

ORIGINAL

Law Offices

VUONO & GRAY, LLC

John A. Vuono
William A. Gray
Mark T. Vuono*
Dennis J. Kusturiss
Christine M. Dolfi
Louise R. Schrage
Susan C. Indrisano+
*Also Admitted in Florida
+Also Admitted in Maryland

2310 Grant Building

Pittsburgh, PA 15219-2383

November 14, 2003

Richard R. Wilson
of Counsel

Telephone
412-471-1800

Facsimile
412-471-4477

Re: Corry Cab Company
Docket No. A-00117072, F.3

DOCUMENT
FOLDER

RECEIVED
03 NOV 17 AM 9:59
HARRISBURG
SECRETARY'S BUREAU

Mr. James J. McNulty
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCKETED

JAN 06 2004

Dear Mr. McNulty:

We have received a notice that a hearing has been scheduled in connection with the above application for Tuesday, January 6, 2004, in Pittsburgh. Unfortunately, just this week I received notice from Administrative Law Judge Larry Gesoff that he is scheduling a continued hearing in connection with the application of Raymond Coll (Docket No. A-00119828) for that same date. Therefore, I hereby request that the hearing scheduled in connection with this case be rescheduled to some other day in January.

I am sending a copy of this letter to the Administrative Law Judge and to all parties of record.

Very truly yours,

VUONO & GRAY, LLC

William A. Gray

pz/28929

cc: Administrative Law Judge Michael A. Nemeo
Mr. William C. Patterson
Christina M. Mellott, Esq.
John A. Pillar, Esq.
James H. Norris, Esq.
Joseph A. Zator, II, Esq.
Tri-State Emergency Systems, Inc. t/d/b/a EmeryCare
West County Paramedic Association

TRI STATE EMERG SYS
W COUNTY PARAMEDIC
ASSN

Law Offices

VUONO & GRAY, LLC

John A. Vuono
William A. Gray
Mark T. Vuono*
Dennis J. Kusturiss
Christine M. Dolfi
Louise R. Schrage
Susan C. Indrisano+
*Also Admitted in Florida
+Also Admitted in Maryland

2310 Grant Building

Pittsburgh, PA 15219-2383

November 18, 2003

Richard R. Wilson
of Counsel

Telephone
412-471-1800

Facsimile
412-471-4477

Re: Corry Cab Company
Docket No. A-00117072, F. 3

DOCUMENT
FOLDER

Mr. James J. McNulty
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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NOV 21 AM 8:58
SECRETARY'S BUREAU

Dear Mr. McNulty:

We have been instructed by West County Paramedic Association to withdraw its protest to the above application. The withdrawal of this protest does not have any affect on the other protest that we filed to this application, which was filed on behalf of Tri-State Emergency Systems, Inc. t/d/b/a EmeryCare.

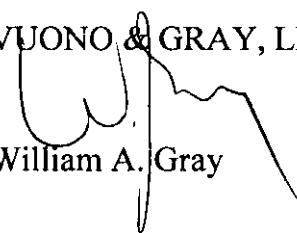
We are sending a copy of this letter to the Administrative Law Judge and to all parties of record.

DOCKETED
DEC 03 2003

Very truly yours,

VUONO & GRAY, LLC

William A. Gray



pz/28971

cc: Administrative Law Judge Michael A. Nemeec
Mr. William C. Patterson
Christina M. Mellott, Esq.
John A. Pillar, Esq.
James H. Norris, Esq.
Joseph A. Zator, II, Esq.
Tri-State Emergency Systems, Inc. t/d/b/a EmeryCare
West County Paramedic Association

ELDERKIN, MARTIN, KELLY & MESSINA

ATTORNEYS AT LAW

JONES SCHOOL SQUARE
150 EAST EIGHTH STREET
ERIE, PENNSYLVANIA 16501-1269

November 26, 2003

HARRY D. MARTIN
JOSEPH T. MESSINA
KENNETH G. VASIL
JAMES H. RICHARDSON, JR.
RONALD L. SLATER
JOHN B. ENDERS
ROBERT C. LESUER
CRAIG A. MARKHAM
THOMAS J. MINARCIK
GERY T. NIETUPSKI
EVAN C. RUDERT
EDWARD J. BETZA
CRAIG A. ZONNA
BRIAN M. DIMASI
CHRISTOPHER J. KOVSKI
KELLY A. MROZ
LORI R. MILLER
MELISSA H. SHIREY
B. ANNE CRILLEY

V. H. ELDERKIN, JR.
RETIRED
SECRETARY
WILLIAM J. KELLY, SR.
OF COUNSEL
WEDDER J. WHITE
TEL: (814) 456-4000
FAX: (814) 454-7111 (MAIN)
(814) 456-1337 (REAL ESTATE)
WEB: www.ElderkinLaw.com

Hon. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

Re: Docket No. A-00117072, F.3
Corry Cab Company

Dear Mr. McNulty:

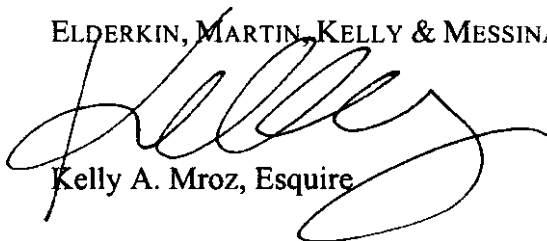
Enclosed is a Praecipe to Enter Appearance on behalf of Corry Cab Company in the above-referenced matter.

A copy of this Praecipe has been served on counsel for protestants as noted on the Certificate of Service in accordance with the Commission's Rules of Practice.

Please acknowledge receipt of the enclosures on the duplicate of this letter of transmittal and return it in the stamped, self-addressed envelope provided.

Very truly yours,

ELDERKIN, MARTIN, KELLY & MESSINA



Kelly A. Mroz, Esquire

KAM/aga
Enclosure

cc w/enc: William A. Gray, Esquire
Christie M. Mellott, Esquire
John A. Pillar, Esquire
Joseph A. Zator, II, Esquire and Christopher M. McLean, Esquire
Corry Cab Company

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S BUREAU
03 DEC - 1 AM 10:54
DOCKETED

DOCKET NO. A-00117072, F.3

CORRY CAB COMPANY

PRAECIPE TO ENTER APPEARANCE

Kindly enter our Appearance on behalf of Corry Cab Company in the above-captioned matter.

DOCUMENT
FOLDER

Respectfully submitted,

ELDERKIN, MARTIN, KELLY & MESSINA

By: 

Kelly A. Mroz, Esquire
Attorney for Corry Cab Company
150 East 8th Street
Erie, Pennsylvania 16501-1269
(814) 456-4000

Dated: November 26, 2003

DOCKETED

JAN 07 2004

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET NO. A-00117072, F.3

CORRY CAB COMPANY

CERTIFICATE OF SERVICE

I, Kelly A. Mroz, Esquire, do hereby certify that I have served a true and correct copy of the foregoing Praecipe to Enter Appearance upon all Protestants or their counsel of record, by placing the same in the United States mail, postage prepaid, on this 26th day of November, 2003, addressed as follows:

William A. Gray, Esquire
Vuono & Gray, LLC
2310 Grant Building
Pittsburgh, PA 15219-2383

Christie M. Mellott, Esquire
Page, Wolfberg & Wirth, LLC
5010 East Trindle Road, Suite 202
Mechanicsburg, PA 17050

John A. Pillar, Esquire
680 Washington Road
Suite B101
Pittsburgh, PA 15228-1925

Joseph A. Zator, II, Esquire
Christopher M. McLean, Esquire
Zator Law Offices
The Jandl Building
4029 West Tilghman Street
Allentown, PA 18104

Respectfully submitted,

ELDERKJN, MARTIN, KELLY & MESSINA

By: 

Kelly A. Mroz, Esquire
Attorney for Corry Cab Company
150 East 8th Street
Erie, Pennsylvania 16501-1269
(814) 456-4000



**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

December 9, 2003

In Re: A-00117072F0003

(See letter dated 11/06/2003)

Application of Corry Cab Company, t/d/b/a Corry Cab Company

For the additional right to transport, as a common carrier, by motor vehicle, persons n paratransit service, between points in the counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said counties, to points in Pennsylvania, and return.

Hearing Cancellation/Reschedule Notice

This is to inform you that due to a scheduling conflict, and at the request of William A. Gray, Esquire hearing on the above-captioned case now scheduled to be held on Tuesday, January 6, 2004 at 10:00 a.m. has been canceled and has been rescheduled as follows:

Type: Initial

Date: Friday, January 16, 2004

Time: 10:00 a.m.

Location: 11th floor hearing room
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania

Presiding: Administrative Law Judge Michael A. Nemec
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550
Fax: (412) 565-5692

DOCUMENT
FOLDER

DOCKETED

JAN 06 2004

Please change your records accordingly.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Nemec
Steve Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

ELDERKIN, MARTIN, KELLY & MESSINA

ATTORNEYS AT LAW

JONES SCHOOL SQUARE
150 EAST EIGHTH STREET
ERIE, PENNSYLVANIA 16501-1269

V. H. ELDERKIN, JR.
RETIRED

WILLIAM J. KELLY, SR.
OF COUNSEL

VEDDER J. WHITE
(1940-1993)

TEL: (814) 456-4000

FAX: (814) 454-7411 (MAIN)

(814) 456-1737 (REAL ESTATE)

WEB: www.ElderkinLaw.com

HARRY D. MARTIN
JOSEPH T. MESSINA
KENNETH G. VASIL
JAMES H. RICHARDSON, JR.
RONALD L. SLATER
JOHN B. ENDERS
ROBERT C. LESUER
CRAIG A. MARKHAM
THOMAS J. MINARCIC
GERY T. NIETUPSKI
EVAN C. RUDERT
EDWARD J. BETZA
CRAIG A. ZONNA
BRIAN M. DIMASI
CHRISTOPHER J. KOVSKI
KELLY A. MROZ
LORI R. MILLER
MELISSA H. SHIREY
B. ANNE CRILLEY

December 29, 2003

RECEIVED

3
DEC 31 2003

PA PUBLIC UTILITY COMMISSION

Administrative Law Judge Michael A. Nemic
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania 15222

SECRETARY'S BUREAU
The Honorable James J. McNulty, Secretary ✓
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

Re: Corry Cab Company
Docket No. A-00117072, F. 3

DOCKETED
MAR 09 2004

Dear Judges Nemic and McNulty:

I represent the Petitioner, Corry Cab Company, in the above-referenced matter which is scheduled to be heard January 6, 2004 at 10:00 a.m.

Please accept this letter as an application for the issuance of subpoenas for the following witnesses to attend and testify on January 6, 2004 at 10:00 a.m.

