

GRAF, ANDREWS & RADCLIFF, P. C.  
ATTORNEYS AT LAW  
407 NORTH FRONT STREET  
HARRISBURG, PENNSYLVANIA 17101

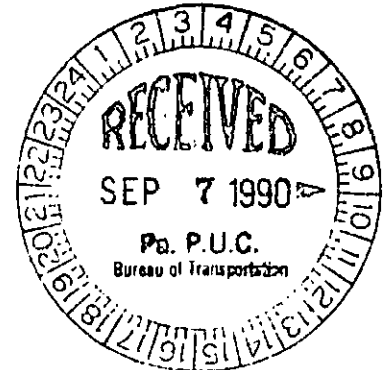
CHRISTIAN V. GRAF  
FREDERICK W. ANDREWS  
DAVID H. RADCLIFF  
GREGORY R. LYONS

OF COUNSEL  
JOHN E. FULLERTON  
TELEPHONE: A. C. 717-236-9318

September 7, 1990  
File: 1305.0

RE: READING YELLOW CAB, INC., -  
Transfer from Gerald Long, A. 109547

Marlene Wendt, Application Examiner  
Application Section  
Bureau of Transportation  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17120



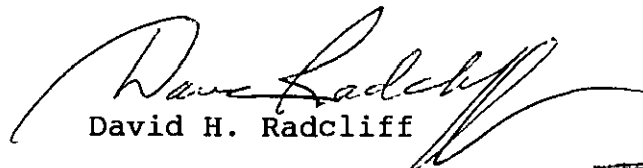
Dear Ms. Wendt:

In accordance with my telephone conversation with you on September 7, 1990, I am returning the documents pertaining to the application of Reading Yellow Cab, Inc. as a transferee of the Gerald Long authority at A.00107965.

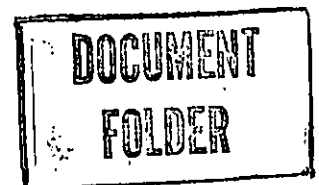
The secretary's office is circulating a memo which I understand will indicate that Mr. Long's application proceeding was never dismissed on the official docket. Any letters or references regarding the dismissal of his application were inadvertently released from the secretary's office to certain offices within the Commission. Those letters were never served on Mr. Long or his counsel.

I understand that you will accept this transfer application for processing when the clarification is received from the Secretary's office. Thank you for your cooperation in this matter.

Very truly yours,

  
David H. Radcliff

DHR/kr  
Enclosure



Marlene Wendt, Application Examiner  
Page 2  
September 7, 1990  
File: 1305.0

cc: without enclosures

Gerald Long  
905 North Ninth Street  
Reading, PA 19604

J. Bruce Walter, Esquire  
Rhoads & Sinon  
P.O. Box 1146  
Harrisburg, PA 17108-1146

Frederick O. Brubaker, Esquire  
543 Elm Street  
Reading, PA 19601



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG, Pa. 17120

August 20, 1990

IN REPLY PLEASE  
REFER TO OUR FILE

David H. Radcliff  
Attorney at Law  
407 North Front Street  
Harrisburg, PA 17101

*A-109547*

Re: Application of Reading Yellow Cab, Inc. (transferee)  
Gerald Long - A-00107965 (transferor)

Dear Sir:

We are returning herewith the above-mentioned application in duplicate and the filing fee of \$350.00.

According to our records at the present time Gerald Long at A-00107965 holds no authority to transfer.

Very truly yours,

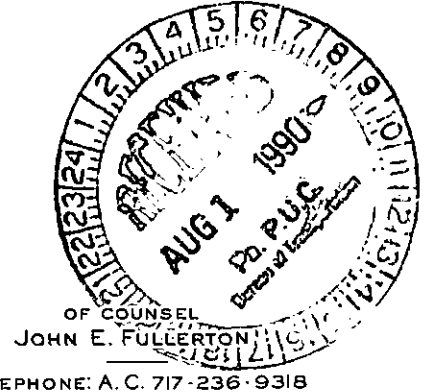
Marlene Wendt, Application Examiner  
Application Section  
Bureau of Transportation  
(717) 787-5558

enc.  
MW



GRAF, ANDREWS & RADCLIFF, P. C.  
ATTORNEYS AT LAW  
407 NORTH FRONT STREET  
HARRISBURG, PENNSYLVANIA 17101

CHRISTIAN V. GRAF  
FREDERICK W. ANDREWS  
DAVID H. RADCLIFF  
GREGORY R. LYONS



TELEPHONE: A. C. 717-236-9318

July 31, 1990  
File: 1305.0

RE: READING YELLOW CAB, INC., -  
Transfer from Gerald Long, A. 109547

RECEIVED

JUL 31 1990

Jerry Rich, Secretary  
Pennsylvania Public utility Commission  
P. O. Box 3265  
Harrisburg, PA 17120

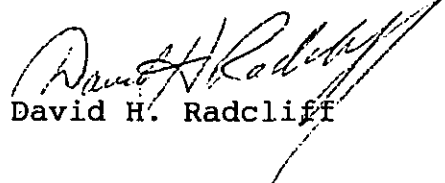
SECRETARYS OFFICE  
Public Utility Commission

Dear Mr. Rich

I enclose for filing an original and one copy of an application for transfer of authority from Gerald Long to Reading-Yellow Cab Inc. Also, enclosed is the transferor's check in the amount of \$350 to cover the filing fee.

