

June 15, 2015

Via Electronic Filing

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

Re: Petition of Accurate Transportation, LLC for Reinstatement of
Its Certificate of Public Convenience for Limousine Authority
Docket Nos. A-00120433 and C-2014-2450034


Dear Secretary Chiavetta:

Enclosed for filing on behalf of Accurate Transportation, LLC is its Petition for Reinstatement of its Certificate of Public Convenience for limousine authority. Copies of the Petition are being served in accordance with the certificate of service attached to it.

Should you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 
Charles E. Thomas, III

Enclosure

cc: Certificate of Service (w/encl.)
Timothy Glavin (w/encl.) (via email)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Accurate Transportation, LLC : **Docket Nos. A-00120433**
for Reinstatement of Its Certificate of Public : **C-2014-2450034**
Convenience for Limousine Authority :

**PETITION FOR REINSTATEMENT
OF ACCURATE TRANSPORTATION LLC**

AND NOW, comes Accurate Transportation, LLC (“Accurate” or “Petitioner”), by and through its undersigned counsel, and pursuant to 52 Pa. Code § 5.41, petitions the Pennsylvania Public Utility Commission (“Commission”) for reinstatement of its Certificate of Public Convenience at A-00120433 for limousine authority. In support thereof, Accurate states as follows:

I. INTRODUCTION

1. Accurate was issued a Certificate of Public Convenience on May 5, 2005 at Docket No. A-00120433 for limousine authority.¹
2. On October 27, 2014, the Commission’s Bureau of Investigation and Enforcement filed a formal complaint against Accurate alleging that Petitioner had failed to file assessment reports demonstrating its gross intrastate operating revenues for the 2011 and 2012 calendar years and had also failed to pay the Commission’s assessments in the amounts of \$380 and \$369 for the fiscal years ending June 30, 2013 and June 30, 2014, respectively. I&E filed a motion for default judgment on January 12, 2015.
3. By Order entered April 9, 2015 at Docket No. C-2014-2450034, the Commission

¹ By Secretarial Letter dated January 30, 2015 at Docket No. A-2014-2439255, the Commission approved Accurate’s application for the additional right to transport persons in airport transfer service, from points in Delaware County, to the Philadelphia International Airport. Accurate’s airport transfer service authority is not pertinent to this petition.

granted I&E's motion and directed Accurate to pay the outstanding assessment balance of \$749 and a civil penalty of \$2,187 within thirty (30) days of the entry date of the Order. The Order further stated that if Accurate did not make payment as required, Petitioner's Certificate of Public Convenience at A-00120433 would be cancelled without further action by the Commission.

4. On May 22, 2015, the Commission issued a Secretarial Letter advising that the Certificate of Public Convenience had been cancelled for failure to respond.

5. Accurate received the Commission's Secretarial Letter via email on May 27, 2015 and, on May 28, 2015, sent a check for \$2,936 via overnight delivery to the Secretary's Bureau to cover full payment of the outstanding assessment balance and civil penalty.

6. Having paid all assessments and fines, Accurate now files the instant petition seeking reinstatement of its Certificate of Public Convenience for limousine authority.

II. STANDARDS FOR REINSTATEMENT

7. The Commission's criteria for determining whether reinstatement is warranted are set forth in *Pa. P.U.C., Bureau of Investigation and Enforcement v. A1 Limousine Service/Universal, Inc.*, Docket Nos. A-00123460 and C-2012-2314333 (Order entered August 15, 2013) ("*A1 Limousine Service*").

The Commission has identified five factors that are particularly relevant to the determination of a petition to reinstate: (1) the amount of time that elapsed between the cancellation of the certificate of public convenience and the filing of the petition to reinstate; (2) whether the petitioner has a record of habitually violating the [Public Utility] Code; (3) the reasonableness of the excuse given for the violation that caused the certificate to be cancelled, *Re: Bishop*, 58 Pa. P.U.C. 519 (1984); (4) whether the petitioner has implemented procedures to prevent a recurrence of the circumstances giving rise to the subject complaint, *Pa. PUC v. Grimm Motors*, Docket No. A-00111048, et al. (Order entered May 1, 1998); and (5) whether the petitioner is in compliance with the requirement that all assessments must be current prior to reinstatement, *Re: M.S. Carriers, Inc.*,

Docket No. A-00110601 (Order entered May 4, 1999).²

8. In ruling upon a petition for reinstatement, the Commission must examine all relevant factors in order to reach an equitable result. *Al Limousine Service* at 4 (citing *Re Medical Transportation, Inc.*, 57 Pa. P.U.C. 79 (1983)).