- ① Ms. Rebecca K. Blair, R.N., Royal Care Medical Management Specialist, Royal Sun Alliance Insurance, P.O. Box 11305, Erie, Pennsylvania 16514 regarding the necessity and propriety of the proposed service for the accommodation, convenience or safety of the public.
- ② Ms. Barb Krasa, Nurse Care Manager, President, Lake Erie Claims Association, R.R. 2, Corry, Pennsylvania 16407 regarding the necessity and propriety of the proposed service for the accommodation, convenience or safety of the public.
- ③ Ms. Carol DiSantis, Claims, State Workers' Insurance Fund, 1316 State Street, Erie, Pennsylvania 16501 regarding the necessity and propriety of the proposed service for the accommodation, convenience or safety of the public.

DOCUMENT
FOLDER

Administrative Law Judge Michael A. Nemecek and The Honorable James J. McNulty, Secretary

Re: Corry Cab Company

Docket No. A-00117072, F.

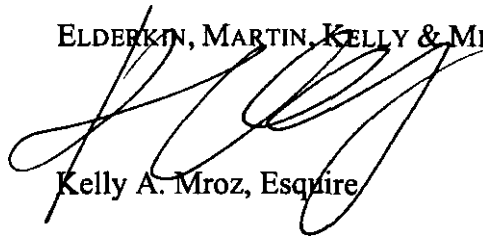
December 29, 2003

Page 2

Thank you for your assistance in this matter.

Very truly yours,

ELDERKIN, MARTIN, KELLY & MESSINA



Kelly A. Mroz, Esquire

KAM/aga

cc: Ms. Rebecca K. Blair, R.N.
Ms. Carol DiSantis
William A. Gray, Esquire
Ms. Barbara Krasa
Christopher M. McLean, Esquire
Christie M. Mellott, Esquire
John A. Pillar, Esquire
Joseph A. Zator, II, Esquire
Ms. Beverly Patterson

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET NO. A-00117072, F.3

CORRY CAB COMPANY

NOTICE

Enclosed is a copy of Corry Cab Company's application for subpoenas. You have the right to file an answer or objection within ten (10) days of service of this application.

Your answer or objection should be sent to the following persons:

Hon. James J. McNulty, Secretary ✓
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Administrative Law Judge Michael A. Nemecek
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Kelly A. Mroz, Esquire
Elderkin, Martin, Kelly & Messina
150 East 8th Street
Erie, PA 16501-1293

William A. Gray, Esquire
VUONO & GRAY, LLC
2310 Grant Building
Pittsburgh, PA 15219-2383

Christie M. Mellott, Esquire
PAGE, WOLFBERG & WIRTH, LLC
5010 East Trindle Road, Suite 202
Mechanicsburg, PA 17050

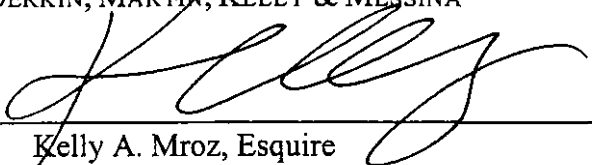
John A. Pillar, Esquire
680 Washington Road
Suite B101
Pittsburgh, PA 15228-1925

Joseph A. Zator, II, Esquire and Christopher M. McLean, Esquire
ZATOR LAW OFFICES
The Jandl Building
4029 W. Tilghman Street
Allentown, PA 18104

Respectfully submitted,

ELDERKIN, MARTIN, KELLY & MESSINA

By: _____


Kelly A. Mroz, Esquire
Attorney for Corry Cab Company
150 East 8th Street
Erie, Pennsylvania 16501-1269
(814) 456-4000

cc: Ms. Rebecca K. Blair, R.N.
Ms. Carol DiSantis
William A. Gray, Esquire
Ms. Barbara Krasa
Christopher M. McLean, Esquire
Christie M. Mellott, Esquire
John A. Pillar, Esquire
Joseph A. Zator, II, Esquire
Ms. Beverly Patterson

ORIGINAL

ELDERKIN, MARTIN, KELLY & MESSINA

ATTORNEYS AT LAW

JONES SCHOOL SQUARE
150 EAST EIGHTH STREET
ERIE, PENNSYLVANIA 16501-1269

December 30, 2003

HARRY D. MARTIN
JOSEPH T. MESSINA
KENNETH G. VASIL
JAMES H. RICHARDSON, JR.
RONALD L. SLATER
JOHN B. ENDERS
ROBERT C. LESUER
CRAIG A. MARKHAM
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EVAN C. RUDERT
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WILLIAM J. KELLY, SR.
OF COUNSEL

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FAX: (814) 454-7411 (MAIN)

(814) 456-1737 (REAL ESTATE)

WEB: www.ElderkinLaw.com

Administrative Law Judge Michael A. Nemeck
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania 15222

The Honorable James J. McNulty, Secretary ✓
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

Re: **Corry Cab Company**
Docket No. A-00117072, F.0003

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MAR 05 2004

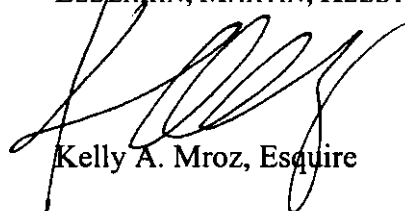
Dear Judges Nemeck and McNulty:

Please refer to my application for issuance of subpoenas letter dated December 29, 2003. We inadvertently indicated an incorrect hearing date in paragraphs one and two of that letter. The correct date the above-referenced matter is scheduled to be heard is **January 8, 2004**, not January 6, 2004. Therefore, we wish the witnesses to attend and testify on **January 8, 2004**.

We apologize for any confusion or inconvenience this error may have caused. If you have any questions, feel free to contact me.

Very truly yours,

ELDERKIN, MARTIN, KELLY & MESSINA



Kelly A. Mroz, Esquire

KAM/aga

cc: Ms. Rebecca K. Blair, R.N.
Ms. Carol DiSantis
William A. Gray, Esquire
Ms. Barbara Krasa
Christopher M. McLean, Esquire
Christie M. Mellott, Esquire
John A. Pillar, Esquire
Joseph A. Zator, II, Esquire
Ms. Beverly Patterson

DOCUMENT
FOLDER

RJP

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2004 JAN - 2 PM 9: 02
SECRETARY'S BUREAU

25

ORIGINAL

ZATOR LAW OFFICES

THE JAINDL BUILDING
4029 WEST TILGHMAN STREET
ALLENTOWN PA 18104



JOSEPH A. ZATOR II
ANDREW D. HOFFMAN
JOHN T. MARCHETTO
CHRISTOPHER M. MCLEAN

RECEIVED
01 JAN -8 PM 12:04
P.U.C.
SECRETARY'S BUREAU
TELEPHONE 610-432-1900
TELEFAX 610-432-1707
E-MAIL office@zatorlaw.com

DIRECT E-MAIL cmclean@zatorlaw.com

January 2, 2004

TRANSMITTED VIA CERTIFIED MAIL

DOCUMENT
FOLDER

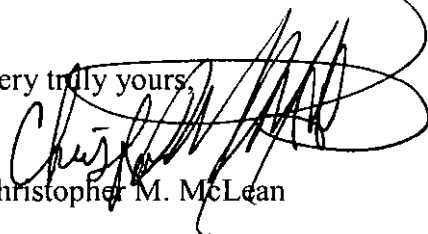
The Honorable James J. McNulty, Secretary
Pennsylvania P.U.C.
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Docket No. A-00117072, F. 3 - Application of Corry Cab Company
Restriction of Amendment - St. Mary's Area Ambulance Service, Inc.

Dear Mr. McNulty:

Enclosed herein please find an original and one copy of a Restrictive Amendment and Stipulation which has been executed by Corry Cab Company and my office on behalf of St. Mary's Area Ambulance Service, Inc. Please time stamp and return the copy in the enclosed self addressed stamped envelope. If you have any questions, please feel free to contact me. Thank you.

Very truly yours,


Christopher M. McLean

CMM:neh
Enclosure

cc: Sue Dippold, St. Mary's Area Ambulance Svc. (via telefax (814) 781-8330)
cc: Kelly Mroz (via telefax (814) 454-7411)

F:\Data\Kathy\MyFiles\A Clients\AMBULANCLife Force\Chris to PUC w restricted amendment.doc

RJP

RECEIVED
04 JAN -8 PM 12:05
LAURENCE
SECRETARY'S BUREAU

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of
CORRY CAB COMPANY, t/d/b/a CORRY CAB COMPANY
DOCKET NO. A-00117072, FOLDER 3

RESTRICTIVE AMENDMENT AND STIPULATION

DOCKETED
MAR 10
FEB 12 2004

In accordance with the Rules of Practice of the Pennsylvania Public Utility Commission ("Commission"), Applicant **Corry Cab Company, t/d/b/a Corry Cab Company** ("Applicant") and **St. Mary's Area Ambulance Service, Inc.** ("Protestant") by and through its attorney, hereby agree to and enter into this Restrictive Amendment and Stipulation as follows:

1. Applicant hereby amends its Application to be as follows:

Persons in paratransit service, between points in the Counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said Counties, to points in Pennsylvania, and return;

Subject to the following condition:

- A. No right, power or privilege is granted to originate service from points within the city of St. Mary's, a municipality located within Elk County, or points which are located within an airline distance of fifteen (15) statute miles of the limits of the city of St. Mary's.

2. Based on the foregoing Restrictive Amendment, and conditioned upon its acceptance by the Commission, and also upon every Order and grant being consistent with this Restrictive Amendment and Stipulation, the Protestant has agreed to and does, upon complete execution of this Restrictive Amendment and Stipulation, withdraw its Protest, subject to the following two conditions and requirements: (i) in the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for any reason whatsoever, the Protest of the Protestant shall be deemed immediately reinstated, and (ii) in the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for any reason, the Protestant shall have the right to request reconsideration before the Commission and/or to appeal before any and all appropriate courts, and in any such proceedings Applicant shall not raise any objection as to party status and/or

DOCUMENT
FOLDER

PAGE, WOLFBERG & WIRTH, LLC
ATTORNEYS & COUNSELORS AT LAW

JAMES O. PAGE ◊
DOUGLAS M. WOLFBERG ◊ Δ
STEPHEN R. WIRTH ◊

CHRISTINA M. MELLOTT ◊
JOHN MAYERNICK IV ◊
CINDY R. STAFFELBACH ◊ ◊

◊ MEMBERS, CALIFORNIA BAR
◊ MEMBERS, PENNSYLVANIA BAR
Δ MEMBER, NEW YORK BAR

MAIN OFFICE
5010 EAST TRINDLE ROAD, SUITE 202
MECHANICSBURG, PA 17050
TELEPHONE (717) 691-0100
FACSIMILE (717) 691-1226

www.pwwemslaw.com

WEST COAST OFFICE
2588 F EL CAMINO REAL #282
CARLSBAD, CA 92008
TELEPHONE (760) 729-2201

ORIGINAL

RECEIVED
ON JAN 14 AM 10:37
PENNSYLVANIA
SECRETARY'S BUREAU

CHRISTINA M. MELLOTT
cmellott@pwwemslaw.com

January 9, 2004

VIA FIRST CLASS MAIL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER


**Re: Application of Corry Cab Company
t/d/b/a Corry Cab Company; A-00117072, F.3**

Dear Secretary McNulty:

Enclosed herewith are an original and three copies of a Restrictive Amendment executed by: (1) me as attorney for Superior Ambulance Service, Inc.; and (2) Kelly A. Mroz, Esquire as attorney for Corry Cab Company. Acceptance of this Restrictive Amendment in full will withdraw the protest of Protestant in the above-captioned matter.

