

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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IN THE MATTER OF:  
APPLICATION OF  
CANYON COUNTRY CABS, LLC  
NUMBER A-2015-2471524

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MOTION AND  
PRELIMINARY OBJECTIONS  
OF APPLICANT  
TO STRIKE PROTEST OF  
TROPICAL TANNING & BEAUTY SALON, INC. t/a  
ARRIVE N STYLE LIMOUSINE SERVICE

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Comes now, Canyon Country Cabs, LLC, with address at 9886 Route 6, Wellsboro, PA 16901 (hereinafter referred to as Applicant), by and through its Attorney, Kenneth A. Olsen\*, and in accordance with the Rules of Practice of the Pennsylvania Public Utility Commission (hereinafter referred to as Commission) and the requirements of 52 Pa. Code §3.381(c)(1)(i)(C) and (ii), and of 52 Pa. Code § 5.101, submits this, its Motion and Preliminary Objections To Strike Protest Of Tropical Tanning & Beauty Salon, Inc. t/a Arrive N Style Limousine Service (hereinafter referred to as Protestant).

*Notice To Plead.* Pursuant to 52 Pa. Code § 5.101(b), an answer to this motion and preliminary objections must be filed within ten (10) days of the date of service of the motion and preliminary objections.

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\* Notice of Appearance dated May 7, 2015 and served May 7, 2015.

## MOTION AND PRELIMINARY OBJECTIONS

1. Service of public notice of Applicant's application appeared in the Pennsylvania Bulletin, Vol. 45, No. 15, on April 11, 2015, with notice to the public that protests to Applicant's application must be filed, received, and served upon the Commission and Applicant by April 27, 2015.

2. The public notice of Applicant's application stated Applicant sought approval to begin operating as a common carrier of persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Potter and Tioga.

3. The protest of Protestant was mailed to the Commission on April 17, 2015, and was marked as filed and received by the Commission on April 17, 2015.

4. 52 Pa. Code §3.381(c)(1)(i)(A)(IV) states a protest shall contain a statement of the protestant's interest in the application, including a statement of any adverse impact which approval of the application can be expected to have on the protestant. However, none of the foregoing was contained in Protestant's protest.

5. 52 Pa. Code §3.381(c)(1)(i)(A)(V) states a protest shall contain a list of all Commission docket numbers under which the protestant operates, accompanied by a copy of any portion of the protestant's authority upon which its protest is predicated. However, none of the docket numbers listed in Protestant's protest or copies of authority attached to Protestant's protest permit Protestant to provide group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Potter and Tioga. Protestant's *Docket No. A-2013-2387024* only authorizes transportation in vehicles seating more than *twenty-eight (28) passengers*. Protestant's *Docket No. A-2011-2237117* only authorizes

transportation of persons in group and party service, operating vehicles with a seating capacity of *sixteen (16) to twenty-eight (28) passengers*, including the driver. Protestant's *Docket No. A-2012-2296330* only authorizes transportation of persons in group and party service, operating vehicles with a seating capacity of eleven (11) to fifteen (15) passengers, including the driver, *from points in Clinton County*. Protestant's *Docket No. A-2010-2214003* only authorizes transportation of persons in *limousine service*. Protestant's *Docket No. A-2014-2438908* is only *a pending application - not an issued final authority* - that was the subject of a March 19, 2015 Initial Hearing before the Hon. Ember S. Jandebour, ALJ, and is presently subject to a Briefing Order issued March 24, 2015 by the Hon. Ember s. Jandebour, ALJ, with parties' Main Briefs due May 8, 2015 and parties' Reply Briefs due May 29, 2015.

6. 52 Pa. Code §3.381(c)(1)(i)(A)(VI) states a protest shall contain a statement of any restrictions that will protect Protestant's interests or result in the protest's withdrawal. However, none of the foregoing was contained in Protestant's protest.

7. 52 Pa. Code §1.21(b) and 52 Pa. Code §1.22 require that a corporation, such as Protestant, shall be represented by an attorney in an adversarial proceeding, such as the instant application. However, Protestant's protest was not filed by an attorney admitted to practice before the Supreme Court of Pennsylvania.

8. In view of the foregoing, Protestant's protest should be stricken due to:

- (a) the protest not containing any statement of adverse impact;
- (b) the Protestant not holding any operating authority in conflict with or permitting any of the service sought by Applicant in the instant application;
- (c) the protest not containing any statement of satisfactory restriction(s); and
- (d) the protest not being filed by an attorney admitted to practice in Pennsylvania.

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 its instant Motion and Preliminary Objections be granted, and the Protest of Tropical Tanning & Beauty Salon, Inc. t/a Arrive N Style Limousine Service be stricken..

Dated: May 7, 2015

By: s/ Kenneth A. Olsen  
Kenneth A. Olsen  
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Motion and Preliminary Objections of Applicant To Strike Protest of Tropical Tanning & Beauty Salon, Inc. t/a Arrive N Style Limousine Service, upon the parties listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party) and 52 Pa. Code §1.54

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(Electronically via eFiling the original)

Mr. Robert B. Burgit, Pres.  
Burgit City Taxi, Inc.  
565 South Main Street  
Wilkes-Barre, PA 18702  
(Via First Class Mail, postage prepaid)

Dated: May 7, 2015

By: s/ Kenneth A. Olsen  
Kenneth A. Olsen  
Attorney for Applicant