9. As discussed below, the totality of the relevant facts presented herein demonstrate that reinstatement of Petitioner's Certificate of Public Convenience is appropriate and fully justified. Accurate, accordingly, respectfully requests that the Commission grant this Petition.

III. ANALYSIS OF THE FIVE FACTORS

A. Length of Time Certificate Remains Dormant

10. The first criterion relevant to whether reinstatement is warranted is the amount of time that elapsed between the cancellation of the certificate of public convenience and the filing of the petition to reinstate. The Commission has declared that when the period of dormancy is short, reinstatement should be treated solely as a matter between a petitioner and the Commission. If, however, the period becomes longer, it is more likely that another carrier would rely on the cancellation as being permanent and formulate plans to fulfill the dormant service.³

11. Here, the time elapsed between the issuance of the Commission's Secretarial Letter on May 22, 2015 cancelling Petitioner's limousine authority⁴ and the filing of the instant petition is less than a month. After learning of the cancellation, Petitioner acted in a prompt and diligent matter to take the steps necessary to seek reinstatement of its limousine authority, including immediate suspension of its operations, payment of all outstanding assessments and fines, engagement of the undersigned counsel to assist with reinstatement, and preparation and

² *Al Limousine Service*, slip op. at 4-5.

³ *Al Limousine Service* at 5 (citing *Application of Michael LoRusso, t/d/b/a Elegance Limousine Service*, 1999 Pa. PUC LEXIS 14 *5 (1999)).

⁴ While the Secretarial Letter is dated June 22, 2015, Petitioner did not receive it a copy of the letter until May 27, 2015.

filing of this petition. Given the extremely short period of dormancy, Petitioner submits that the time period elapsed is reasonable and that this first factor weighs in favor of reinstatement.

B. History of Public Utility Code Violations

12. The second relevant factor is whether the petitioner has a record of habitually violating the Public Utility Code. Petitioner has been certificated by the Commission since May 2005. Since that time, in addition to the complaint at C-2014-2450034 which prompted the cancellation, Accurate has had eight other complaints filed against it.⁵

13. First and foremost, Accurate apologizes for the oversights which led to each of the complaints and takes full responsibility for those oversights. Many of the earlier complaints were never received by Petitioner which further compounded the issue.⁶ When complaints were received, they did not reach the President of Accurate, who works out of a different office. Per company policy in place at the time, the President was the only individual authorized to address complaints. As discussed in Section III.D *infra*, Accurate has implemented procedures to prevent a recurrence of the circumstances giving rise to these complaints and to ensure timely compliance with Commission regulations and directives going forward.

14. Notwithstanding these complaint dockets, Petitioner submits that it is not a habitual violator of the Public Utility Code. In each case, Accurate has always cured the deficiency giving rise to the complaint and promptly paid any corresponding assessment and/or fine once Petitioner became aware of the complaint. Accurate, furthermore, immediately ceased operations upon learning about the cancellation of its certificate and has not rendered service to the public since that time. For these reasons, Petitioner submits that its compliance history

⁵ See Docket Nos. C-2009-2126004 (tariff compliance); C-2010-2143644 (tariff compliance); C-2010-2163671 (unpaid fine); C-2010-2192436 (failure to attach vehicle list); C-2011-2256684 (failure to file assessment reports); C-2011-2270684 (failure to file vehicle list); C-2012-2334907 (failure to pay assessment); C-2013-2380689.

⁶ See, e.g., Docket Nos. C-2009-2126004; C-2010-2143644; C-2010-2192436; C-2011-2256684; C-2011-2270684.

merits reinstatement.

C. Reasonableness of Excuse

15. The third factor relevant to a reinstatement determination is the reasonableness of the excuse given for the violation that caused the certificate to be cancelled. As discussed in Section III.B above, the primary reason for the cancellation was the fact that Petitioner had an ineffective procedure in place for handling complaints and other correspondence received from the Commission.

16. With particular respect to the complaint at C-2014-2450034, the complaint was sent to and received by Accurate at its Brookhaven, Pennsylvania office. Accurate's President, Timothy Glavin, who is the only person authorized to review and address Commission complaints and correspondence, works out of a different office in the State of Delaware and never received the complaint or subsequent Commission Order entered April 9, 2015 or knew they existed.