Kindly date-stamp and return a copy of the Restrictive Amendment to me in the enclosed self-addressed, stamped envelope.

Very truly yours,


Christie M. Mellott
for PAGE, WOLFBERG & WIRTH, LLC

RJP

23

James J. McNulty, Secretary
January 9, 2004
Page 2

cc: Superior Ambulance Service, Inc.
Service List (Attached)
Administrative Law Judge Michael A. Nemeec

SERVICE LIST: A-00117072F0003

Kelly Mroz, Esquire
Elderkin, Martin, Kelly & Messina
Jones School Square
150 East Eighth Street
Erie, PA 16501-1269

William A. Gray, Esquire
Vuono & Gray LLC
2310 Grant Building
Pittsburgh, PA 15219

Christina M. Mellott, Esquire
Page, Wolfberg & Wirth, LLC
5010 East Trindle Road
Suite 202
Mechanicsburg, PA 17050

John A. Pillar, Esquire
680 Washington Road
Suite B101
Pittsburgh, PA 15228-1925

James H. Norris, Esquire
Exkert, Seamans, Cherin & Meliott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Joseph A. Zator II, Esquire
Zator Law Offices
The Jandl Building
4029 West Tilghman Street
Allentown, PA 18104

SECRETARY'S BUREAU
01 JAN 14 AM 10:37

ORIGINAL

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JAN 14 AM 10:37
SECRETARY'S BUREAU

In re: APPLICATION OF :
CORRY CAB COMPANY : Docket No. A-00117072 F.3
t/d/b/a CORRY CAB COMPANY :

RESTRICTIVE AMENDMENT AND STIPULATION

In accordance with the Rules of Practice of the Pennsylvania Public Utility Commission, Protestant, Superior Ambulance Service, Inc., through its undersigned counsel, ("Protestant"), and Applicant, Corry Cab Company t/d/b/a Corry Cab Company, through its undersigned counsel, ("Applicant"), hereby make this Restrictive Amendment and enter into this Stipulation as follows:

1. Applicant hereby restrictively amends the above-captioned application so that any authority granted shall be subject to the following restrictive conditions:

Persons in paratransit service, between points in the counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said counties, to points in Pennsylvania, and return; subject to the following conditions:

- (A) That no right, power or privilege is granted to transport person between points in Mercer County, and
- (B) That no right, power or privilege is granted to transport persons to or from points within Mercer County utilizing lift-equipped wheelchair vans, and
- (C) That no right, power or privilege is granted to originate service at nursing homes or skilled nursing facilities within Mercer County.

DOCKETED
MAR 09 2004

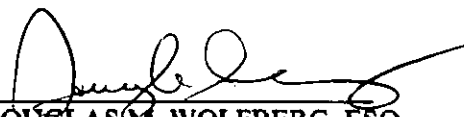
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2. Conditioned upon acceptance of the Restrictive Amendment by the Pennsylvania Public Utility Commission (Commission) and any Order disposing of this case being consistent therewith, the protest of Superior Ambulance Service, Inc. is hereby withdrawn subject to two caveats: (1) In the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for whatever reason, the Protest of the Protestant should be deemed immediately reinstated, and (2) In the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for whatever reason, the Protestant shall have the right to request Reconsideration before the Commission and/or to appeal before any and all appropriate Appellate courts, and Applicant will not raise any objection as to party status and/or standing in such proceedings. Protestant shall remain a party of record for the purpose of receiving copies of Orders issued by the Commission regardless of the acceptance or denial by the Commission of this Restrictive Amendment and Stipulation.

WHEREFORE, in consideration of the promises mutually set forth above, the parties hereto have executed this Restrictive Amendment and Stipulation this 9th day of January, 2004.

PAGE, WOLFBERG & WIRTH, LLC

ELDERKIN, MARTIN, KELLY & MESSINA

BY 
 DOUGLAS M. WOLFBERG, ESQ.
 Attorney for Protestant,
 Superior Ambulance Service, Inc.

BY 
 KELLY A. MROZ, ESQ.
 Attorney for Applicant, Corry Cab
 Company v/d/b/a Corry Cab Company



LAW OFFICES OF
JOHN A. PILLAR

680 WASHINGTON ROAD
SUITE B101
PITTSBURGH, PENNSYLVANIA 15228-1925

ORIGINAL

John A. Pillar
Karen S. Timko

January 13, 2004

(412) 343-0970
FAX (412) 343-0971
pillarlaw@stargate.net

Re: Corry Cab Company, t/d/b/a
Corry Cab Company
Docket A-00117072, F.3

Hon. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

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Dear Sir:

We enclose for filing a signed Restrictive Amendment and Stipulation in connection with the above docketed proceeding. This Amendment and Stipulation has been executed by counsel for the applicant and counsel for Baker's Transportation Services, Inc., a protestant. A copy of the Restrictive Amendment and Stipulation has been forwarded to the Administrative Law Judge assigned to this proceeding and to counsel of record.

Based on the Amendment and Stipulation, the protest of Baker's Transportation Services, Inc. has been conditionally withdrawn and we do not intend to appear at the hearing scheduled for Friday, January 16.

Very truly yours,

JOHN A. PILLAR

sw
Enclosure

- cc: Hon. Michael A. Nemecek (w/encl.) (via fax: 412-565-5692)
- Kelly A. Mroz, Esq. (w/encl.) (via fax: 814-454-7411)
- William A. Gray, Esq. (w/encl.)
- Joseph A. Zator II, Esq. and Christopher M. McLean, Esq. (w/encl.)
- Christie M. Mellott, Esq. (w/encl.)
- James H. Norris, Esq. (w/encl.)
- Baker's Transportation Services, Inc. (w/encl.)

Please note new e-mail address: japillar@earthlink.net

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2004 JAN 15 AM 10:28
PENNSYLVANIA
SECRETARY'S BUREAU

RJP

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RECEIVED

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION
2004 JAN 15 AM 10:28

SECRETARY'S BUREAU

In re: APPLICATION OF :
CORRY CAB COMPANY : Docket No. A-00117072, F.3
t/d/b/a CORRY CAB COMPANY :

DOCKETED
MAR 10
FEB 12 2004

RESTRICTIVE AMENDMENT AND STIPULATION

In accordance with the Rules of Practice of the Pennsylvania Public Utility Commission, Protestant, Baker's Transportation Services, Inc., through its undersigned counsel, ("Protestant"), and Applicant, Corry Cab Company t/d/b/a Corry Cab Company, through its undersigned counsel, ("Applicant"), hereby make this Restrictive Amendment and enter into this Stipulation as follows:

1. Applicant hereby restrictively amends the above-captioned application so that any authority granted shall be subject to the following restrictive conditions:

Persons in paratransit service, between points in the counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said counties, to points in Pennsylvania, and return; subject to the following condition:

That no right, power or privilege is granted to transport persons in paratransit service between points in Venango County.

2. Conditioned upon acceptance of the Restrictive Amendment by the Pennsylvania Public Utility Commission (Commission) and any Order disposing of this case being consistent therewith, the protest of Baker's Transportation Services, Inc. is hereby withdrawn subject to two caveats: (1) In the event that any aspect of this Restrictive

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Amendment and Stipulation is rejected by the Commission for whatever reason, the Protest of the Protestant should be deemed immediately reinstated, and (2) In the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for whatever reason, the Protestant shall have the right to request Reconsideration before the Commission and/or to appeal before any and all appropriate Appellate courts, and Applicant will not raise any objection as to party status and/or standing in such proceedings. Protestant shall remain a party of record for the purpose of receiving copies of Orders issued by the Commission regardless of the acceptance or denial by the Commission of this Restrictive Amendment and Stipulation.

WHEREFORE, in consideration of the promises mutually set forth above, the parties hereto have executed this Restrictive Amendment and Stipulation this 13th day of January, 2004.

LAW OFFICES OF JOHN A. PILLAR

ELDERKIN, MARTIN, KELLY & MESSINA

BY John A. Pillar
 JOHN A. PILLAR, ESQ.
 Attorney for Protestant,
 Baker's Transportation Services, Inc.

BY Kelly A. Mroz
 KELLY A. MROZ, ESQ.
 Attorney for Applicant, Corry Cab
 Company t/d/b/a Corry Cab Company

ZATOR LAW OFFICES

THE JAINDL BUILDING
4029 WEST TILGHMAN STREET
ALLENTOWN PA 18104

ORIGINAL



JOSEPH A. ZATOR II
ANDREW D. HOFFMAN
JOHN T. MARCHETTO
CHRISTOPHER M. MCLEAN

TELEPHONE 610-432-1900
TELEFAX 610-432-1707
E-MAIL office@zatorlaw.com

DIRECT E-MAIL cmclean@zatorlaw.com

January 14, 2004

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Hon. James J. McNulty , Secretary/Prothonotary
Pennsylvania Public Utility Commission
North Office Building
P.O. Box 3265
Harrisburg, PA 17105-3265

**DOCUMENT
FOLDER**

RECEIVED
2004 JAN 20 PM 12:16
PENNSYLVANIA
SECRETARY'S BUREAU

A-00117072F0003

Re: Conditional Withdrawal of Protest

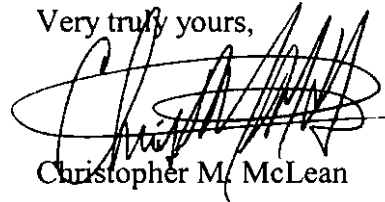
Dear Secretary McNulty:

Please find enclosed one original and four copies of a Conditional Withdrawal of Protest filed on behalf of Life Force of Western Pennsylvania, Inc., d/b/a Life Force Ambulance. Please time-stamp one of the copies and return it to my office in the enclosed self-addressed stamped envelope.

If you have any questions, please feel free to contact me.

Thank you.

Very truly yours,



Christopher M. McLean

RJP

CMM:jlw

cc: Dave Shilling (via telefax (724) 589-0667)

F:\Data\Kathy\MyFiles\A Clients\AMBULANC\Life Force\McNulty letter - conditional withdrawal of protest.doc

ORIGINAL

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of
CORRY CAB COMPANY, t/d/b/a CORRY CAB COMPANY
DOCKET NO. A-00117072, FOLDER 3

DOCKETED

MAR 09 2004

CONDITIONAL WITHDRAWAL OF PROTEST

In accordance with the Rules of Practice of the Pennsylvania Public Utility Commission ("Commission"), **Life Force of Western Pennsylvania, Inc., d/b/a Life Force Ambulance** ("Protestant") by and through its attorney, hereby agrees to and files this Conditional Withdrawal of Protest as follows:

1. Based on the Restrictive Amendment attached hereto is Exhibit "A", and conditioned upon its acceptance by the Commission, and also upon every Order and grant being consistent with this Restrictive Amendment and Stipulation, the Protestant has agreed to and does, withdraw its Protest, subject to the following two conditions and requirements: (i) in the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for any reason whatsoever, the Protest of the Protestant shall be deemed immediately reinstated, and (ii) in the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for any reason, the Protestant shall have the right to request reconsideration before the Commission and/or to appeal before any and all appropriate courts.

