**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of : A-2015-2465681

Century Medical Response, Inc. :

**INITIAL DECISION**

Before

Ember S. Jandebeur

Administrative Law Judge

This Initial Decision dismisses the application of Century Medical Response, Inc. for failure to respond to discovery requests and failure to comply with a Commission Order.

HISTORY OF THE PROCEEDING

On January 9, 2015, Century Medical Response, Inc. (“Applicant”) filed an application (“Application”) with the Public Utility Commission.

On April 16, 2015, Trans-Med Ambulance, Inc. filed a protest to the application.

On April 21, 2015, MTR Transportation, Inc., t/d/b/a/ K-Cab Company filed a protest to the application.

On April 27, 2015, Scranton Quincy Ambulance, LLC, t/a Wayne Ambulance filed a protest to the application.

On June 30, 2015, Trans-Med Ambulance, Inc. served Interrogatories and Requests for Documents on the Applicant.

On July 2, 2015, MTR Transportation, Inc. t/d/b/a/ K-Cab Company served Interrogatories and Requests for Documents on the Applicant.

On July 30, 2015, MTR Transportation, Inc. t/d/b/a/ K-Cab Company filed a Motion to Compel responses to its interrogatories and request for documents.

On July 31, 2015 Trans-Med Ambulance, Inc. filed a Motion to Compel responses to its interrogatories and request for documents.

Pursuant to 52 Pa.Code § 5.342(d), the Applicant had twenty (20) days to respond. No responses were received, and no objections were filed.

On August 14, 2015, I issued an order requiring the Applicant to respond to discovery requests by September 3, 2015.

As of September 8, 2015, no responses to discovery were received.

On September 8, 2015, MTR sent the undersigned administrative law judge a letter requesting that the application be dismissed.

On September 10, 2015, Trans. Med Ambulance, Inc. sent the undersigned administrative law judge a letter requesting that the application be dismissed.

Overlooking the procedural defects, both letters will be treated as if they were filed as motions to dismiss pursuant to 52 Pa. Code §5.371.

FINDINGS OF FACT

1. The Applicant is Century Medical Response, Inc.

1. There are three Protestants to the application. They are Trans-Med Ambulance, Inc., MTR Transportation, Inc., t/d/b/a K-Cab Company, and Scranton Quincy Ambulance, LLC, t/a Wayne Ambulance.
2. The Applicant has wholly failed to respond to all discovery requests.
3. The Applicant failed to comply with a Commission order to respond to discovery requests.
4. There has been no communication from the Applicant.

DISCUSSION

The Applicant bears the burden of proving its entitlement to the requested authority described in its application. Here, two Protestants out of the three issued discovery requests. Part of a protested application may include discovery requests from the Protestants. The Applicant failed to properly respond to or object to the discovery requests. Indeed, there has been no communication at all from the Applicant.

On July 30, 2015, MTR Transportation, Inc. t/d/b/a/ K-Cab Company filed a Motion to Compel responses to its interrogatories and request for documents. On July 31, 2015 Trans-Med Ambulance, Inc. filed a Motion to Compel responses to its interrogatories and request for documents. On August 14, 2015, I issued an order requiring that the Applicant respond to discovery requests by September 3, 2015, or the application would be dismissed. As of September 29, 2015, there have been no responses to the discovery request or my order. Clearly, based on its inaction, the Applicant has no interest in following through on this application. Moreover, on September 8, 2015, MTR Transportation, Inc., t/d/b/a/ K-Cab Company filed a letter requesting that the Application be dismissed with prejudice. On September 10, 2015, Trans-Med Ambulance, Inc. filed a letter requesting that the Application be dismissed with prejudice. Section 5.371 provides that the presiding officer may on motion make an appropriate order if a party fails to answer discovery requests. Both letters will be treated as if they were filed in the form of a motion pursuant to 52 Pa. Code § 5.371. The Applicant had 5 days to provide a response to the motions, none was received.

Section 5.371 provides for sanctions for failure to respond to discovery requests. 52 Pa.Code § 5.371(a)(1). Section 5.372 provides that the presiding officer may enter an order with regard to failure to make discovery. 52 Pa.Code § 5.372(a)(4). Here, it is appropriate to dismiss the Application as the Applicant has not filed responses to discovery, has not filed objections to the discovery and failed to comply with a Commission order. See e.g., Francisco *Valez* v. *Verizon* Select Services, Inc., Docket No. C-2008-2060020 (Order entered November 2009). In the Francisco *Valez*case, the Complaint was dismissed due to complainant's failure to comply with an Order directing the provision of discovery responses. It is also appropriate to dismiss the Application because the Applicant failed to comply with a Commission Order. See e.g., New Fizon Catering, Inc. v. PECO Energy Co., Docket Nos. C-2008-2065498 and C-2008-2079076 (Order entered June 24, 2009); Snyderville Community Development Corp. v. Philadelphia Gas Works, Docket No. C20055032, 2006 Pa PUC LEXIS 64 (Opinion and Order entered July 31, 2006). In Snyderville, supra, the Commission stated that “An ALJ's Orders must be complied with, and such a lack of compliance presents a sufficient basis to dismiss the Complaint without a hearing.” Treffinger v. PPL Electric Utilities Corp., Docket No. C-20027978, 2003 Pa.PUC LEXIS 3 (Opinion and Order entered March 3, 2003).

CONCLUSIONS OF LAW

1. Section 5.371 provides for sanctions for failure to respond to discovery requests. 52 Pa.Code § 5.371(a)(1).
2. Section 5.372 provides that the presiding officer may enter an order with regard to failure to make discovery. 52 Pa.Code § 5.372(a)(4).
3. An ALJ's Orders must be complied with, and such a lack of compliance presents a sufficient basis to dismiss the Complaint without a hearing. Treffinger v. PPL Electric Utilities Corp., Docket No. C-20027978, 2003 Pa.PUC LEXIS 3 (Opinion and Order entered March 3, 2003).

ORDER

1. That the application of Century Medical Response, Inc. is dismissed.

1. That the Secretary’s Bureau shall mark Docket No. A-2015-2465681 closed.

Date: October 2, 2015 /s/

Ember S. Jandebeur

Administrative Law Judge