Thank you for your cooperation in this matter.

Very truly yours,

  
David H. Radcliff

DHR/kr  
Enclosure

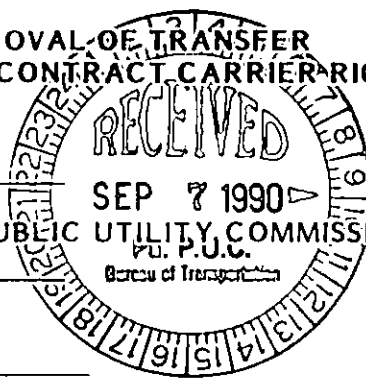
cc: Frederick O. Brubaker, Esquire  
543 Elm Street  
Reading, PA 19601

Curtis Stricker, President  
Reading Yellow Cab Inc.  
615 Elm Street  
Reading, PA 19601



APPLICATION FOR APPROVAL OF TRANSFER  
AND EXERCISE OF COMMON OR CONTRACT CARRIER RIGHTS

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION



Application of READING YELLOW CAB INC.  
(Applicant/Transferee-Buyer)

for approval of the transfer and to exercise the right  
as a common carrier, described at Docket  
(common-contract)

No. A-00107965, Folder No. \_\_\_\_\_, issued to

Gerald Long  
(Transferor-Seller)

for transportation of persons  
(persons-property)

**PUC USE ONLY**  
Docket No. A-109547  
Folder No. \_\_\_\_\_

**RECEIVED**

**JUL 31 1990**

SECRETARYS OFFICE  
Public Utility Commission

SEE INSTRUCTIONS BEFORE COMPLETING APPLICATION

- 1. READING YELLOW CAB INC. APPL.   
(Full and correct name of applicant/transferee) COMPL.
- 2. \_\_\_\_\_ MVIC.   
(Trade name, if any) CHECKED BY mw

The trade name \_\_\_\_\_ been registered with the Secretary of the  
(has or has not)  
Commonwealth on \_\_\_\_\_ (attach copy of stamped registration form)  
(date)

3. 543 Elm Street \_\_\_\_\_  
(Business Street Address) (P.O. Box, if any)  
Reading, Berks PA 19601 (215) 374-1919  
(City) (County) (State) (Zip) (Telephone)



**BEGINNING**

**DOCKETED**  
APPLICATION DOCKET  
NOV 14 1990  
ENTRY No. mw

4. Applicant's attorney (for this application) is:

Christian V. Graf, 407 North Front St., Harrisburg, PA 17101- (717)236-9318  
\_\_\_\_\_  
(Name) (Address) (Telephone)

5. Any documents should be mailed to:

Transferee: Frederick O. Brubaker, 543 Elm Street, Reading, PA 19601  
(Name) (Address)

Transferor: Gerald Long, 1728 N. 3rd Street, Reading, PA 19601  
(Name) (Address)

6. Applicant does not hold Pa. PUC authority under Docket Number  
(\_\_\_\_\_) (does or does not)

A- \_\_\_\_\_ and operates as a \_\_\_\_\_ carrier.  
(common or contract)

7. Applicant does not hold Interstate Commerce Commission authority  
(\_\_\_\_\_) (does or does not)

at Docket No. \_\_\_\_\_.

8. Applicant is (check one):

Individual.

Partnership. Must attach a copy of the partnership agreement (unless a copy is presently on file with PUC), and list names and addresses of partners below (use additional sheet if necessary).

\_\_\_\_\_  
(Name) (Address)  
\_\_\_\_\_  
\_\_\_\_\_

Corporation. Organized under the laws of the State of Pennsylvania and qualified to do business in Pennsylvania by registering with the Secretary of the Commonwealth on June 18, 1990 (Attach copy of Certificate of Incorporation or Authority and statement of charter purpose). Include as an attachment a list of corporate officers and their titles and the names, addresses and number of shares held by each stockholder.

9. If applicant, its stockholders or partnership members are in control of or affiliated with any other carrier, state name of carrier(s), Docket Number(s) and nature of control or affiliation.

Curtis Stricker, President of applicant, is also an officer of Reading Metro Taxi Cab, Inc., which holds authority from this Commission. Frederick O. Brubaker, Chairman of the Board of the applicant corporation is Executor of the Estate of Donald Freiler, which estate owns all of the stock of Reading Metro Taxi Cab, Inc.

10. Applicant proposes to acquire all of the operating rights now held  
(all or part)

by transferor. Attach sheet describing rights to be transferred to applicant and rights to be retained by transferor, if any. If any rights are to be omitted, give reasons.

11. The reason for the transfer is Transferor has determined to sell all of his PUC rights.

- 12a. The following must be attached:

- Sales Agreement. See attachment 12A-1
- List of equipment to be used to render service. (summarize by type) see Attachment 12A-2
- Operating authority to be transferred/retained. See Attachment 12A-3
- Statement of Financial Condition. See Attachment 12A-4
- Statement of unpaid business debts of transferor and how they will be satisfied. See Attachment 12A-5
- Statement of safety program. See Attachment 12A-6
- Statement of transferee's experience. See Attachment 12A-7

- b. Attach the following, as appropriate (check those attached):

- Partnership Agreement.
- Trade Name registration certificate.
- Certificate of Incorporation. (Pa. Corporation only)
- Certificate of Authority. (Foreign (out-of-state) Corporation only)
- Statement of corporate charter purpose. (corporations only) See Attachment 12B-1
- List of corporate officers and stockholders. (corporations only) See Attachment 12B-2
- Copy of short form certificate showing date of death of transferor and name of executor or administrator/administratrix.