2. Protestant will remain a party of record for the purpose of receiving copies of all notices and orders issued in this proceeding. The representative of the Protestant is as follows:

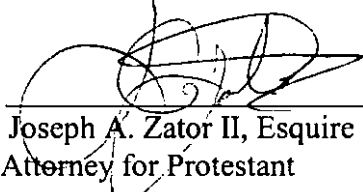
Joseph A. Zator II, Esquire
Zator Law Offices
The Jaendl Building
4029 W. Tilghman Street
Allentown, PA 18104

RECEIVED
2004 JAN 20 PM 12:16
SECRETARY'S BUREAU

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LIFE FORCE OF WESTERN PENNSYLVANIA,
INC., d/b/a LIFE FORCE AMBULANCE

Date: 1/14, 2004

By: 
Joseph A. Zator II, Esquire
Attorney for Protestant

CMM:jlw

COPY

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: APPLICATION OF :
CORRY CAB COMPANY : Docket No. A-00117072, F.3
t/d/b/a CORRY CAB COMPANY :

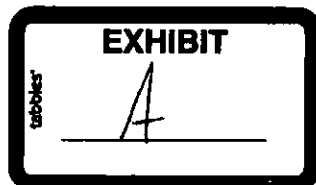
RESTRICTIVE AMENDMENT AND STIPULATION

In accordance with the Rules of Practice of the Pennsylvania Public Utility Commission, Protestant, Superior Ambulance Service, Inc., through its undersigned counsel, ("Protestant"), and Applicant, Corry Cab Company t/d/b/a Corry Cab Company, through its undersigned counsel, ("Applicant"), hereby make this Restrictive Amendment and enter into this Stipulation as follows:

1. Applicant hereby restrictively amends the above-captioned application so that any authority granted shall be subject to the following restrictive conditions:

Persons in paratransit service, between points in the counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said counties, to points in Pennsylvania, and return; subject to the following conditions:

- (A) That no right, power or privilege is granted to transport person between points in Mercer County, and
- (B) That no right, power or privilege is granted to transport persons to or from points within Mercer County utilizing lift-equipped wheelchair vans, and
- (C) That no right, power or privilege is granted to originate service at nursing homes or skilled nursing facilities within Mercer County.



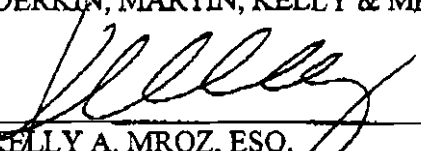
2. Conditioned upon acceptance of the Restrictive Amendment by the Pennsylvania Public Utility Commission (Commission) and any Order disposing of this case being consistent therewith, the protest of Superior Ambulance Service, Inc. is hereby withdrawn subject to two caveats: (1) In the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for whatever reason, the Protest of the Protestant should be deemed immediately reinstated, and (2) In the event that any aspect of this Restrictive Amendment and Stipulation is rejected by the Commission for whatever reason, the Protestant shall have the right to request Reconsideration before the Commission and/or to appeal before any and all appropriate Appellate courts, and Applicant will not raise any objection as to party status and/or standing in such proceedings. Protestant shall remain a party of record for the purpose of receiving copies of Orders issued by the Commission regardless of the acceptance or denial by the Commission of this Restrictive Amendment and Stipulation.

WHEREFORE, in consideration of the promises mutually set forth above, the parties hereto have executed this Restrictive Amendment and Stipulation this 9th day of January, 2004.

PAGE, WOLFBERG & WIRTH, LLC

ELDERKIN, MARTIN, KELLY & MESSINA

BY _____
DOUGLAS M. WOLFBERG, ESQ.
Attorney for Protestant,
Superior Ambulance Service, Inc.

BY 
KELLY A. MROZ, ESQ.
Attorney for Applicant, Corry Cab
Company t/d/b/a Corry Cab Company

OALJ Hearing Report

Please Check Those Blocks Which Apply

Docket No.:	A-00117072F0003		YES	NO
		Prehearing Held:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Case Name:	Application of Corry Cab Company	Hearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	/d/b/a Corry Cab Company	Testimony Taken:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Transcript Due:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Hearing Concluded:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Location:	Pittsburgh	Further Hearing Needed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	DOCUMENT	Estimated Add'l Days:		
Date:	January 16, 2004			
		RECORD CLOSED:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ALJ:	Michael A. Nemeec	DATE:	4/16/04	
		Briefs to be Filed:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reporting Firm:	Sargents Reporting	DATE:	To be set	
		Bench Decision:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		REMARKS:	Briefing schedule To be established upon receipt of transcript.	

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FEB 10 2004
 PITTSBURGH
 OFFICE OF O.A.L.J.

PLEASE PRINT CLEARLY - Incomplete information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
Edward J. BETZA 814-456-4000 Telephone:	150 EAST 8TH STREET ERIE PA 16509 City: ERIE State: PA Zip: 16509	CORRY CAB CO. 814-454-7411 Fax Number:
John A Gray By: William A Gray Telephone: 412-471-1850	2310 Grant Blvd Pittsburgh PA 15219 City: Pittsburgh State: PA Zip: 15219	Tri-State Emergency Systems, Inc t/d/b/a Emergency Care Fax Number:
James H. Norris 412-566-6159 Telephone:	Eckert Seamans Cherin & Mellott 45th floor, 600 Grant St. Pittsburgh Pa 15219 City: Pittsburgh State: Pa Zip: 15219	Barker Brothers, Inc. T/d/b/a PITTSBURGH NORTH AIRE RIDE Fax Number: 412-566-6099

Check this box if additional parties or attendees appear on back of form.


 Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

ORIGINAL

ELDERKIN, MARTIN, KELLY & MESSINA
ATTORNEYS AT LAW
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150 EAST EIGHTH STREET
ERIE, PENNSYLVANIA 16501-1269

JOSEPH T. MESSINA
KENNETH G. VASIL
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RONALD L. SLATER
JOHN B. ENDERS
ROBERT C. LESUER
CRAIG A. MARKHAM
THOMAS J. MINARCIK
GERY T. NIETUPSKI
EVAN C. RUDERT
EDWARD J. BETZA
CRAIG A. ZONNA
BRIAN M. DIMASI
CHRISTOPHER J. KOVSKI
KELLY A. MROZ
LORI R. MILLER
MELISSA H. SHIREY
B. ANNE CRILLEY

HARRY D. MARTIN
OF COUNSEL

V. H. ELDERKIN, JR.
WILLIAM J. KELLY, SR.
RETIRED

VEDDER J. WHITE
1940-1993

March 11, 2004

TEL: (814) 456-4000
FAX: (814) 454-7411 (MAIN)
(814) 456-1737 (REAL ESTATE)
WEB: www.ElderkinLaw.com

VIA EXPRESS MAIL

James McNulty, Secretary
Pennsylvania Public Utilities Commission
Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

RECEIVED

MAR 11 2004

Re: Application of Corry Cab Company
Dkt: A-00117072, F.3

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Mr. McNulty:

Enclosed please find an original and nine (9) copies of Corry Cab Company's Brief in Support of Approval of Application of Corry Cab, along with a Certificate of Service of same. I have enclosed a tenth copy for time-stamping and a self-addressed stamped envelope for its return. If you should have any questions, please do not hesitate to contact me.

Very truly yours,

ELDERKIN, MARTIN, KELLY & MESSINA

Edward J. Betza/KAM

Edward J. Betza

EJB/cah
Enclosures

cc: Administrative Law Judge Michael A. Nemeec
William A. Gray, Esquire
Christie M. Mellott, Esquire
James H. Norris, Esquire
John A. Pillar, Esquire
Christopher M. McLean, Esquire
Corry Cab Company

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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DOCKET NO. A-00117072, F.3

MAR 1 1 2004

CORRY CAB COMPANY

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BRIEF IN SUPPORT OF APPROVAL OF APPLICATION OF CORRY CAB

And now comes your Applicant, Corry Cab Company, by and through its attorneys, Edward J. Betza, and the law offices of Elderkin, Martin, Kelly & Messina and files this Brief in Support of Approval of Application of Corry Cab, stating the following in support thereof:

I. STATEMENT OF THE CASE

This matter comes before the Commission on an application filed on or about July 10, 2003 by Corry Cab Company. Public notice of the application was given in the Pennsylvania Bulletin on September 13, 2003. Seven protests were filed. Stipulated settlements were reached with five (5) protestants: Life Force of Western PA, Inc., d/b/a Life Force Ambulance; St. Mary's Area Ambulance Service, Superior Ambulance Service, Baker's Transportation Services, Inc., and Barker Brother's, Inc. One (1) protestant withdrew, namely, West County Paramedic Association. One (1) protestant, Tri-State Emergency Systems, Inc., t/d/b/a EmeryCare (EmeryCare or Protestant), remained and a hearing was conducted before the Honorable Michael A. Nemecek on January 16, 2004.

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Applicant initially applied for authority to “provide persons in paratransit service in Northwest Pennsylvania, between points in the counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said counties, to points in Pennsylvania, and return.

Applicant stipulated to the following additional restrictions in settlement of the various protests detailed above:

- (A) That no right, power or privilege is granted to transport persons between points in Mercer County, and
- (B) That no right, power or privilege is granted to transport persons to or from points within Mercer County utilizing lift-equipped wheelchair vans; and
- (C) That no right, power or privilege is granted to originate service at nursing homes or skilled nursing facilities within Mercer County; and
- (D) That no right, power or privilege is granted to transport persons in paratransit service between points in Venango County; and
- (E) No right, power or privilege is granted to originate service from points within the city of St. Mary’s, a municipality located within Elk County, or points which are located within an airline distance of fifteen (15) statute miles of the limits of the city of St. Mary’s; and
- (F) That no right, power or privilege is granted to provide service originating in Jefferson County south of Interstate Highway 80; and
- (G) That all transports originate in Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk or Jefferson Counties and travel to destinations in Erie, Crawford, Butler or Allegheny Counties.

Corry Cab Company (Corry Cab or Applicant) is a Pennsylvania corporation certified as a common carrier under docket number A-00117072, F0001Am-A. William C. Patterson is president of the corporation, Beverly J. Patterson is secretary/treasurer and each owns 50% of the shares of the corporation.

