

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITIES COMMISSION**

Application of Amigo Cab, LLC

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:
:

Docket No. A-2015-2475776

NOTICE

A MOTION FOR BIFURCATION HAS BEEN FILED IN THE ABOVE
CAPTIONED DOCKET.

If you wish to object to the issuance of a subpoena, you must file an Answer with
the Pennsylvania Public Utilities Commission within twenty (20) days after this
application is served. You are warned that if you fail to do so the Motion may be granted
without further notice.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Amigo Cab, LLC	:	Commission Docket No.
for Approval to Provide Taxi Service	:	A-2015-2475776
Between Points in the Counties of Berks	:	
and Lancaster to Points in Pennsylvania	:	
and Return	:	

APPLICANT'S MOTION TO BIFURCATE APPLICATION PROCEEDINGS

COMES NOW, Applicant Amigo, LLC ("Applicant"), by and through its undersigned counsel, and in accordance with the Rules of Practice of the Pennsylvania Public Utility Commission (the "Commission") and pursuant to 52 Pa. Code §§ 5.102, 5.103, hereby requests that the above captioned Application be bifurcated and that the portion of the application requesting authority outside Lancaster County be submitted to the Bureau of Technical Utilities.

I. HISTORY.

On or around March 16, 2015, Applicant filed with the Pennsylvania Public Utility Commission (the "Commission") an Application for Motor Common Carrier of Persons upon Call or Demand (Taxi Service), requesting authority to perform taxi service in Berks and Lancaster Counties. The Application was accepted and assigned the the above captioned Commission Docket Number.

On or around May 26, 2015, Protestant Grab-A-Cab, of Berks County, filed a timely protest of the above captioned application. On or around May 29, 2015, Protestants Reading Yellow Cab, Reading Metro Cab, and Reading Checker Cab, all of

Berks County, filed timely protests of the above captioned application. On or around June 3, 2015, Protestant Autocab, Inc. ("Autocab"), of Lancaster County, filed a timely protest of the above captioned Application.

Subsequently, the discovery process commenced. Upon service of discovery, all Berks County Protestants withdrew their protests. On or around July 30, 2015, Protestants Reading Checker Cab, Reading Metro Cab, and Reading Yellow Cab withdrew their respective protests, stating that their concerns had been satisfied. On or around July 31, 2015, Protestant Grab-A-Cab withdrew its protest, citing internal business and economic reasons.

On or around July 6, 2015, a Hearing Notice was issued, scheduling an Initial In Person Hearing on the Application for August 21, 2015 at 10:00 a.m. at Hearing Room 3 of the Commonwealth Keystone Building in Harrisburg, Pennsylvania.

II. AUTOCAB LACKS STANDING TO PROTEST APPLICANT'S REQUEST FOR AUTHORITY IN BERKS COUNTY.

The only remaining Protestant of the above captioned Application is Autocab. According to the proof of authority attached to its Official Protest, Autocab only holds intrastate authority to provide call or demand service in Lancaster County. Therefore, Autocab lacks standing to challenge Applicant's request for authority to operate in Berks County.

A person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding. *Joint Application of*

Pennsylvania American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co., A212285F0046/47 and A210870F01 (July 9, 1998); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975) (*William Penn*); *Landlord Service Bureau, Inc. v. Equitable Gas Co.*, 79 Pa. P.U.C. 342 (1993). In order to protest an application, individuals and business entities are required to possess "some operating authority in actual or potential conflict, with the authority sought by an applicant." *Application of Carriage Limousine Services, Inc.*, Docket No. A-00108361, Initial Decision (Dated: October 12, 1994; Served: December 23, 1994)).

Autocab only possesses call or demand authority in Lancaster County; therefore, Autocab only has a direct, immediate and substantial interest in Applicants request to operate in Lancaster County. Call or demand authority in Lancaster County does not overlap with call or demand authority in Berks County. Autocab does not hold any authority in actual or potential conflict with Applicant's requested authority in Berks County. Autocab lacks standing to challenge the Berks County portion of the application; therefore, the Berks County portion of the application should proceed to the Bureau of Technical Utilities.

III. THE APPLICATION SHOULD BE BIFURCATED AND THE BERKS COUNTY PORTION OF THE APPLICATION SHOULD BE REFERRED TO THE BUREAU OF TECHNICAL UTILITIES.

All Protestants holding authority in Berks County have withdrawn their Protests and the only remaining Protestant lacks standing to protest the Berks County portion of the application. Thus, it will be expedient and convenient to bifurcate the Application into two portions, each consisting of one county. The first portion will request call or demand authority in Berks County, and the second portion will request for call or demand authority in Lancaster County. In the interest of convenience to the Commission and the Applicant and in the interest of expediency, the Berks County Application should be referred to the Bureau of Technical Utilities, so that the Lancaster County Application may be properly addressed at the Initial Hearing scheduled for August 21, 2015.

The rules of administrative procedure should be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding. 52 Pa. Code § 1.2. Under the Pennsylvania Rules of Civil Procedure, the court may, on its own motion or on motion of any party, order a separate proceeding in furtherance of convenience. Pa. RCP. 213 (b).

The Commission has previously found it proper to bifurcate an application and allow the unprotested portion of the application proceed without a hearing. See *Application of Philadelphia Suburban Water Company, A-212370F0052, Corrected Order, (July 13, 2000)* (Where a water company sought to expand services into a three proposed areas of a township and only one area was protested, the Commission granted the applicant's motion to bifurcate the application. The Commission allowed the

protested portion of the application to proceed to a hearing and referred the unprotected portion of the application to the Bureau of Fixed Utilities).

The Application in question can be easily bifurcated into two areas. Unlike the Application of Philadelphia Suburban Water Company ("PSW") which had to be bifurcated into separate areas within the same township, here Applicant requests authority to operate in two distinct counties. Autocab only holds authority to operate in one of those counties, but not in the other county. Autocab only holds authority in actual or potential conflict with the authority sought in Lancaster County. Therefore, Autocab only has a direct and substantial interest Applicant's request for operating authority in Lancaster County and lacks standing to protest Applicant's request for authority in Berks County. It is therefore expedient and convenient to bifurcate the Application into two separate areas and refer the portion of the application for which Autocab lacks a direct or substantial interest to the Bureau of Technical Utilities.

IV. CONCLUSION.

For the reasons stated above, Applicant Amigo Cab, LLC respectfully requests that its Application to begin Call or Demand service in the counties of Berks and Lancaster be bifurcated into two parts, one portion requesting authority in Berks County and the other requesting authority in Lancaster County. Applicant further requests, that the Berks County portion of the Application be referred to the Bureau of Technical Utilities.

Respectfully Submitted,

Date: 8/26/15



John W. Sweet, Esq.
620 South 13th Street
Harrisburg, PA 17104
Counsel for Amigo Cab, LLC

BEFORE THE
PENNSYLVANIA PUBLIC UTILITIES COMMISSION

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Docket No. A-2015-2475776

CERTIFICATE OF SERVICE

I hereby certify that I have this day served original and true copies of the foregoing ***Motion to Bifurcate*** upon the persons listed below:

VIA U.S. MAIL

Thomas T. Niesen, Esquire
THOMAS, NIESEN & THOMAS, LLC
212 Locust Street, Suite 600
Harrisburg, PA 17101

Honorable Dennis J. Buckley
P.O. Box 3265
Harrisburg, PA 17105-3265

Date: 8/26/15



John W. Sweet, Esq.
620 South 13th Street
Harrisburg, PA 17104
(610) 248-7186
Counsel for Amigo Cab, LLC