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## VUONO & GRAY, LLC

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June 2, 2016

Re: Tri-Conn Alternative Services, Inc.  
v. EMS Southwest, Inc.

Complaint Docket No. ~~C-2014-2528321~~ C-2016-2528321  
Our File 5851-1

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

**MAILED WITH U.S. POSTAL SERVICE**  
**CERTIFICATE OF MAILING FORM 3817**

Dear Secretary Chiavetta:

We enclose for filing with the Commission the original and three (3) copies of Respondent's Motion to Dismiss Objections to Interrogatories and Requests for Production of Documents and to Compel Answers to Interrogatories.

Please acknowledge receipt and filing of the enclosed on the duplicate copy of this letter of transmittal and return it to the undersigned in the self-addressed, stamped envelope provided.

Very truly yours,

VUONO & GRAY, LLC

William A. Gray

mm/164704

Enclosure

cc: Ryan P. Siney, Esq. (w/enc.)  
EMS Southwest, Inc. (w/enc.)

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Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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TRI-CONN ALTERNATIVE SERVICES, INC.	)	
	)	
Complainant	)	Complaint Docket
	)	
v.	)	No. C-2016-2528321
	)	
EMS SOUTHWEST, INC.	)	
	)	
Respondent	)	

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MOTION TO DISMISS OBJECTIONS TO INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED  
TO THE COMPLAINANT TRI-CONN ALTERNATIVE SERVICES, INC.  
AND TO COMPEL ANSWERS TO INTERROGATORIES

AND NOW, Comes Respondent, EMS SOUTHWEST, INC., by its attorneys, VUONO & GRAY, LLC, and files this Motion to Dismiss Objections to Interrogatories and Requests for Production of Documents Directed to Complainant TRI-CONN ALTERNATIVE SERVICES, INC. and to Compel Answers to Interrogatories, stating as follows:

1. Respondent served Interrogatories on Complainant on May 5, 2016.
2. Complainant served Objections to Interrogatories on Respondent on May 25, 2016.
3. Complainant's Objections should be dismissed since they were not timely filed. 52 Pa. Code §5.342(e) provides that Objections must be served within ten (10) days of service of the Interrogatories. In this case, the Objections were not served until

twenty (20) days after service of the Interrogatories. The Objections are therefore not timely and should be dismissed.

4. Complainant has objected to Interrogatory Nos. 7 and 8 for the reasons set forth in paragraphs 5 and 6 of its Objections. A true and correct copy of the Objections filed by Complainant is attached hereto as Exhibit "A" for ease of reference.

5. Interrogatory No. 7, which was objected to by Complainant reads as follows:

Did the Complainant earn any revenues in 2014 and/or 2015 which were exempt from PUC jurisdiction pursuant to 52 Pa. Code §41.11? Please attach to your answers copies of the Complainant's assessment reports for 2014 and 2015 indicating whether Complainant reported to the Public Utility Commission that it earned any exempt revenues in those years.

6. The Objection to Interrogatory No. 7 should be dismissed since this information is relevant to the issue of whether the service provided by Respondent in Fayette County is exempt from Commission jurisdiction pursuant to the exemption at 52 Pa. Code §41.11 since Respondent intends to establish that Complainant is providing the same service as Respondent under the same exemption.

7. Interrogatory No. 8, which was objected to by Complainant reads as follows:

Identify all paratransit trips handled by the Complainant originating in Fayette County during the period of time from January 1, 2015 to the present date which were handled under the exemption at 52 Pa. Code §41.11. For each such trip, provide the following information: name of person transported; date of trip; origin of trip and; destination of trip.

8. The Objection to Interrogatory No. 8 should be dismissed since this information is relevant to the issue of whether the service provided by the Respondent in

Fayette County is exempt from Commission jurisdiction pursuant to the exemption at 52 Pa. Code §41.11 since Respondent intends to establish that Complainant is providing the same services as Respondent under the same exemption.

9. 52 Pa. Code §5.321(b) provides that a participant may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action. It is respectfully submitted that the Interrogatories objected to by Complainant relate to information relevant to the subject matter involved in the pending action since all of the information relates to the exemption at 52 Pa. Code §41.11.

WHEREFORE, the Respondent hereby moves for an Order dismissing the Complainant's Objections and compelling the Complainant to answer Interrogatory Nos. 7 and 8.