Upon approval of this application, Corry Cab intends to operate three vehicles, two four-door sedans and one station wagon, to provide needed transportation to and from Independent

Medical Examinations (IMEs) and Impairment Rating Evaluations (IREs) in the Western Pennsylvania area and to and from airports in Erie and Allegheny counties. Testimony was presented by Beverly Patterson as to Corry Cab's technical and financial ability to provide the needed service, and the public need for the transportation described above. Carol DeSantis, Claims Adjuster with the Pennsylvania State Worker's Insurance Fund testified as to the need for Corry Cab to provide transportation service to IMEs and IREs in the Western Pennsylvania area.

EmergyCare offered the testimony its director of communications, Paul Clark. Mr. Clark confirmed that Corry Cab's proposal does not conflict with the business operations of EmergyCare in that EmergyCare does not have a relationship with any insurance company to provide transportation to and from IMEs or IREs.

II. SUMMARY

Corry Cab's application for a paratransit service must be granted. Corry Cab possesses the technical and financial ability to provide the proposed service; there is an unfilled need for the proposed service; and the grant of the application will be in the public interest.

III. ARGUMENT

A. Applicant has demonstrated that it possesses the technical and financial ability to provide the proposed service.

The Public Utility Commission's regulations require that:

- (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.

52 Pa. Code § 41.14.

Technical and financial ability requires that “the applicant must have sufficient technical and operating knowledge, staff and facilities to provide the proposed service and sufficient financial ability to provide reliable and safe service.” Yellow Cab of Pittsburgh v. Pennsylvania Public Utility Commission, 673 A.2d 1015, 1019 (Pa. Cmwlth. 1996).

There is no dispute that Corry Cab is capable of providing the proposed service. Beverly Patterson testified that Corry Cab has had three vehicles in operation for the past three years and has provided transportation to and from the Corry, Pennsylvania area. The present application does not seek to change the nature of the service provided by Corry Cab, but, rather to expand its territory for the limited purpose of providing transportation to and from airports in Allegheny and Erie counties, and IREs and IMEs in Western Pennsylvania.

B. Applicant has proven a need for the proposed service.

The Public Utility Commission’s regulations require that:

- (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.

52 Pa. Code § 41.14.

The burden of demonstrating a need for a proposed service is met by showing the proposed service is reasonably necessary for the accommodation or convenience of the public, or by establishing that existing service does not satisfy the public need and the proposed service would tend to correct or substantially improve that condition. Absolute need is not a requisite. Nor must need exist from every point in the territory certificated. It is sufficient that on the record

as a whole the proposed service is shown to be reasonably necessary. Seaboard Tank Lines, Inc. v. Pennsylvania Public Utility Commission, 502 A.2d 762 (1985).

The Pennsylvania Supreme Court has held that the term "burden of proof" means a duty to establish a fact by a preponderance of the evidence. Se-Ling Hosiery v. Marquies, 364 Pa. 45, 70 A.2d 854 (1950). The term preponderance of the evidence means that one party has presented evidence which is more convincing, by even the smallest amount, than the evidence presented by the other party. Re White Line Taxi and Transfer Company, Inc., 1993 Pa. PUC LEXIS 50, *9 (1993).

In an analysis of the public need for the proposed service, it is important to consider the repeated explanations by this Commission and the appellate courts that an applicant for a Certificate of Public Convenience from the Commission "need not show a demand for its proposed service at every point within the proposed territory." Purolator Courier Corp. v Pennsylvania Public Utility Commission, 414 A.2d 450, 452 (1980); Re Red Star Express Lines of Auburn, Inc. 58 Pa. PUC 282 (1983). Instead, "[i]t is well established that an applicant in proceedings such as these need not prove necessity for every square mile for which it seeks operating authority. A proof of necessity for the area involved is sufficient." Application of Van Trans, Inc., 64 Pa. PUC 207 (1987).

In the pending matter, Corry Cab clearly met its burden.

Corry Cab presented the testimony of its President, Beverly Patterson. Ms. Patterson testified that she created Corry Cab Company to provide a call and demand cab service in the Corry, Pennsylvania area. Corry Cab is currently authorized to provide service originating or terminating within twelve (12) miles of Corry, Pennsylvania.

Ms. Patterson testified that she has recently received several requests to provide transportation to and from IMEs/IREs in the Western Pennsylvania area. These medical examinations primarily occur in Erie, Crawford, Butler, and Allegheny Counties. In addition, Ms. Patterson testified that her company has received several requests to provide transportation to and from airports located within Erie and Allegheny Counties.

Ms. Patterson was agreeable to a restrictive amendment which limited her request to origins from Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, and Jefferson Counties to locations/points in the counties of Erie, Crawford, Butler and Allegheny. In addition, Ms. Patterson was agreeable to further limit her territory in Jefferson County, Elk County, and Mercer County.

Ms. Patterson testified that there is a need for transportation to and from IMEs/IREs and to and from airports. Ms. Patterson explained that in her experience with Corry Cab, she is not aware of anyone providing these services to customers in the Western Pennsylvania area. Ms. Patterson testified that she is aware of a cab company in Erie (Yellow Cab), Hanson's Errand Service in Erie, and a provider in North East, Pennsylvania that are capable of providing some of the services proposed by Corry Cab. Unfortunately, Ms. Patterson indicated that these companies are currently unable to fill the present need for the services. In fact, Ms. Patterson confirmed that these companies were not able to handle several of her prior referrals.

Ms. Patterson testified that she has operated Corry Cab Company for three years and presently has three vehicles, two four door sedans and one station wagon. It is her intent to continue to operate three vehicles. She plans to use one of the vehicles for short, local trips within the Corry, Pennsylvania area; use one for long-distance trips; and keep one available in

the case of a breakdown or emergency. Ms. Patterson testified that these vehicles are standardly equipped as basic automotive transportation automobiles. She confirmed that these vehicles do not have any medical transportation equipment on them and the drivers are not equipped to handle medical emergencies. Ms. Patterson confirmed that she is not seeking to compete with EmergyCare in any way and does not seek to employ medical personnel or equip its vehicles with medical care or emergency medical equipment.

Corry Cab also offered the testimony of Carol DeSantis, a Claims Adjuster with the Pennsylvania State Worker's Insurance Fund (SWIF) who appeared in response to a subpoena issued to her on January 6, 2004. Ms. DeSantis testified that she schedules IMEs and IREs for SWIF. She indicated that SWIF handles workers' compensation cases in 9 counties in Western Pennsylvania. Ms. DeSantis testified that part of her job is to schedule IMEs and IREs. The IMEs are done periodically by insurance companies to evaluate the current physical condition of a workers' compensation claimant. Ms. DeSantis testified that IREs are performed after a claimant has been out on workers' compensation for two years (104 weeks). The purpose of this examination is to determine the total body impairment of a workers' compensation claimant.

Ms. DeSantis explained that, due to the doctors' schedules, it is very difficult to schedule these independent examinations. Most doctors will only do these examinations one day per week. The examinations often have to be scheduled as much as two to three months in advance. Unfortunately, Ms. DeSantis testified that at least half of the claimants will call at the last minute and indicate that they do not have transportation to the examination. This forces the insurance company to provide the transportation or cancel the examination and miss out on an opportunity to have the claimant examined. SWIF and other insurance companies are frequently asked to

provide transportation for claimants with little to no notice. If they are unable to find such transportation, the examination must be cancelled. Cancelling the examination will cost the insurance company and its client employer a cancellation fee of typically \$300. In addition, the cancellation delays the examination by another two to three months until such time as an examination can be rescheduled. This could result in an ineligible claimant continuing to receive workers' compensation benefits for another two to three months.

Ms. DeSantis testified that she has known Ms. Patterson since 1989. Ms. DeSantis testified that SWIF would utilize Corry Cab Company to provide this needed transportation service to the IMEs and IREs.

Protestant, EmergyCare, offered the testimony of Paul Clark, the director of communications, who is the manager of the Crawford County facility. Mr. Clark testified that his company offers emergency medical services, consisting of an ambulance service and a paratransit service. The paratransit service provides medical taxis and vans with wheelchair lifts. Mr. Clark confirmed that all of their vehicles contain emergency medical equipment. Mr. Clark confirmed that his company does not currently provide transportation to IMEs or IREs. Mr. Clark further confirmed that his company does not have any ongoing relationship with any insurance company to provide transportation to insureds in the workers' compensation arena.

Though Mr. Clark asserted that, if called, his company would be able to provide such transportation, Mr. Clark freely admitted that EmergyCare has not sought out this business and, to his knowledge, has not provided such transportation to any insurance company in the eleven years that it has been in business.

C. The protestants failed to demonstrate that the granting of authority would be contrary to the public interest.

The Public Utility Commission's regulations require that:

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

52 Pa. Code § 41.14

A protestant bears the burden of showing that the entry of the new carrier would endanger or impair the operations of existing carriers, thus rendering the grant of the certificate contrary to the public interest. Morgan Drive Away, Inc. v. Pennsylvania Public Utility Commission, 99 Pa. Commonwealth Ct. 420, 512 A.2d 1359, 1360 n.2 (1986).

EmergyCare did not offer any testimony or claim that Corry Cab's application is contrary to the public interest. EmergyCare actually confirmed that it does not even offer the services that Corry Cab is proposing to offer. There will be no harm to EmergyCare or the public if this application is granted. The granting of the application will benefit the general public by providing much needed transportation options; benefit the insurance industry by providing them an opportunity to have its insureds examined in a timely and cost-effective manner; and will benefit Corry Cab by allowing it to prosper by virtue of providing a service which is currently in demand.

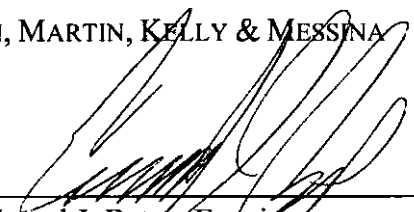
IV. CONCLUSION

For the foregoing reasons, it is respectfully submitted that the application of Corry Cab should be approved, as amended by stipulation.

Respectfully submitted,

ELDERKIN, MARTIN, KELLY & MESSINA

By: _____



Edward J. Betza, Esquire
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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET NO. A-00117072, F.3

CORRY CAB COMPANY

CERTIFICATE OF SERVICE

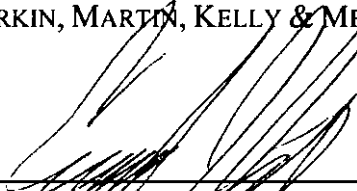
I, Edward J. Betza, Esquire, do hereby certify that I have served a true and correct copy of the foregoing Brief in Support of Approval of Application of Corry Cab upon all Protestants or their counsel of record, by placing the same in the United States mail, postage prepaid, on this 11th day of March, 2003, addressed as follows:

William A. Gray, Esquire Vuono & Gray, LLC 2310 Grant Building Pittsburgh, PA 15219-2383	Christie M. Mellott, Esquire Page, Wolfberg & Wirth, LLC 5010 East Trindle Road, Suite 202 Mechanicsburg, PA 17050	James H. Norris, Esquire Eckert Seamans Cherin & Mellott 44 th Floor, 600 Grant Street Pittsburgh, PA 15219
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Respectfully submitted,

ELDERKIN, MARTIN, KELLY & MESSINA

By: _____


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March 12, 2004

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Re: Corry Cab Company
Docket No. A-00117072, F. 3

Mr. James J. McNulty
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 Mr. McNulty:

We enclose for filing with the Commission the signed original and nine (9) copies of the Main Brief of Protestant in connection with the above-captioned proceeding.