13. Transferor attests that all general assessments and fines are paid, that no annual reports are due and agrees to continue to render the service which is to be transferred until this application is approved, whereupon transferor will surrender said certificate or permit for cancellation.
14. Transferee agrees to assume and pay any General Assessments that may be made against transferor as a common carrier for any and all operating periods up to the actual date of the transfer.

WHEREFORE, Transferee and Transferor request that the Commission grant the Transfer.

Transferee sign here: Reading Yellow Cab, Inc. 7/11/90  
 (each partner must sign) (Date)  
 (Corporate Seal)

Transferor sign here: Ernest Lang 7/10/90  
 (Corporate Seal)

THIS MUST BE COMPLETED BY NOTARY PUBLIC  
AFFIDAVIT OF TRANSFEROR/SELLER (Natural Person)

COMMONWEALTH OF PENNSYLVANIA :

: ss:

Berks County :

Gerald Loag, being duly sworn (affirmed) according to law,  
deposes and says that the facts above set forth are true and correct; or are true and correct  
to the best of his knowledge, information and belief and he expects to be able to prove the same  
at the hearing hereof.

Gerald Loag  
Signature of Affiant

Sworn and subscribed before me this 10

day of July 1990

My Commission Expires Patricia A. Schleicher

**NOTARIAL SEAL**  
PATRICIA A. SCHLEICHER, Notary Public  
Reading, Berks County, PA  
My Commission Expires 3 - 23 - 94

Patricia A. Schleicher  
Signature of Official Administering Oath

AFFIDAVIT OF TRANSFEROR/SELLER (Corporation)

COMMONWEALTH OF PENNSYLVANIA :

: ss:

\_\_\_\_\_ County :

\_\_\_\_\_, being duly sworn (affirmed) according to law,  
deposes and says that he is \_\_\_\_\_ of \_\_\_\_\_;  
(Office of Affiant) (Name of Corporation)

that he is authorized to and does make this affidavit for it; and that the facts above set forth  
are true and correct; or are true and correct to the best of his knowledge, information and belief  
and that he expects the said \_\_\_\_\_ to be able to prove the  
(Name of Corporation)  
same at the hearing hereof.

Gerald Loag  
Signature of Affiant

Sworn and subscribed before me this \_\_\_\_\_

day of \_\_\_\_\_ 19 \_\_\_\_\_

My Commission expires \_\_\_\_\_

\_\_\_\_\_  
Signature of Official Administering Oath

THIS MUST BE COMPLETED BY NOTARY PUBLIC  
AFFIDAVIT OF TRANSFEREE/APPLICANT (Natural Person)

COMMONWEALTH OF PENNSYLVANIA :

: ss:

Berks County :

Frederick O. Brubaker, being duly sworn (affirmed) according to law, deposes and says that the facts above set forth are true and correct; or are true and correct to the best of his knowledge, information and belief and he expects to be able to prove the same at the hearing hereof.

\_\_\_\_\_  
Signature of Affiant

Sworn and subscribed before me this \_\_\_\_\_  
day of \_\_\_\_\_ 19 \_\_\_\_\_

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Signature of Official Administering Oath

AFFIDAVIT OF TRANSFEREE/APPLICANT (Corporation)

COMMONWEALTH OF PENNSYLVANIA :

: ss:

Berks County :

Frederick O. Brubaker, being duly sworn (affirmed) according to law, deposes and says that he is Chairman of Board of Reading Yellow Cab Inc.  
(Office of Affiant) (Name of Corporation)

that he is authorized to and does make this affidavit for it; and that the facts above set forth are true and correct; or are true and correct to the best of his knowledge, information and belief and that he expects the said Reading Yellow Cab Inc. to be able to prove the same  
(Name of Corporation)

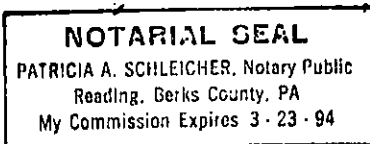
the same at the hearing hereof.

Frederick O. Brubaker  
Signature of Affiant

Sworn and subscribed before me this 11th  
day of July 19 90

My Commission Expires \_\_\_\_\_

Patricia A. Schleicher  
Signature of Official Administering Oath



TRANSFER AGREEMENT

This Transfer Agreement made this 10 day of July, 1990, by and between GERALD LONG, 905 North Ninth Street, Reading, PA, 19604, hereinafter referred to as TRANSFEROR, and READING YELLOW CAB, INC., of 615 Elm Street, Reading, PA, 19601, hereinafter referred to as TRANSFEEE.

WITNESSETH THAT:

WHEREAS, Transferor possesses authority from the Pennsylvania Public Utility Commission at Docket A.107965 copies attached as Exhibit A, and is desirous of transferring same to Transferee under the terms and conditions hereafter set forth; and

WHEREAS, Transferee is willing to acquire said authority under the terms and conditions set forth hereinafter.