17. Mr. Glavin first learned about the complaint docket in an email from Commission staff in the Transportation Section of the Bureau of Technical Utility Services on the afternoon of Friday, May 22, 2015, in conjunction with efforts to resolve issues with Accurate's recently-approved airport transfer service authority. Mr. Glavin was also informed that the \$2,936 assessment and fine was overdue and that Accurate's certificate would be cancelled if it was not paid. Mr. Glavin advised Commission staff that he would look into the issue and pay the fine the following week. He concomitantly ceased Petitioner's limousine service operations.

18. On May 27, 2015, Mr. Glavin engaged in further email correspondence with Commission staff, where he was formally advised that Accurate's certificate had, in fact, been cancelled for failure to pay the fine and was provided, for the first time, with copies of the

Commission's Order entered April 9, 2015 and the Secretarial Letter dated May 22, 2015. He was also informed a petition would need to be filed with the Secretary's Bureau to reinstate Accurate's certificate. The next day, Mr. Glavin overnighted a check in the amount of \$2,936 to the Secretary's Bureau in payment of the outstanding assessment balance of \$749 and the civil penalty of \$2,187 imposed by the Commission.

19. Petitioner takes full responsibility for the circumstances which prompted and resulted in the cancellation of its certificate and, again, apologizes to the Commission. As discussed in Section III.D below, Accurate believes it has implemented the requisite procedures and system to prevent this type of situation from recurring in the future and to assure timely compliance with Commission regulations and directives in the future. For these reasons, Accurate submits that its excuse is reasonable and weighs in favor of reinstatement.

D. Implementation of Preventive Procedures

20. The fourth reinstatement criterion assessed by the Commission is whether the petitioner has implemented procedures to prevent a recurrence of the circumstances giving rise to the subject complaint.

21. Accurate recently established an electronic tickler file on its software system to provide reminders and alerts for key dates relative to its Commission-issued authority (*e.g.*, deadlines for filing annual assessment reports and submission of annual motor carrier vehicle lists). Accurate also implemented a company policy which requires company personnel to immediately notify the President upon receipt of any correspondence or documentation sent by the Commission and also requires that such correspondence or documentation be given to the President for immediate review within forty-eight hours. To the extent the correspondence or document requires action by Petitioner within a specified period of time or by a date certain, an

event/reminder is promptly created and added to the tickler file. The tickler file provides automatic reminders to the company and is also reviewed on a weekly basis by the company's President.

22. Based on the implementation of these procedures, Petitioner believes it has corrected the conditions to prevent any recurrence of the alleged violations of the complaint and that such corrective action weighs in favor of reinstatement.

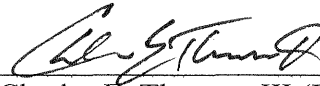
E. Compliance With Assessments

23. The fifth and final reinstatement factor is whether the petitioner is in compliance with the requirement that all assessments must be current prior to reinstatement. Promptly after learning about the cancellation of its certificate, Accurate sent a check in the amount of \$2,936 to the Secretary's Bureau by overnight delivery to pay the outstanding assessment balance of \$749 and the civil penalty of \$2,187 imposed by the Commission. A search of Commission records at Docket No. C-2014-2450034 confirms receipt⁷ and processing of the full payment. Petitioner is unaware of any outstanding and unpaid assessments or civil penalties and, therefore, submits that it is current with all assessments and fines. Petitioner's compliance with the fifth factor weighs in favor of reinstatement.

⁷ Payment was received by the Commission on May 29, 2015.

WHEREFORE, for the reasons set forth herein, Accurate Transportation, LLC respectfully requests that the Pennsylvania Public Utility Commission grant this petition and reinstate its Certificate of Public Convenience at A-00120433 for limousine authority.

Respectfully submitted,



Charles E. Thomas, III (PA ID # 201014)
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Tel: 717.255.7611
cet3@tntlawfirm.com

Counsel for Accurate Transportation, LLC

DATED: June 15, 2015

VERIFICATION

I, Timothy Glavin, President of Accurate Transportation, LLC, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: June 15, 2015



Timothy Glavin

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

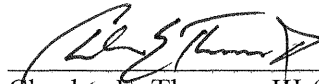
Petition of Accurate Transportation, LLC for	:	Docket Nos. A-00120433
Reinstatement of Its Certificate of Public	:	C-2014-2450034
Convenience for Limousine Authority	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 15th day of June, 2015, served a true and correct copy of the foregoing document, upon the persons and in the manner listed below in accordance with the requirements of 52 Pa. Code § 1.54:

VIA FIRST CLASS MAIL

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P. O. Box 3265
Harrisburg, PA 17105-3265



Charles E. Thomas, III (PA ID # 201014)