A copy of the Main Brief has been sent to Administrative Law Judge Michael A. Nemec and two (2) copies have been served on the attorney for the applicant. We are also sending to the Administrative Law Judge a computer disk pursuant to his letter dated February 11, 2004.

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

**DOCUMENT
FOLDER**

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MAR 12 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ms/30475

Enclosures

cc: Honorable Michael A. Nemec (w/enc.)
Edward J. Betza, Esq. (w/enc.)
Tri-State Emergency Systems, Inc. t/d/b/a Emergycare (w/enc.)

6

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

DOCKET NO. A-00117072, F. 3

CORRY CAB COMPANY

MAIN BRIEF OF PROTESTANT

DOCKETED
MAR 22 2004

WILLIAM A. GRAY, ESQ.
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Due Date: March 12, 2004

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET NO. A-00117072, F. 3

CORRY CAB COMPANY

MAIN BRIEF OF PROTESTANT

I. STATEMENT OF THE CASE

This application was filed by Corry Cab Company (“Corry Cab”) originally seeking to provide the following service:

Persons, in paratransit service, between points in the Counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said counties, to points in Pennsylvania, and return.

The applicant subsequently amended the application to seek the following authority:

Persons in paratransit service from points in the counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk and Jefferson to points in the counties of Erie, Crawford, Butler and Allegheny, and return.

Subject to the following conditions:

- (1) That no right, power or privilege is granted to provide service between points in Venango County.
- (2) That no right, power or privilege is granted to provide service originating in Jefferson County south of Interstate Highway 80.

Protests to this application were filed by a number of companies, but all of the protests were withdrawn prior to the hearing except for the protest of Tri-State Emergency Systems, Inc. t/d/b/a EmeryCare (“the protestant”). A hearing was held in this case in Pittsburgh on January 16, 2004, before Administrative Law Judge Michael A. Nemeec.

Subsequent to the close of the record, the Administrative Law Judge directed that Main Briefs be filed. The protestant hereby submits this Main Brief and requests that the application be denied.

II. STATEMENT OF THE QUESTIONS INVOLVED

The only questions involved are: (1) whether the service sought to be provided by this application is really paratransit service or is, instead, call or demand service and (2) whether the applicant has demonstrated that the granting of the authority sought will serve a useful public purpose, responsive to a public demand or need.

III. ABSTRACT OF TESTIMONY AND
PROPOSED FINDINGS OF FACT

A. Testimony on Behalf of the Applicant.

1. Beverly Patterson testified on behalf of the applicant. (9)¹
2. The applicant has been providing call or demand service within a 12 mile radius of Corry for the past three years. (9)
3. The applicant presently operates three taxicabs, specifically, two four-door sedans and one station wagon. (11)
4. Although this application seeks paratransit authority, if it is granted, the applicant will use the same taxicabs to provide service that it presently uses to provide call or demand service. (11, 17)
5. The applicant does not have any vehicles equipped to handle wheelchairs or that are otherwise medically equipped and does not intend to add any such equipment to its fleet. (11, 18)
6. The applicant is only interested in handling service for Independent Medical Exams (IME's) and for trips to Pittsburgh International Airport and Erie International Airport for other than IME's. (13)
7. The only trip that the applicant has handled for SWIF, the sole supporting party, was one trip in 2000. (13)

¹ Citations in parenthesis refer to pages of the transcript of testimony unless specific reference is made to an exhibit.

8. SWIF has not called upon the applicant to provide any service within the 12 mile radius of Corry except for the one trip. (14)

9. The applicant presently takes people for IME's with taxicabs under its existing authority and charges its taxicab rates. (15)

10. The applicant's taxicab rates are \$2.50 for the first mile and \$.30 for each additional 1/5 mile. (15; Cross-Examination Ex. 1)

11. The applicant transports an individual once a month to Allegheny County for a doctor's appointment and charges that individual its taxicab tariff rate. (18, 19)

12. The applicant intends to utilize the same facilities to provide the service requested by this application as it uses under its existing authority. (19)

13. Hanson's Errand Service provides this same type of service in the Erie County area. (20)

14. The applicant admitted that it wouldn't be cost effective to drive 25 miles to pick someone up to take them two miles, whether it is call or demand or paratransit service. (21)

15. The applicant doesn't know what type of rates it will publish if this application is granted. (22)

16. Carol DiSantis testified on behalf of the State Workers' Insurance Fund (SWIF), where she is a claims adjuster. (24)

17. SWIF provides transportation to claimants in connection with the IME's. (27)

18. SWIF also requires transportation for Impairment Rating Examinations (IRE's). (32)

19. SWIF secures service in Erie County from Hanson's Errand Service. (28)

20. SWIF has only used the service of the applicant one time in the past even though the applicant can provide service from Corry and 12 miles. (38)

21. The only trips from Erie County that the witness for SWIF could remember was a trip from Springfield a couple of years ago and a trip from Waterford two or three years ago, as well as, trips from the city of Erie. In 2003 there were eight or nine trips for IME's originating in Erie County, all of which originated in the city of Erie. (38-39)

22. There were no problems with the service of Hanson's Errand Service on any of the Erie County trips in 2003. (39)

23. SWIF had one trip in 2003 originating in Crawford County, which originated in Conneautville, and Hanson's was used for that service. (40)

24. SWIF had at least three or four trips in 2003 from Warren County. (40) Hanson's handled some of these trips from Warren County and Munksguarde Limousine Service handled the rest. (40) SWIF was able to get the service that it required from Hanson's and Munksguarde for these trips. (40-41)

25. SWIF had one trip in 2003 from Mercer County, which was handled by a company in Ohio. (41)

26. SWIF also sometimes requires service for IME's originating in outlying counties and going to Erie County. (42, 43)

27. SWIF does not do IME's in Erie County with Erie claimants and Erie doctors because the doctors are very close knit in Erie County. (43)

28. The witness for SWIF admitted that she had never contacted the protestant for service for IME's since she wasn't aware that the protestant provided this service. (45, 48)

29. The witness for SWIF admitted that her understanding was that the protestant did wheelchair transports and most of her claimants are not in a wheelchair. (46-47)

30. SWIF did use the protestant one time to do a wheelchair transport from a nursing home to a workers' compensation hearing. (45)

31. The witness for SWIF admitted that now that she knows that the protestant has medical taxis she probably would contact the protestant and it will all come down to cost. (47-48)

32. The witness for SWIF admitted that if Hanson's is not available she has another option, which is to call one of the local taxicab companies. (51)

33. The use of taxicab service is perfectly acceptable to SWIF and there is no requirement that SWIF must use paratransit service. (52)

34. SWIF has no objection to the applicant's taxicab rate. (52)

35. The witness for SWIF does not know how the applicant's taxicab rate compares with the protestant's paratransit rate. (52)

B. Testimony on Behalf of the Protestant.

36. Paul Clark testified on behalf of the protestant. (59)

37. The protestant's principal place of business is located at 1701 Sassafrass Street, Erie, PA 15602. (60) In addition, the protestant has satellite facilities located in Meadville (Crawford County), Titusville (Crawford County), Warren (Warren County) and Corry (Erie County). (60)

38. If someone requires service from an area outside of Erie County, the protestant can dispatch equipment from a satellite facility. (60)

39. The protestant has authority from the PUC at Docket No. A-00114621. (Protestant Ex. 1)

40. The protestant's interest in this application is in the counties of Erie, Crawford, Warren and Venango. (61)

41. The protestant provides paratransit service with vans that are equipped with wheelchair lifts for transporting wheelchair-bound customers and also with medical taxis that transport ambulatory patients. (63)

42. The protestant has seven wheelchair vans in Erie, two wheelchair vans in Warren, two wheelchair vans in Meadville, one wheelchair van in Corry and one wheelchair van in Titusville. (64-65)

43. The protestant has three medical taxis located in Erie and one in Warren. (65)

44. All of the equipment set forth on Protestant's Exhibit 2 is used to provide paratransit service under protestant's PUC authority. (66)

45. The protestant's service is available 24 hours a day and seven days a week. (67)
46. The protestant provides paratransit service to Allegheny County on a daily basis. (67) This service is generally provided to doctors' offices. (68)
47. The protestant would be more than willing to provide service for SWIF if requested. (69)
48. The type of service required by SWIF, i.e. taking people to doctors' offices for an IME or an IRE, is no different from the type of service presently provided by the protestant on a daily basis. (69)
49. The protestant's wheelchair vans are equipped with first aid and oxygen, basic life support equipment and wheelchair lifts. (71)
50. The same medical equipment is available on protestant's medical taxis, which are not equipped with wheelchair lifts. (71)
51. The protestant provides service now where it deals with medical insurance companies. (72)

IV. ARGUMENT

A. BURDEN OF PROOF.

The applicant in this proceeding is required to prove that approval of the application is necessary or proper for the service, accommodation, convenience or safety of the public. 66 Pa. C.S.A. §1103(a).

The Commission had adopted regulations at 52 Pa. Code §41.14 to determine whether the above statutory burden of proof has been met. These regulations state:

(a) An applicant seeking motor common carrier authority has the 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.

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

B THE PARATRANSIT REGULATIONS PROHIBIT THE GRANTING OF THIS APPLICATION SINCE THE APPLICANT INTENDS TO PROVIDE CALL OR DEMAND SERVICE.

The regulations involving paratransit service are set forth at 52 Pa. Code §29.351 et seq. The regulation at §29.353 provides as follows:

Unless otherwise specifically provided in the certificate of public convenience, a common carrier operating paratransit service shall have the rights and be subject to the conditions as follows:

(1) To transport persons on a nonexclusive, advance reservation basis between points as authorized by the certificate.

(2) No right, power or privilege is granted to provide service as described in §§ 29.301—29.305 (relating to scheduled route service), service as described in §§ 29.311—29.316 (relating to call or demand service), service as described in §§ 29.321—29.324 (relating to group and party service), service as described in §§ 29.331—29.334 (relating to limousine service), or service as described in §§ 29.341—29.343 (relating to airport transfer service).

The witness for the applicant admitted that the service to be provided by the applicant if this application is granted would be the same service that it provides under its

call or demand authority. As indicated above, the paratransit regulations provide that service must be different from the other classifications of service, including call or demand service. It is improper in this case for the applicant to simply call its service something different than it really is in order to try to secure operating authority.

The applicant presently operates three taxicabs to provide service under its taxicab authority. (11) Although this application seeks paratransit authority, if it is granted, the applicant will use the same taxicabs to provide service that it presently uses to provide call or demand service. (11, 17) The applicant presently takes people for IME's with taxicabs under its existing call or demand authority and charges its taxicab rates. (15) The applicant transports an individual once a month to Allegheny County for a doctor's appointment under its existing call or demand authority and charges that individual its taxicab tariff rates. (18, 19) By its own admission, the only service that the applicant wants to provide if this application is granted is service for IME's and airport trips. (13)

The applicant admitted that it doesn't require paratransit authority in the area that it serves under its taxicab authority (Corry and 12 miles) which would indicate that the service which it seeks to provide by this application is similar to the service it provides under its taxicab authority. In that regard, the witness for the applicant stated:

Q. Okay. So you don't really need any paratransit authority in that area, correct, because you already are providing that service under your taxicab authority; correct?

A. Yes. (16-17)

The applicant also admitted that it has satisfactorily handled trips for IME's under its taxicab authority. In that regard, the witness testified:

Q. So you have done some of these trips involved in independent medical examinations or other medical services, you have done those under your taxicab authority, charging your taxicab rates in the past, and that's worked out fine; correct?

A. Yes. (19)

The witness for the applicant also admitted that the rates that it will charge if it is granted paratransit authority will be the same that it charges for taxicab service. In that regard, the witness stated:

Q. Forgetting about how to structure it, you don't have in mind yet what rates you're going to charge for this service?

A. I always figured it would be similar to our taxicab rates. (22)

The witness for the applicant frankly admitted that the service that will be provided if this application is granted will be the same service as is presently provided under its call or demand authority and that the rates that will be charged will be the same rates as are charged under its call or demand authority. The service will be provided in the same vehicles and the service will otherwise be the same. Since the paratransit regulations provide that no right, power or privilege is granted to provide service which is call or demand service, the Commission should not grant paratransit authority to the applicant where it intends to provide exactly the same service as it is providing under its call or demand certificate.

C. THE APPLICANT HAS FAILED TO DEMONSTRATE THAT THERE IS A PUBLIC DEMAND OR NEED FOR THE PROPOSED SERVICE.

52 Pa. Code §41.14(a) provides as follows:

An applicant seeking motor common carrier authority has the burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need. (emphasis added)

It is well established in Pennsylvania law that an applicant for a Certificate of Public Convenience has the burden of establishing a need for the proposed service. Follmer Trucking Company v. Pennsylvania Public Utility Commission, 189 Pa. Super. 204, 215, 150 A.2d 163 (1959); Motor Freight Express v. Pennsylvania Public Utility Commission, 188 Pa. Super 80, 85, 146 A.2d 323 (1958). While recognizing that it is not necessary for an applicant to present proof of need relating to every point in the territory requested, the Commission is still duty bound to withhold issuing a favorable order “without a basis in evidence having rational probative force.” Consolidated Edison Co. v. National Labor Relations Board, 305 U.S. 197 (1938), cited in Leaman Transportation Corporation v. Pennsylvania Public Utility Commission, 153 Pa. Super. 303, 308, 33 A.2d 721 (1943). Therefore, before a Certificate of Public Convenience may be issued by the Commission, the applicant must present substantial evidence that a need for the proposed service exists in the application territory. Dutchland Tours, Inc. v. Pennsylvania Public Utility Commission, 19 Pa. Commw. 1, 7, 337 A.2d 922 (1975).

The Commission revised and clarified its entry standards involving the need criteria enumerated in 52 Pa. Code §41.14(a) in Application of Blue Bird Coach Lines,

Inc., 72 Pa. P.U.C. 262 (1990). The Commission in Blue Bird, supra, promulgated the following simplified interpretation of the burden now required by 52 Pa. Code §41.14(a), stating:

When, through relevant, probative, competent and credible evidence of record, a motor common carrier applicant has shown that the applicant's proposed service will satisfy the supporting witness' asserted transportation demand/need, the applicant has sustained its burden of proof under subsection 41.14(a) by establishing that "approval of the application will serve a useful public purpose, responsive to a public demand or need."
(at p. 274)

In discussing the type of evidence required to establish need for the proposed service in Blue Bird, supra, the Commission made the following pertinent statements:

The witnesses supporting a motor common carrier application must be legally competent and credible, e.g., D.F. Bast, Inc.; Merz White Way Tours v. Pennsylvania Public Utility Commission, 204 Pa. Superior Ct. 43, 201 A.2d 446 (1964), and their testimony must be probative and relevant to the application proceeding. e.g., Purolator Courier Corp. I; Dutchland Tours, Inc.; Morgan Drive Away, Inc. II; 66 Pa. C.S. §332(b). The supporting witnesses must articulate a demand/need for the type of service embodied in the application. e.g., Purolator Courier Corp. I; Re Lenzner Coach Lines, Inc.; Re Mobilfone of Northeastern Pennsylvania, Inc.; Re James A. Means, 53 Pa. P.U.C. 216 (1979); Re Hesser Bros., Inc., 52 Pa. P.U.C. 69 (1978). Moreover, the supporting witnesses must identify Pennsylvania origin and destination points between which they require transportation, and these points must correspond with the scope of the operating territory specified in the application. E.g., Re Nothstein Bros., Inc., 64 Pa. P.U.C. 411 (1987); Re Purolator Courier Corp., 50 Pa. P.U.C. 308 (1976). (at p. 274).

In discussing the quantum of evidence required to establish need for the proposed service in Blue Bird, supra, the Commission made the following pertinent statements:

Therefore, the number of witnesses which will comprise a cross section of the public on the issue of public demand/need for an

applicant's proposed service will necessarily vary with the circumstances of the case such as the breadth of the applicant's intended operating territory, the population density in the intended operating territory, and the scope of the requested operating authority. (at pp. 274-275)

In applying the standards set forth in Blue Bird, it is clear that the applicant in this case has failed to demonstrate a public demand or need for the requested service. The application must therefore be denied.

The applicant in this case presented testimony from only one public witness, who was Carol DiSantis, a representative of SWIF. The witness for SWIF admitted that the needs of SWIF have been satisfactorily handled by Hanson's Errand Service. SWIF already has the service of the applicant available to it for service originating in Corry and within 12 miles thereof and yet has only ever used the service of the applicant one time from that area. (38) The primary area where SWIF requires service is from Erie County but the witness from SWIF admitted that she had no problem securing service on any Erie County trips in 2003. (39) The only other trips in 2003 mentioned by the witness for SWIF originating in counties handled by the witness were one trip originating in Crawford County, which was in 2003 and satisfactorily handled by Hanson's, and three or four trips from Warren County, which were handled by Hanson's and another company (Munksguarde Limousine Service). (40-41) Although SWIF has very limited service requirements, it has available to it a number of companies. The witness for SWIF admitted that if Hanson's is not available, she has the option of calling one of the local taxicab companies. (51) The witness for SWIF also admitted that now that she knows that the protestant has medical taxis, she probably would contact the protestant. (47-48)

The type of service required by SWIF, i.e. taking people to doctors' offices for an IME or an IRE, is no different from the type of service presently provided by the protestant on a daily basis. (69)

As indicated above, the Blue Bird case stands for the proposition that the applicant is required to show a cross-section of public demand/need in the application territory. In this case, there was only one public witness who testified in support of the application. This witness does not constitute a cross-section of public demand/need from the involved application territory.

In Application of Primo Limousine Co., Inc., Docket No. A-00111548, F. 1, Am-A (Initial Decision dated May 1, 1998; Opinion and Order adopted May 4, 1999), Administrative Law Judge Larry Gesoff determined that three public witnesses supporting an application for limousine authority in only two counties (Beaver and Lawrence) did not represent a cross-section of public demand/need. The Commission affirmed the decision of Judge Gesoff.

In Application of Gardner Moving Company, Docket No. A-00108945, F. 1, Am-A (Opinion and Order adopted January 11, 2001), the Commission determined that two public witnesses did not represent a cross-section of public demand/need for an application requesting authority to transport household goods between points within 75 miles of Pittsburgh.

If the public in the application area requires the service which the applicant is seeking to provide, it has available to it a number of different options, including the service of the protestant, which has facilities located at various different points in the

application area, specifically in Erie, Meadville, Titusville, Warren and Corry. (60) If someone actually requires service from an area outside of Erie County, the protestant can dispatch equipment from a satellite facility. (60) The protestant provides paratransit service with vans that are equipped with wheelchair lifts for transporting wheelchair-bound customers and also with medical taxis that transport ambulatory patients. (63) The protestant has seven wheelchair vans in Erie, two wheelchair vans in Warren, two wheelchair vans in Meadville, one wheelchair van in Corry and one wheelchair van in Titusville. (64-65) The protestant has three medical taxis located in Erie and one in Warren. (65) All of this equipment is used to provide paratransit service under protestant's PUC authority. (66) The protestant would be more than willing to provide service for SWIF if requested. (69) The type of service required by SWIF, i.e. taking people to doctors' office for an IME or an IRE, is no different from the type of service presently provided by the protestant on a daily basis. (69) If SWIF requires service in addition to the service that it has been using, it can call upon the protestant to provide that service.

This application seeks paratransit authority in nine counties in northwestern Pennsylvania. In support of its application for this very broad authority, the applicant presented the testimony of one public witness, who admittedly has satisfactory service available to her. This testimony clearly does not establish a cross section of public demand/need for service as enunciated in the Blue Bird case.

V. PROPOSED CONCLUSIONS OF LAW

Protestant requests that the Administrative Law Judge make the following conclusions of law:

1. This Commission has jurisdiction over the subject matter and the parties in this proceeding.

2. The application is properly before the Commission.

3. The application must be denied since the applicant has failed to meet its burden of demonstrating that approval of the application is necessary or proper for the service, accommodation, convenience or safety of the public.

4. The application must be denied since the applicant has failed to meet its burden of demonstrating that approval of the application will serve a useful public purpose, responsive to a public demand or need.

5. The application must be denied since the applicant is seeking to provide the same type of service that it presently provides, i.e. call or demand service, and since the paratransit regulations provide that a carrier operating paratransit service cannot provide call or demand service.

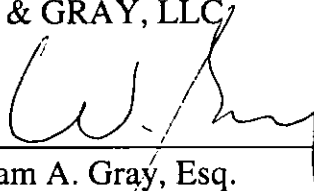
VI. CONCLUSION

For all of the foregoing reasons, the protestant respectfully requests that the application of Corry Cab Company be denied in its entirety.

Respectfully submitted,

VUONO & GRAY, LLC

By: _____


William A. Gray, Esq.

Attorney for

TRI-STATE EMERGENCY SYSTEMS,
INC., t/d/b/a EMERGYCARE

Protestant

VUONO & GRAY, LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800

Due Date: March 12, 2004

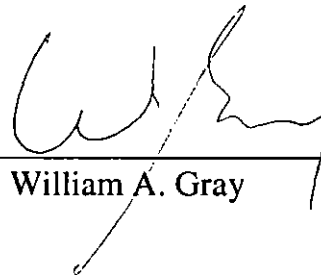
/30019

CERTIFICATE OF SERVICE

I hereby certify that I have this day served two (2) copies of the Main Brief of Protestant on the following parties of record by first class mail, postage prepaid:

Edward J. Betza, Esq.
Elderkin, Martin, Kelly & Messina
Jones School Square
150 East Eighth Street
Erie, PA 16501-1269

Dated this 12th day of March, 2004.