NOW THEREFORE, the parties hereto do hereby mutually promise, covenant and agree as follows:

I. Transferor agrees:

A. To transfer to Transferee his authority at A.107965 for the consideration of One Thousand Five Hundred (\$1,500.00) Dollars payable upon approval of the transfer application to be filed by the Transferee with the Pennsylvania Public Utility Commission.

B. To cooperate with Transferee in the preparation, filing and prosecution of the necessary transfer applications and to furnish a witness or witnesses at any hearing which may be held thereon.

C. To execute all documents which, in the opinion of legal counsel, may be necessary to effectuate this transaction.

D. To pay all general assessments and fines incurred up to the effective date of the transfer of the authority following approval by the Pennsylvania Public Utility Commission; and to provide Transferee with an accurate statement of any revenues received in 1990 under the PUC authorities.

E. To remain responsible for all debts and obligations of the operations of the sole proprietorship arising prior to the transfer of authority.

II. Transferee agrees:

A. To purchase Transferor's authority for the consideration set forth in Paragraphs I.A. hereof payable in the manner herein specified.

B. Promptly to file the necessary applications for transfer of the authority with the Pennsylvania Public Utility Commission, and to pay the cost thereof. In this connection, Transferee shall cooperate with Transferor and shall furnish a witness or witnesses at any hearings which may be held thereon.

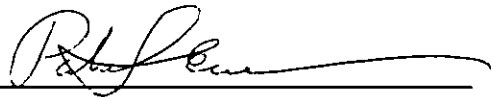
III. Both parties agree:

A. It is their intention to be legally bound by this Agreement which shall also be binding upon and inure to the benefit of their heirs, executors, administrators, successors and assigns.

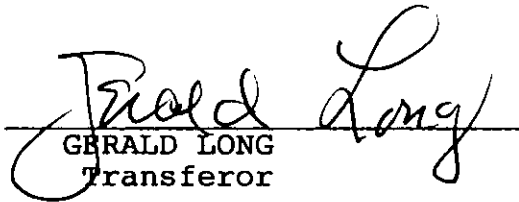
B. They have executed this Agreement in due legal form by full legal authority so to do.

IN WITNESS WHEREOF, the Transferor has signed and sealed this Agreement and Buyer has caused this Agreement to be signed by its president, attested to by its secretary and affixed hereunto its Corporate Seal, all on the day and year first above written.

WITNESS:


  
\_\_\_\_\_

By:

  
GERALD LONG  
Transferor

  
\_\_\_\_\_  
Secretary

By:

  
READING YELLOW CAB, INC.  
Transferee

(CORPORATE SEAL)

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120

Public Meeting held July 20, 1989

Commissioners Present:

Bill Shane, Chairman  
William H. Smith, Vice-Chairman, concurring & dissenting  
Joseph Rhodes, Jr.  
Frank Fischl

Application of Gerald Long

A-107965

OPINION AND ORDER

BY THE COMMISSION:

Pursuant to the requirements of Act 294 (66 Pa. C.S. §332(h)), the Initial Decision of Administrative Law Judge ("ALJ") Morris J. Solomon in the above-captioned proceeding, is before us for review.<sup>1/</sup> ALJ Solomon issued his Initial Decision on May 23, 1989.

BRIEF HISTORY OF THE PROCEEDING

By Application docketed March 23, 1989, Gerald Long ("Applicant") requested the Commission's approval for a certificate of public convenience:

"For the right to begin to transport, as a common carrier, by motor vehicle, persons, upon call or demand in the county of Berks."

Notice of the Application was published in the Pennsylvania Bulletin and the Reading Eagle - Times on April 2, 1988 and April 13, 1988, respectively. A protest was filed by Reading Metro Taxicab, Inc. ("Protestant") on April 13, 1989.

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<sup>1/</sup> No Exceptions to the ALJ's Initial Decision were filed by any Party pursuant to 52 Pa. Code §5.533.

Evidentiary hearings were held before ALJ Solomon on August 11 and October 4, 1988, in Harrisburg, PA. The record as developed consists of a 139-page transcript, two exhibits introduced by the Applicant and eight exhibits introduced by the Protestant. Briefs and Reply Briefs were filed by both the Applicant and the Protestant. The ALJ issued his Initial Decision on May 23, 1989.

#### DISCUSSION

Based on his evaluation and analysis of the record in the instant proceeding, the ALJ made the following Findings of Fact:

1. Applicant is Gerald Long, an individual who resides at 435 Oley Street, Reading, Berks County, Pennsylvania.
2. Applicant proposes to utilize a trade name but has not registered any such name with the Secretary of the Commonwealth pursuant to the Fictitious Names Act, 54 Pa. C.S. §301 et seq.
3. Applicant proposes to incorporate and to transfer to such corporation those rights this Commission would grant him under the instant application.
4. Applicant does not hold any interstate or intrastate motor carrier operating authority at present and has no prior experience operating a taxi business. One proposed supervisor has had recent experience consisting of ten months of part-time work driving for another taxi company.
5. Applicant proposes to operate his taxi business from a building he owns in Reading. The building, containing commercial spaces on the street floor and two apartments on the upper floor, is located in an area zoned for residential use. Conduct of a taxi business or taxi dispatch office from that location would require a zoning variance.

