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DOCUMENT
FOLD

David T. Games
Direct Dial: (215) 299-2034
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ORIGINAL

January 17, 2001

VIA FEDERAL EXPRESS

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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JAN 17 2001

PUBLIC UTILITY COMM
SECRETARY'S BUREAU


Re: Application of Liberty Ambulance Response, Inc.
Docket Number: A-00117214

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of Joint Protestants, Suburban Transit Network, Inc. T/A Transnet and Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Transportation Services Co. ("Bux-Mont") Motion to Dismiss the Application of Liberty Ambulance Response, Inc., copies of which are being served on all parties of record. Please return a time-stamped copy in the self-addressed stamped envelope provided.

Thank you for your courtesy.

Sincerely,



David T. Games

DTG/mn

Enclosure

cc: Administrative Law Judge Allison K. Turner (via Federal Express Mail)
Liberty Ambulance Response, Inc. (via Federal Express Mail)
James W. Patterson, Esquire (via Federal Express Mail)

DOCKETED
JAN 22 2001

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION JAN 17 2001

IN RE: APPLICATION OF
LIBERTY AMBULANCE RESPONSE, INC.

:
:
:

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU
DOCKET A-00117214

ORIGINAL

**PROTESTANTS SUBURBAN TRANSIT NETWORK, INC. t/d/b/a
TRANSNET AND WILLOW GROVE YELLOW CAB CO., INC. t/d/b/a
BUX-MONT TRANSPORTATION SERVICES, CO.'S MOTION TO
DISMISS THE APPLICATION OF LIBERTY AMBULANCE RESPONSE, INC.**

Protestants, Suburban Transit Network, Inc. t/a TransNet and Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Transportation Services, Co, ("Protestants") hereby move the Commission to dismiss the Application of Liberty Ambulance Response, Inc. ("Liberty"), pursuant to 52 Pa. Code §§ 5.371 and 5.372, for failure to comply with the Order of Administrative Law Judge Allison K. Turner compelling Liberty to answer Protestants' interrogatories.

1. On July 24, 2000, Liberty filed an Application with the Pennsylvania Public Utility Commission seeking to provide paratransit service between points in the counties of Delaware, Montgomery and Philadelphia.
2. Notice of the Application was published in the Pennsylvania Bulletin on September 30, 2000.
3. Protests to the application were due on or before October 23, 2000.
4. Protestants timely filed a protest to Liberty's application on October 17, 2000 serving a copy thereof on Liberty.
5. On November 6, 2000, Protestants served Liberty with Protestants' First Set of Interrogatories.

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JAN 17 2001

6. Liberty failed to respond to Protestants' First Set of Interrogatories as required by 52 Pa. Code § 5.342(d).

7. On December 20, 2000, Protestants filed a motion to compel Liberty to answer its First Set of Interrogatories.

8. On January 5, 2001, Administrative Law Judge Allison K. Turner entered Prehearing Order Number 2, requiring Liberty to provide answers to Protestants' First Set of Interrogatories no later than 10 days after January 5, 2001 or be subject to sanctions. A copy of the January 5, 2001 Order is attached hereto as Exhibit "A".

9. As of January 17, 2001, Liberty has not filed any document withdrawing its Application, Liberty has not contacted Protestants, nor has Liberty provided answers to Protestants' First Set of Interrogatories, in violation of Judge Turner's Order.

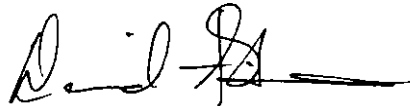
10. This matter is scheduled for a hearing February 1, 2001, before Administrative Law Judge Allison K. Turner.

11. Protestants can not properly prepare for the hearing as a result of Liberty's failure to comply with the Commission's rules and Administrative Law Judge's Turner earlier Order.

12. Therefore, Protestants move the Commission to dismiss Liberty's Application pursuant to 52 Pa. Code §§ 5.371 and 5.732.

WHEREFORE, Protestants, Suburban Transit Network, Inc. t/d/b/a TransNet and Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Transportation Services, Co., respectfully request that the Application of Liberty Ambulance Response, Inc. be dismissed.

Respectfully submitted,



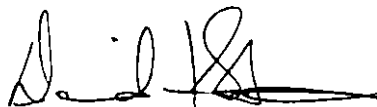
BARNETT SATINSKY, ESQUIRE
DAVID T. GARNES, ESQUIRE
FOX, ROTHSCHILD, O'BRIEN & FRANKEL, LLP
2000 Market Street, Tenth Floor
Philadelphia, PA 19103-3291
(215) 299-2000

Attorneys for Protestants, SUBURBAN TRANSIT
NETWORK, INC. T/A TRANSNET AND WILLOW
GROVE YELLOW CAB CO., INC. T/D/B/A BUX-
MONT TRANSPORTATION SERVICES CO.

Dated: January 17, 2001

VERIFICATION

I, David T. Garnes, Esquire, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.



David T. Garnes, Esquire

Attorneys for Protestants
Suburban Transit Network, Inc. t/a TransNet and
Willow Grove Cab Co., Inc. t/d/b/a Bux-Mont
Transportation Services Co.

Dated: January 17, 2001

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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JAN 17 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

Application of Liberty Ambulance Response, Inc.	:	
For the right to begin to transport, as a common carrier,	:	
by motor vehicle, persons in paratransit service,	:	Docket No.
between points in the counties of Delaware,	:	
Montgomery and Philadelphia, limited to the	:	A-00117214
transportation of persons who require assistance for	:	
personal mobility to or from the vehicle.	:	

PREHEARING ORDER NO. 2

This application of Liberty Ambulance Response, Inc. (Applicant or Liberty) was filed on August 14, 2000, and published in the Pennsylvania Bulletin on September 27, 2000. Protests had to be filed by October 23, 2000.

On or about October 17, 2000, Suburban Transit Network, