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May 29, 2016

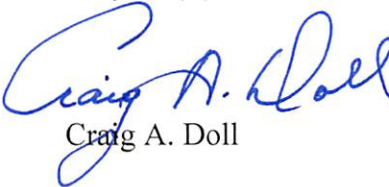
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Application of Susquehanna Valley Taxi Service, Inc.  
Commission Docket No. A-2016-2538283

Dear Secretary Chiavetta:

Enclosed is a Notice to Plead and Preliminary Objections of Susquehanna Valley Taxi Service, Inc., filed electronically this date in the above proceeding. A copy of this document has been served upon all parties of record. If you have any questions, please feel free to contact me. Thank you for your cooperation in this matter.

Very truly yours,

  
Craig A. Doll

cc: All parties of record  
Susquehanna Valley Taxi Service, Inc.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Susquehanna Valley Taxi Service,	:	
Inc. for the right to begin to transport, as a	:	
common carrier, by motor vehicle, persons in call	:	
or demand service, in the Counties of	:	
Northumberland, Union, Snyder, excluding the	:	Commission Docket No.
Borough of Riverside, Northumberland County,	:	A-2016-2538283
which is to be a transfer the rights authorized	:	
under the certificate issued at A-640217, Docket	:	
No. A-2015-2472707, to Susquehanna Valley	:	
Limousine, Inc. t/a Susquehanna Valley Taxi	:	
Service, subject to the same limitations and	:	
conditions	:	

**NOTICE TO PLEAD**

**TO: PAULS CAB SERVICE, INC.**

The attached Preliminary Objections of Susquehanna Valley Taxi Service, Inc. has been filed with the Pennsylvania Public Utility Commission in the above captioned proceeding. If you wish to respond to the Preliminary Objections, you must, pursuant to the provisions of 52 Pa. Code §5.101(f) take action within ten (10) days after these Preliminary Objections are served by filing a response with the Secretary of the Pennsylvania Public Utility Commission and serving a copy of that response upon all parties of record. You are warned that if you fail to do so the case may proceed without you and an order or a judgment may be entered against you by the Commission without further notice.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Susquehanna Valley Taxi Service,	:	
Inc. for the right to begin to transport, as a	:	
common carrier, by motor vehicle, persons in call	:	
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No. A-2015-2472707, to Susquehanna Valley	:	
Limousine, Inc. t/a Susquehanna Valley Taxi	:	
Service, subject to the same limitations and	:	
conditions	:	

**PRELIMINARY OBJECTIONS  
OF  
SUSQUEHANNA VALLEY TAXI SERVICE, INC.**

NOW COMES, Susquehanna Valley Taxi Service, Inc. (“Applicant” or “Susquehanna”), by and through its undersigned counsel, pursuant to the provisions of 52 Pa. Code §§ 3.381(a)(1)(i)(c) and 5.101, files these Preliminary Objections to the protest of Pauls Cab Service, Inc. (“Pauls” or “Protestant”), requesting the dismissal of the protest for the reasons set forth below.

1. On April 5, 2016, Susquehanna filed a Transfer Application seeking “to separate its call or demand operations from its limousine operations for insurance purposes.” Application ¶ 11.

2. On May 7, 2016, Notice of the Application appeared in the *Pennsylvania Bulletin*. 46 Pa. B. 2394. Pursuant to that Notice, Protests to the Transfer Application were to be filed with the Commission and a copy served upon applicant no later than May 23, 2016.

3. On or about May 19, 2016, a one page letter addressed merely to the Pennsylvania Public Utility Commission signed by a Mr. Carl W. Hovenstein who purports to be the Vice President Secretary of Pauls Cab Service, Inc was received by the Commission. The undersigned counsel received a copy of this letter on or about May 20, 2016.

4. Pauls is the sole protestant in this transfer application

5. No certificate of service is attached to the letter.

6. The letter "protest" is identical to that which was untimely filed in Susquehanna Limousine's application for the initial rights which are being transferred to an affiliate company for insurance purposes in this proceeding.

7. Appended to the application is the business plan of Applicant as well as financial information.

8. The sole allegation in the protest is that approval of "permanent authority" for Applicant would "reduce our [Protestant's] income and cause layoffs and reductions of our staff".

9. As the purpose of this application is to transfer certain existing rights to a separate entity for insurance purposes to a sister corporation with the same ownership, permanent authority has already been approved by this Commission and Protestant will not experience any more competition from a new entrant than what he already experiences from other existing certificated carriers. Accordingly, the relief sought by Pauls cannot be granted.

10. This Commission has held that it is not enough to show that a Protestant's operations will be endangered or impaired; they must show that the impairment is so great that it would harm the public interest. *Application of Yourway transport, Inc., A-00122788*, 2014 Pa. PUC LEXIS 363 \*78 (July 18, 2004).

11. Despite furnishing information regarding its technical and financial fitness, the protest does not raise any issue or challenge any of the information offered by Applicant.<sup>1</sup>

12. Protestant recites without verification or other documentary proof, that it possesses authority to operate in certain specific areas. Notably, the only mention of the category of authority that Protestant possesses is in reference to Commission Docket No. A-2010-2152783 which granted authority "so as to permit the transportation of passengers in **paratransit** services..." (Emphasis added).

**PRELIMINARY OBJECTION NO. 1**  
**THE PROTEST DOES NOT CONFORM TO COMMISSION REGULATIONS**

13. Pursuant to 52 Pa. Code §3.381(c)(1)(i)(A)(v), a protest must contain a copy "of any portion of the protestant's authority upon which the protest is predicated."

14. A protest is considered a pleading and must conform to the Commission's regulations regarding pleadings. 52 Pa. Code §3.381(c)(1)(i)(C).

15. The protest of Pauls Cab merely contains a reference to several Commission docket numbers and the contents of its tariffs. The protest does not contain any portion of a Commission Order or a copy of its Officially Filed Tariff.

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<sup>1</sup> In the case of a transfer application, there is a presumption of continuing need.

16. Applicant submits that the above Commission requirement is predicated upon documentary proof that a protestant has met a preliminary requirement for standing, i.e., that the protestant's service territory overlaps that sought in the application.

17. Applicant submits that the mere recitation of what authority a Protestant purports to possess without documentary proof does not comply with the requirements of 52 Pa. Code §3.381.

18. The protest does not conform to 52 Pa. Code §1.31 (Requirements for documentary filings) in that it is not divided into numbered paragraphs and does not contain the caption of the proceeding.

19. Pursuant to 52 Pa. Code §1.36, a pleading containing an averment of fact not appearing of record must contain a verification. 52 Pa. Code §1.36(a). The protestant is deficient on its face as it contains averments of fact but no verification.

20. Applicant submits that as the protest is deficient on its face it should be dismissed.

PRELIMINARY OBJECTION NO. 2  
PROTESTANT LACKS STANDING TO PARTICIPATE

21. Pursuant to 52 Pa. Code §5.101(a)(7), a Protestant must possess standing to bring a complaint or protest an application.

22. While ordinarily the issue of standing is an affirmative defense and is relied upon in a motion for summary judgment or judgment on the pleadings, the exception is where the pleading itself indicates a lack of standing. *Application of K&F Medical Transport, LLC*, 2008 Pa. PUC LEXIS 208, \*10, A-2008-2020353 (April 25, 2008) (Initial Decision of Chief Judge Smith).

23. To be entitled to participate in a proceeding a person must have a direct, immediate and substantial interest in the subject matter of the controversy. *Waddington v. Pennsylvania Public Utility Commission*, 670 A.2d 119 (Pa. Cmwlth. Ct. 1995), *appeal denied* 544 Pa. 697, 678 A.2d 368 (1996); *Franklin Township v. Pa. Department of Environmental Resources*, 499 Pa. 162, 452 A.2d 718 (1982).

24. This Commission has found that the mere possession of one category of transportation of persons confers no standing to protest a different category of service. *Application of Ronald M. McDonald t/d/b/a Rusmin Trucking*, A-00107696, F.2 (February 21, 1989); *K&F Medical Transport, LLC, supra*.

25. As the only mentioned category of service in the protest is paratransit service and not call or demand which is the subject of this transfer application, the protest is deficient on its face and should be dismissed.

26. Protestant claims that if the “permanent authority” is granted, he will suffer economic harm. Protestant ignores the fact that this application is a transfer of operating authority from an **existing** carrier to a new entity. As the existing carrier is authorized to place vehicles on the street to directly compete with Protestant now, there will be no increase for potential economic harm. Applicant submits that Protestant does not possess an immediate or substantial interest in the controversy. Accordingly, the protest should be dismissed.

PRELIMINARY OBJECTION NO. 3  
THE PROTEST IS INSUFFICIENT IN THAT IT RAISES NO ISSUES OF FACT

27. The Commission is granted the discretion to dismiss a protest without a hearing if a hearing is not necessary to protect the public interest. 66 Pa. C.S. §703(b); 52 Pa. code §5.21(d).

28. A hearing is only necessary to resolve disputed questions of fact and is not required to resolve questions of law, policy or discretion. *Dee-Dee Cab, Inc. v. Pennsylvania Public Utility Commission*, 817 A.2d 593 (Pa. Cmwlth. Ct. 2003), *petition for allowance of appeal denied*, 575 Pa. 698, 836 A.2d 123 (2003).

29. Appended to the Transfer Application is the business plan of Applicant consisting of questions posed routinely by Commission Staff as well as Applicant's financial statements. The appended documents provide details, *inter alia*, of Applicant's business experience, method of operation, driver standards, maintenance policies, as well as its current financial condition. This information is designed to provide the Commission with information to make a determination as to Applicant's technical and financial fitness.

30. Unlike a new application, there is a presumption of continuing need for the service in a transfer application.

31. Protestant does not raise any factual issues related to Applicant's technical or financial fitness, or the information submitted with the application, nor does Protestant even allege that Applicant does not possess the technical or financial fitness necessary to have the application granted.

32. No issue has been raised as to any of the elements necessary for Applicant to meet the evidentiary criteria set forth in 52 Pa. Code §41.14.

33. As it appears that Protestant has filed an identical Protest to that filed in the original application granting rights at A-2015-2472707, Applicant submits that Protestant is, at best, seeking a "second bite of the apple" and has filed this protest in bad faith with the sole purpose of delaying Commission approval and causing Applicant to incur additional costs.

34. As the protest does not raise any disputed issues of fact, a hearing in this proceeding is neither necessary or in the public interest and would be a fruitless exercise.

WHEREFORE, Applicant, Susquehanna Valley Taxi Service, Inc. respectfully requests that: (1) the above Preliminary Objections be granted; (2) the protest of Pauls Cab Service, Inc. be dismissed; (3) the Commission exercise its discretion and determine that a hearing in this matter is unnecessary; and (4) that this Transfer Application be referred to its Staff for disposition under modified procedures.

Respectfully submitted,



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Attorney I.D. # 22814

Attorney for Susquehanna Valley Taxi  
Service, Inc.

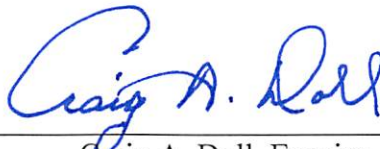
DATED: May 29, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served a copy of the Preliminary Objections to the Protest of Pauls Cab Service, Inc. upon the persons listed below via first class mail, postage prepaid in accordance with the provisions of 52 Pa. Code §1.54.

**Via First Class Mail**

Pauls Cab Service Inc.  
735 Market Street  
Sunbury, PA 17801



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Craig A. Doll, Esquire  
25 West Second Street  
P.O. Box 403  
Hummelstown, PA 17036-0403

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Attorney for Susquehanna Taxi Service, Inc.

DATED: May 29, 2016