6. Applicant proposes to purchase four used automobiles for use as taxicabs and to equip them with meters and two-way radios.
7. Applicant proposes to initially provide service to the public with two, ten-hour shifts, allowing four hours each day for vehicle maintenance.
8. Applicant proposes to perform routine vehicle maintenance with his own personnel who will be assisted by a friend who operates an automotive service until a mechanic can be hired.
9. Applicant proposes to carry \$300,000 in liability insurance coverage.
10. Applicant's pro forma financial statement specifies \$8,000 for the purchase of four automobiles, \$2,100 for four radios, \$1,575 for four taxi meter installations, \$1,500 for six months' office space rental and \$1,300 for the initial installment of liability insurance. The statement indicates that there are to be three investors, each investing \$10,000 in the enterprise, for a total of \$30,000.
11. One dealer quoted a price of \$4,032 for a complete radio system.
12. Applicant presented five public witnesses attested to the need for his proposed service in Reading.
13. Other evidence of public need for Applicant's proposed service was presented in the form of a tabulation of the results of a public survey.
14. Protestant has intrastate call or demand rights in Reading and within a ten-mile radius of the courthouse in that city and has additional authority to serve persons within a ten-mile radius of the corporate limits of Reading, including the Boroughs of Birdsboro, Kenhorst, Laureldale, Mohnnton, Mt. Penn, Robesonia, Shillington, Sinking Springs, St. Lawrence, Temple, Wernersville, West

Lawn, West Leesport, West Reading and Wyomissing and the Townships of Exeter, Spring and Bern, all in Berks County.

15. Protestant operates a licensed, insured fleet of 34 taxicabs (of which five were added to the fleet in 1988) and has an additional 12 vehicles as spares.
16. Protestant's 68 drivers are independent contractors who lease their vehicles and pay for their own fuel.
17. Protestant has a garage where it performs comprehensive maintenance on its vehicles and stores them. Its garage is at the same location as its office, housing Protestant's office personnel, telephone operators and dispatchers.
18. Protestant's three full-time and three part-time dispatchers provide 24-hour coverage.
19. Protestant has had 11 incoming telephone lines at least since 1980 and has direct lines originating at the local airport and the city bus terminal.

I.D., pp. 24-27. Based on his Findings of Fact the ALJ reached the following Conclusions of Law:

1. The Commission has jurisdiction over the parties and the subject matter of this case.
2. Applicant has demonstrated that he has the requisite financial and technical fitness to provide the proposed service.
3. Applicant has failed to establish by substantial competent evidence that the proposed taxi service will serve a useful public purpose, responsive to a public demand or need.

I.D., p. 43.

Historically, an applicant requesting the issuance of a certificate of public convenience to operate as a common carrier was required to establish:

1. A public need for the proposed service,
2. The inadequacy of existing service, and
3. The financial and technical capacity to meet the need in a satisfactory fashion.<sup>2/</sup>

The criteria which we now utilize in deciding a motor carrier's application as codified at 52 Pa. Code §41.14, are as follows:

- (a) An applicant seeking motor common carrier authority has a burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need.
- (b) An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service, and in addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally. [Emphasis added].
- (c) The Commission will grant motor common carrier authority commensurate with the demonstrated public need unless it is established that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to such an extent that, on

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<sup>2/</sup> Chemical Leaman Truck Lines, Inc. v. Pennsylvania Public Utility Commission, 210 Pa. Super. Ct. 196, 191 A.2d 876 (1963).

balance, the granting of authority would be contrary to the public interest.

It is well settled in the law that an application submitting a motor carrier application has the burden of proof.<sup>3/</sup>

In the landmark decision of Re: Richard L. Kinnard, Inc.<sup>4/</sup> we adopted a definitive interpretation of the new "Transportation Regulatory Policy". We observed that "subsections (b) and (c) of §41.14 are consistent with the traditional standards, except for the subsection (c) emphasis on competition, although the balancing approach is not new." In the Kinnard case we recognized that the burden of demonstrating that approval of an application will serve a useful public purpose, responsive to a public demand, rested upon the applicant (§41.14-(a) supra). However, we noted the difficulty of satisfying said burden and, therefore, we turned to "alternatives" to inadequacy as the criteria for establishing the §41.14(a) burden.

The alternatives to inadequacy as stated in the Kinnard case are as follows:

- (1) different service
- (2) efficiency
- (3) lower rates
- (4) future need
- (5) backup service
- (6) shipper competition
- (7) ICC authority
- (8) certification of authority
- (9) benefit to applicant

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<sup>3/</sup> Mobilfone of Northeastern Pennsylvania, Inc. v. Pennsylvania Public Utility Commission, 40 Pa. Commonwealth Ct. 181, 49 PUR 382, 397 A.2d 35 (1979).

<sup>4/</sup> Re: Richard L. Kinnard, Inc., 58 PUC 548, Docket No. A-00095829, F. 1, Am-D, October 19, 1984.

Section 41.14(a) supra, requires proof of a "useful public purpose, responsive to a public demand or need" before an application for motor carrier authority will be approved. We believe that this evidentiary standard is consistent with the Commission's statutory mandate relative to the granting of certificates of public convenience contained in Section 1103(a) of the Public Utility Code, 66 Pa. C.S. §1103(a) which states, in pertinent part, as follows:

... A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable.

