. & Section 1 will be billed.
 - Recipient
 - Third Party
 - Credit Card
 - Cash/Check

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