VUONO & GRAY, LLC  
310 Grant Street, Suite 2310  
Pittsburgh, PA 15219  
412-471-1800

Dated: June 2, 2016  
/164694

Respectfully submitted,

VUONO & GRAY, LLC

By: 

William A. Gray, Esq.  
Attorney for Respondent



Pennsylvania Public Utility Commission, provide copies of Tri-Conn's assessment reports and identify all services rendered by Tri-Conn in reliance upon 52 Pa. Code §41.11.

4. Tri-Conn's revenues and services are not at issue in this proceeding, and therefore Interrogatory No. 7 and Interrogatory No. 8 are irrelevant and improper.

5. Tri-Conn objects to Interrogatory No. 7 and Interrogatory No. 8 on the basis that those Interrogatories are not reasonably calculated to lead to the discovery of admissible evidence, are overly broad, seek information that is irrelevant to this matter and/or request information that is not discoverable pursuant to 52 Pa. Code §5.361(a).

6. Additionally, the information sought by EMS Southwest in Interrogatory No. 7 and Interrogatory No. 8 is sought in bad faith, would cause unreasonable annoyance, embarrassment, oppression, burden or expense to Tri-Conn and would require Tri-Conn to undertake an unreasonable investigation.

WHEREFORE, Complainant, Tri-Conn Alternative Services, Inc., respectfully requests that the foregoing objections be sustained and that no response to Interrogatory No. 7 and Interrogatory No. 8 be required.

Respectfully submitted,

Date: May 25, 2016

TUCKER ARENSBERG, P.C.

By   
Ryan P. Siney, ID #209190  
2 Lemoyne Drive, Suite 200  
Lemoyne, PA 17043  
Phone: (717) 234-4121  
Fax: (717) 221-6802  
Email: rsiney@tuckerlaw.com  
*Attorneys for Complainant,  
Tri-Conn Alternative Services, Inc.*

HBGDB:158010-1 027503-154183

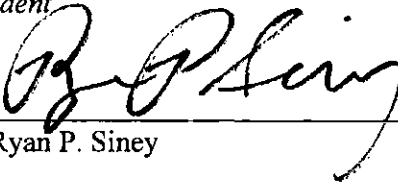
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Complainant's Objections to Interrogatories and Request for Production of Documents in accordance with the requirements of 52 Pa. Code §1.54 via first class mail, postage prepaid, as follows:

William A. Gray, Esquire  
VUONO & GRAY, LLC  
310 Grant Street  
Suite 2310 Grant Building  
Pittsburgh, PA 15219  
*Attorneys for Respondent*

Dated: May 25, 2016

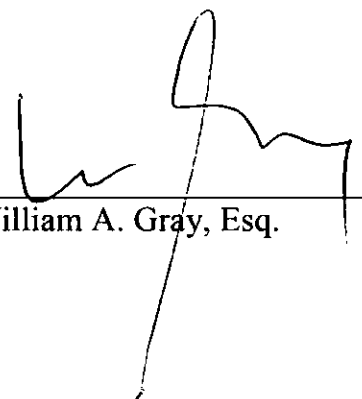
By:

  
\_\_\_\_\_  
Ryan P. Siney

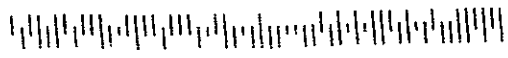
CERTIFICATE OF SERVICE

William A. Gray, attorney for Respondent, hereby certifies that on the 2nd day of June, 2016, he did serve a true and correct copy of the foregoing Motion to Dismiss Objections to Interrogatories and Requests for Production of Documents Directed to the Protestant and to Compel Answers to Interrogatories upon the following counsel of record, by first class mail, postage prepaid, at their offices as set forth below:

Ryan P. Siney, Esq.  
Tucker Arensberg, P.C.  
2 Lemoyne Drive, Suite 200  
Lemoyne, PA 17043



William A. Gray, Esq.



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Law Offices

**VUONO & GRAY, LLC**

310 Grant Street, Suite 2310  
Pittsburgh, PA 15219-2383

**TO:**

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

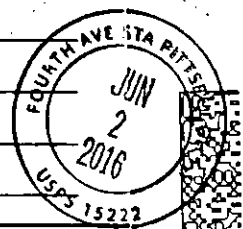


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From: Vuono & Gray, LLC  
310 Grant Street, Suite 2310  
Pittsburgh PA 15219-2383  
Re: EMS



To: Rosemary Chialetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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