The Commission's current policy does include applying the Kinnard alternatives standard in determining whether or not an applicant's proposed service will serve a public purpose consonant with 52 Pa. Code §41.14(a). The record demonstrates that the Applicant herein has proven the existence of at least one of the Kinnard alternatives, viz: the need for back-up service. We here held that compliance with one of the Kinnard alternatives by an Applicant, may be sufficient to prove that the proposed service will serve a public purpose responsive to a public demand or need. Application of Teo Filio DeJesus Cruz, t/d/b/a DeJesus Carrier Service, A-00107360 entered October 12, 1988.

Jerry Richanbach testified on behalf of the Applicant. She stated that she had to wait several hours for taxi service on many days and experienced circumstances where ordered taxicabs never showed up. In addition, one witness formerly employed by Protestant, testified that there were plenty of times within the first shift (7 a.m. - 3 p.m.) when he was unable to dispatch enough vehicles to handle all of the business, especially in bad

weather (Initial Decision, p. 24). Another witness, having worked for Protestant for three months, "determined that there were certain times during the day when Protestant could not handle all the business." (Initial Decision, p. 3). Under the circumstances, we are persuaded that the Applicant herein, has met the requisite burden of proof in accordance with 52 Pa. Code §41.14(a) at least within the City of Reading.

We do not believe that the Protestant herein has met its burden of establishing that entry of a new carrier into the field will endanger its operations so as to be contrary to the public interest. 52 Pa. Code §41.14(c). We note that the Protestant is a fairly large, well-established carrier, operating more than 29 cabs and employs 68 full time drivers. The monthly revenue generated by the taxi service is approximately \$60,000 to \$65,000. (I.D. pp. 14-15). The Applicant in the instant proceeding plans to introduce only four (4) vehicles into the field. (Finding of Fact No. 6): Consequently, we do not believe that the proposed service of the Applicant will endanger or adversely impact upon the Protestant's business operations.

CONCLUSION

We have carefully reviewed the record in the instant proceeding including the transcript, exhibits, Briefs and Reply Briefs and the ALJ's Initial Decision. We are satisfied that the Applicant herein, will serve the public interest by providing and otherwise making available a back-up carrier service. We shall, therefore, decline to adopt the ALJ's Initial Decision;  
**THEREFORE,**

**IT IS ORDERED:**

1. That the Application of Gerald Long, docketed to A-00107965 be, and hereby is, approved and a certificate be issued to the Applicant to include the following authority:

"For the right to begin to transport, as a common carrier, by motor vehicle, persons, upon call or demand in the City of Reading."

2. That the Applicant upon entry of this Opinion and Order, promptly comply with the requirements of the Fictitious Names Act, 64 Pa. C.S. §301 et seq., the Public Utility Code, 66 Pa. C.S. §101 et seq. and the Rules and Regulations of the Commission.

3. That the Applicant shall not engage in any transportation granted herein until it shall have complied with the requirements of the Public Utility Code and the rules and regulations of this Commission relative to the filing of insurance and the filing and acceptance of a tariff establishing just and reasonable rates.

4. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the carrier, shall not be construed as conferring more than one operating right.

5. And in the event said Applicant has not, on or before 60 days from the date of service of this Order, complied with the requirements set forth above, the application shall be dismissed without further proceedings.

BY THE COMMISSION,



Jerry Rich  
Secretary

(SEAL)

ORDER ADOPTED: July 20, 1989

ORDER ENTERED: AUG 3 1 1989

EQUIPMENT LIST

READING YELLOW CAB INC.

1985, 1986, 1987 and 1988 Dodge 4-door 5-passenger sedan automobiles to be acquired

The above vehicles are to be equipped with two-way radios and meters.

GERALD LONG, A.107965

OPERATING AUTHORITY TO BE TRANSFERRED

"For the right to begin to transport, as a common carrier, by motor vehicle, persons, upon call or demand in the City of Reading."

Transferor is not retaining any operating authority.

ATTACHMENT 12A-3



STATEMENT OF UNPAID BUSINESS DEBTS  
OF TRANSFEROR AND HOW THEY  
WILL BE SATISFIED

Transferor will satisfy his own business obligations. The proceeds from the sale of the operating rights may be used to pay any expenses of transferor.

Because Transferor had permission from this Commission for an indefinite stay of time to file insurance and begin operations under the certificate to be transferred no operating expenses were incurred.

STATEMENT OF SAFETY PROGRAM  
READING YELLOW CAB, INC.

Applicant will file with the Commission public liability insurance in amounts sufficient to meet the requirements of the regulations.

Applicant will hire only experienced drivers and will conduct a training program to ensure they are familiar with the DOT safety requirements. All equipment will be regularly maintained and will be inspected in an official Pennsylvania licensed inspection station as required. The drivers will inspect all equipment at the beginning of their shifts and immediate repairs will be made of any safety deficiencies noted.

We will maintain appropriate records on all drivers. We will comply with the safety requirements of this Commission and the laws of Pennsylvania.

STATEMENT OF TRANSFEREE'S EXPERIENCE

Applicant's President, Curtis G. Stricker, is familiar with the taxi service industry. He is aware of the need for courteous drivers and for clean, safe vehicles to meet the transportation needs of the public. He is a resident of the Reading area which will be the base territory of Applicant and is familiar with the territory to be served.