William A. Gray

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MAR 12 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Law Offices

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2310 Grant Building

Pittsburgh, PA 15219-2383

March 24, 2004

Richard R. Wilson
of Counsel

Telephone
412-471-1800

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Re: Corry Cab Company
Docket No. A-00117072, F. 3

Mr. James J. McNulty
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 Mr. McNulty:

We enclose for filing with the Commission the signed original and nine (9) copies of the Reply Brief of Protestant in connection with the above-captioned proceeding.

A copy of the Reply Brief has been sent to Administrative Law Judge Michael A. Nemec and two (2) copies have been served on the attorney for the applicant.

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.

RECEIVED

MAR 24 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Very truly yours,

VUONO & GRAY, LLC

William A. Gray

DOCUMENT
FOLDER

pz/30810

Enclosures

cc: Honorable Michael A. Nemec (w/enc.)
Edward J. Betza, Esq. (w/enc.)
Tri-State Emergency Systems, Inc. t/d/b/a Emergycare (w/enc.)

RJP

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

DOCKET NO. A-00117072, F. 3

CORRY CAB COMPANY

REPLY BRIEF OF PROTESTANT

DOCKETED
MAR 30 2004

DOCUMENT
FOLDER

WILLIAM A. GRAY, ESQ.
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Due Date: March 26, 2004

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MAR 24 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKET NO. A-00117072, F. 3

CORRY CAB COMPANY

REPLY BRIEF OF PROTESTANT

I. STATEMENT OF THE CASE

This application was originally filed by Corry Cab Company (“the applicant”) seeking to provide the following service:

Persons, in paratransit service, between points in the Counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said counties, to points in Pennsylvania, and return.

The applicant subsequently amended the application to eliminate some of the protests filed to the application. The protestant assumes that the applicant correctly set forth at page 2 of its Main Brief the restrictions agreed upon by the applicant to eliminate certain protests, which are as follows:

- (A) That no right, power or privilege is granted to transport persons between points in Mercer County; and
- (B) That no right, power or privilege is granted to transport persons to or from points within Mercer County utilizing lift-equipped wheelchair vans; and
- (C) That no right, power or privilege is granted to originate service at nursing homes or skilled nursing facilities within Mercer County; and

- (D) That no right, power or privilege is granted to transport persons in paratransit service between points in Venango County; and
- (E) That no right, power or privilege is granted to originate service from points within the city of St. Mary's, a municipality located within Elk County, or points which are located within an airline distance of fifteen (15) statute miles of the limits of the city of St. Mary's; and
- (F) That no right, power or privilege is granted to provide service originating in Jefferson County south of Interstate Highway 80; and
- (G) That all transports originate in Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk or Jefferson Counties and travel to destinations in Erie, Crawford, Butler or Allegheny Counties.

A hearing was held in this case in Pittsburgh on January 16, 2004, before Administrative Law Judge Michael A. Nemec. Main Briefs were filed by the applicant and by the protestant. The Main Brief filed by the applicant sets forth factual and legal arguments which must be addressed by the protestant. The protestant therefore hereby files this Reply Brief to respond to the Main Brief filed by the applicant.

II. REBUTTAL ARGUMENT

A. THE APPLICANT HAS FAILED TO DEMONSTRATE THAT THERE IS A PUBLIC DEMAND OR NEED FOR THE PROPOSED SERVICE.

The applicant at page 3 of its Main Brief tries to distinguish the type of service that it will provide if this application is granted from the type of service provided by the protestant. The type of service to be provided by the applicant, by its own admission, is service to and from doctors' offices for independent medical exams (IME's) and for impairment rating examinations (IRE's). Most of this service will be provided to doctors' offices in Allegheny County. The witness for the protestant testified that the protestant provides paratransit service to Allegheny County on a daily basis, generally to

doctors' offices. (67-68) The witness further testified that the type of service required by SWIF, i.e. taking people to doctors' offices for an IME or an IRE, is no different from the type of service presently provided by the protestant on a daily basis. (69) The witness for the protestant also testified that the protestant provides service now where it deals with medical insurance companies. (72) Stated simply, the service proposed to be provided by the applicant is basically no different from the type of service provided by the protestant on a daily basis.

The applicant states at page 6 of its Main Brief that it has "...received several requests to provide transportation to and from IMEs/IREs in the Western Pennsylvania area." This service request testimony should not be considered by the Commission as evidence of public demand or need since these service requests do not meet the requirements set forth in 52 Pa. Code §3.382(a).

The applicant states on page 6 of its Main Brief that Hanson's Errand Service, Yellow Cab of Erie and an unnamed service provider in North East are, according to the witness for the applicant, currently unable to fill the present need for service. There is absolutely no basis for this self-serving statement made by the witness for the applicant, who would have no way of knowing whether these companies are meeting the service needs of the public. The only public witness who testified in this case was the witness for SWIF and that witness did not identify any problems with existing service. The witness for SWIF admitted that the needs of SWIF have been satisfactorily handled by Hanson's Errand Service and the other companies that have provided service to it. The witness for SWIF admitted that if Hanson's is not available, she has the option of calling one of the

local taxicab companies. (51) The witness for SWIF also admitted that now that she knows that the protestant has medical taxis, she will be able to contact the protestant. (47-48) The type of service required by SWIF, i.e. taking people to doctors' offices for an IME or an IRE, is no different from the type of service presently provided by the protestant on a daily basis. (69) Existing service providers are clearly able to meet SWIF's present need for service.

The applicant states at page 7 of its Main Brief that due to doctors' schedules, it is sometimes difficult for SWIF to schedule independent medical examinations. However, notwithstanding this fact, the witness for SWIF admitted to having no difficulties in securing service in 2003. The primary area where SWIF requires service is from Erie County but the witness from SWIF admitted that she had no problem securing service on any Erie County trips in 2003. (39) The only other trips in 2003 mentioned by the witness for SWIF originating in counties handled by the witness were one trip originating in Crawford County, which was satisfactorily handled by Hanson's, and three or four trips from Warren County, which were handled by Hanson's and another company (Munksguarde Limousine Service). The fact that it is difficult to schedule IME's has not caused any service problems, at least in 2003, for SWIF.

This application seeks paratransit authority in nine counties in northwestern Pennsylvania. In support of its application for this very broad authority, the applicant presented the testimony of one public witness, who admittedly has satisfactory service available to her. This testimony clearly does not establish a cross section of public demand/need for service as enunciated in Application of Blue Bird Coach Lines, Inc., 72

Pa. P.U.C. 262 (1990). Interestingly, the applicant did not even address in its Main Brief the requirement set forth in Blue Bird and other more recent Commission cases (see pages 16 of protestant's Main Brief) that an applicant is required to show a cross-section of public demand/need in the application territory.

The applicant has failed to demonstrate that there is a public demand or need for the proposed service.

B. THE PROTESTANT HAS NOT TAKEN THE POSITION THAT GRANTING THIS APPLICATION WOULD ENDANGER OR IMPAIR ITS OPERATIONS.

The applicant argues at page 9 of its Main Brief that the protestant has failed to satisfy its burden under 52 Pa. Code §41.14(c) that the grant of authority would endanger or impair its operations. The protestant filing this Reply Brief has not taken this position either at the hearing or in its Main Brief and is not now taking this position. The protestant's position, quite simply, is that the applicant has failed to carry its burden of proof under 52 Pa. Code §41.14(a) and that the application must be denied on that basis. The protestant has also taken the position that the paratransit regulations prohibit the granting of this application since the applicant really intends to provide call or demand service.

III. CONCLUSION

For the foregoing reasons and for the additional reasons set forth in its Main Brief, the protestant respectfully requests that the application of Corry Cab Company be denied in its entirety.

Respectfully submitted,

VUONO & GRAY, LLC

By: 

William A. Gray, Esq.

Attorney for

TRI-STATE EMERGENCY SYSTEMS,
INC., t/d/b/a EMERGYCARE

Protestant

VUONO & GRAY, LLC
2310 Grant Building
Pittsburgh, PA 15219
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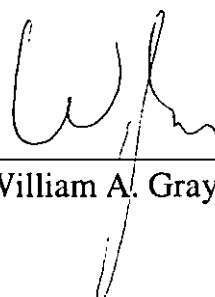
/30811

CERTIFICATE OF SERVICE

I hereby certify that I have this day served two (2) copies of the Reply Brief of Protestant on the following parties of record by first class mail, postage prepaid:

Edward J. Betza, Esq.
Elderkin, Martin, Kelly & Messina
Jones School Square
150 East Eighth Street
Erie, PA 16501-1269

Dated this 24th day of March, 2004.



William A. Gray

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JUL 21 2004

Act 294

04/11/04 11:30

SECRETARY'S BUREAU

Case Identification:

A-00117072F0003; Application
of Corry Cab Company, t/d/b/a
Corry Cab Company

Initial Decision By:

ALJ Michael A. Nemec

Deadline for Return to OSA:

July 19, 2004

**DOCUMENT
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This decision has not been reviewed by OSA.

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* * * * *

I want full Commission review of this decision.

Commissioner

Date

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Terrance J. Fitzpatrick

Commissioner

7/13/04

Date

Act 294

Case Identification: A-00117072F0003; Application
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Corry Cab Company

Initial Decision By: ALJ Michael A. Nemeo

Deadline for Return to OSA: July 19, 2004

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Commissioner

Date

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Robert K. Bloom/rk

Commissioner

7-19-04

Date

Act 294

Case Identification: A-00117072F0003; Application
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Initial Decision By: ALJ Michael A. Nemec

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Commissioner

Date

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✓ Kim Fitzgerald
Commissioner

7/19/04
Date

Act 294

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Commissioner

Date

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Glen Thomas

Commissioner

7/15/04

Date

Act 294

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OFFICE OF SPECIAL
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Commissioner

Date

I do not want full Commission review of this decision.

Spandell J. Stalwood

Commissioner

7/19/04

Date

DATE: October 28, 2004

SUBJECT: A-00117072F0003

TO: Office of Administrative Law Judge
Susan Hoffner

FROM: James J. McNulty
Secretary
nvl

DOCKETED
NOV 16 2004

CORRY CAB COMPANY
T/A CORRY C AB COMPANY

The Initial Decision has been served upon all parties of interest.

Neither exceptions nor requests for review from the Commissioners have been received by the Commission. This matter is referred to your office for whatever action you deem necessary.

cc: Office of Special Assistants

DOCUMENT
FOLDER

P.S. Please note that exceptions or reply exceptions may come in timely with certificates of mailings. A second memo will not be released for these exceptions.