He has access to the safety regulations of this Commission and of the Pennsylvania Department of Highways. Applicant will comply with all insurance and safety regulations.

**ARTICLES OF INCORPORATION**  
(PREPARE IN TRIPLICATE)

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE - CORPORATION BUREAU  
308 NORTH OFFICE BUILDING, HARRISBURG, PA 17120

PLEASE INDICATE (CHECK ONE) TYPE CORPORATION:

- DOMESTIC BUSINESS CORPORATION
- DOMESTIC BUSINESS CORPORATION  
A CLOSE CORPORATION - COMPLETE BACK
- DOMESTIC PROFESSIONAL CORPORATION  
ENTER BOARD LICENSE NO.

FEE  
\$75.00

010 NAME OF CORPORATION (MUST CONTAIN A CORPORATE INDICATOR UNLESS EXEMPT UNDER 15 P.S. 2908 B)

Reading Yellow Cab Inc. (a close corporation)

011 ADDRESS OF REGISTERED OFFICE IN PENNSYLVANIA (P.O. BOX NUMBER NOT ACCEPTABLE)

543 Elm Street

012 CITY: Reading      013 COUNTY: Berks County      013 STATE: Pennsylvania      064 ZIP CODE: 19601

050 EXPLAIN THE PURPOSE OR PURPOSES OF THE CORPORATION

To have unlimited power to engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under the Business Corporation Law of the Commonwealth Of Pennsylvania, approved May 5, 1933, P.L. 364, as amended.

(ATTACH 8 1/2 x 11 SHEET IF NECESSARY)

The Aggregate Number of Shares, Classes of Shares and Par Value of Shares Which the Corporation Shall have Authority to Issue:

|  |  |   |   |
|--|--|---|---|
| 040 Number and Class of Shares<br><u>500</u> | 041 Stated Par Value Per Share If Any<br><u>No Par Value</u> | 042 Total Authorized Capital<br><u>\$100,000.00</u> | 031 Term of Existence<br><u>Perpetual</u> |
|--|--|---|---|

The Name and Address of Each Incorporator, and the Number and Class of Shares Subscribed to by each Incorporator

| 060 Name                               | 061, 062<br>063, 064 Address (Street, City, State, Zip Code) | Number & Class of Shares |
|--|--|--------------------------|
| <u>Frederick O. Brubaker</u>           | <u>543 Elm Street, Reading PA 19601</u>                      | <u>100 common</u>        |
| (ATTACH 8 1/2 x 11 SHEET IF NECESSARY) |  |                          |

IN TESTIMONY WHEREOF, THE INCORPORATOR (S), HAS (HAVE) SIGNED AND SEALED THE ARTICLES OF INCORPORATION

THIS 14th DAY OF June 19 90.

*Frederick O. Brubaker*

- FOR OFFICE USE ONLY -

|                                 |                          |   |                      |  |                  |
|---------------------------------|--------------------------|---|----------------------|--|------------------|
| 030 FILED<br><b>JUN 18 1990</b> | 002 CODE                 | 003 REV BOX   | SEQUENTIAL NO.       | 100 MICROFILM NUMBER<br><b>90301215</b>  |                  |
|                                 | REVIEWED BY<br><i>GA</i> | 004 SICC  | AMOUNT               | 001 CORPORATION NUMBER<br><u>1571884</u> |                  |
|                                 | DATE APPROVED            |   | \$                   | LOG IN<br><b>JUN 18 1990</b>             | LOG IN (REFILE)  |
|                                 | DATE REJECTED            | CERTIFY TO<br><input type="checkbox"/> REV.<br><input type="checkbox"/> L & I<br><input checked="" type="checkbox"/> ATTACHMENT | INPUT BY             | LOG OUT                                  | LOG OUT (REFILE) |
| MAILED BY DATE                  |                          |   | VERIFIED BY<br>12B-1 |  |                  |

Secretary of the Commonwealth  
Department of State  
Commonwealth of Pennsylvania

31113 22 1991  
91 13 191 53 1991 01

31113 22 1991  
28 13 191 101 1991 05

90301216

1. The following provisions shall regulate the status of the corporation as a close corporation:

(a) (Strike out (i) or (ii) below, whichever is not applicable.)

(i) All of the issued shares of the corporation of all classes, exclusive of treasury shares, shall be held of record by not more than 30 persons.  
(NUMBER NOT TO EXCEED 30)

(ii) All of the issued shares of the corporation of all classes, exclusive of treasury shares, shall be held of record by not more than the smaller of twenty-five "shareholders" within the meaning of Subchapter S of the Internal Revenue Code of 1954, as amended, or 30 persons.

(b) All of the issued shares of all classes of the corporation shall be subject to one or more of the restrictions on transfer permitted by section 613.1 of the Business Corporation Law (15 P.S. §1613.1).

(c) The corporation shall make no offering of any of its shares of any class which would constitute a "public offering" within the meaning of the Securities Act of 1933, as amended.

2. (Optional: BCL §372B) A person (other than an estate) who is not an "individual" or who is a "non-resident alien," in either case within the meaning of the Internal Revenue Code of 1954, as amended ("Code"), shall not be entitled to be a holder of record of shares of the corporation. Only a person whose consent is currently in effect to the election of the corporation to be treated as an electing small business corporation under Subchapter S of the Code and a shareholder who has not affirmatively refused to consent to the election within sixty days after he acquires his stock, shall be entitled to be a holder of record of shares of the corporation.

3. (Optional: BCL §382) The business and affairs of the corporation shall be managed by the shareholders of the corporation rather than by a board of directors.

4. (Optional: BCL §376B) The status of the corporation as a "close corporation" within the meaning of the Business Corporation Law shall not be terminated without the affirmative vote or written consent of (all holders of) (shareholders holding 2/3rds of the) shares of all classes of the corporation.  
(FRACTION AT LEAST TWO THIRDS)

5. (Optional: BCL §384B) (Any shareholder) (shareholders holding 2/3rds of the shares) of the corporation may apply for the appointment of a provisional director of the corporation in the manner and upon the circumstances provided by statute.  
(FRACTION)

6. (Optional: BCL §386) (Any shareholder) (shareholders holding 2/3rds of the shares) of the corporation shall have the right at will to cause the corporation to be dissolved by proceeding in the manner provided by statute.  
(FRACTION)

LIST OF CORPORATE OFFICERS AND STOCKHOLDERS

READING YELLOW CAB INC.

OFFICERS:

|                        |  |                            |
|------------------------|--|----------------------------|
| Frederick O. Brubaker  | 543 Elm Street<br>Reading, PA 19601    | Chairman of<br>the Board   |
| Curtis G. Stricker     | RD 1, Box 1472<br>Leesport, PA 19533   | President and<br>Treasurer |
| Patricia A. Schleicher | 127 Wunder Street<br>Reading, PA 19602 | Secretary                  |

SHAREHOLDERS:

|                        |   |           |
|------------------------|---|-----------|
| Deborah Stricker       | RD 1, Box 1472<br>Leesport, PA 19533        | 48 shares |
| Patricia A. Schleicher | 127 Wunder Street<br>Reading, PA 19602      | 16 shares |
| Susan Innes            | 6 Cherry Street<br>Towanda, PA 18848        | 16 shares |
| Barbara L. Wyke        | 305 Lime Oak Drive<br>Pittsburgh, Pa. 15230 | 16 shares |

November 30, 1990

IN REPLY PLEASE  
REFER TO OUR FILE

David H. Radcliff  
Attorney at Law  
407 North Front Street  
Harrisburg, PA 17101

In re: A-00109547 - Application of Reading Yellow Cab, Inc.

Dear Sir:

Acknowledgement is made of an application filed by you on behalf of Reading Yellow Cab, Inc. for the rights of Gerald Long.

The application has been captioned as attached and will be submitted for review, provided no protests are filed on or before December 24, 1990. If protests are filed, you will be advised as to further procedure.

This application is accepted with the understanding that Gerald Long will continue to render the service covered by his certificate and comply with all the rules of the Commission, including the carrying of continuous insurance, until final disposition is made of the application by the Commission.

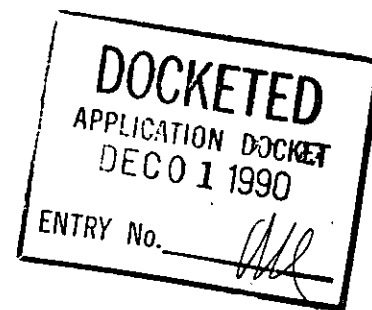
You are further advised that the above application will be published in the Pennsylvania Bulletin of December 1, 1990.

Very truly yours,

David Ehrhart  
Supervisor - Application Section  
Bureau of Transportation

DE:RP:rs

cc: Applicant  
543 Elm Street  
Reading, PA 19601



A-00109547 READING YELLOW CAB, INC. (543 Elm Street, Reading, Berks County, PA 19601), a corporation of the Commonwealth of Pennsylvania - persons, upon call or demand in the city of Reading; which is to be a transfer of the right authorized under the certificate issued at A-00107965 to Gerald Long, subject to the same limitations and conditions. Attorney: David H. Radcliff, 407 North Front Street, Harrisburg, PA 17101.

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

SERVICE OF NOTICE OF MOTOR CARRIER APPLICATIONS

DEC -1 1990

DATE \_\_\_\_\_ SERVICE \_\_\_\_\_

BUREAU OF TRANSPORTATION  
COMMON CARRIER  
NOVEMBER 1990

A-00109547

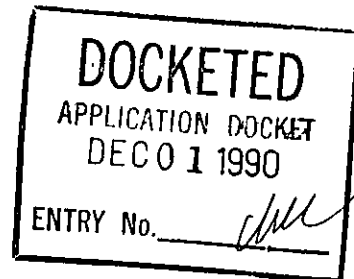
Application of Reading Yellow Cab, Inc., a corporation of the Commonwealth of Pennsylvania, for the right to begin to transport, as a common carrier, by motor vehicle, persons, upon call or demand in the city of Reading; which is to be a transfer of the right authorized under the certificate issued at A-00107965 to Gerald Long, subject to the same limitations and conditions.

MW:rs  
11/16/90

Application received: 9/07/90  
Application docketed: 11/14/90

NH

DOCUMENT  
FOLDER



DEC 24 1990

Protests due on No Hearings \_\_\_\_\_  
Protests due on Hearings - (5 days prior to date of hearing)  
Notice of the above application was mailed to all certificate  
holders and railroad companies in the service area as noted above.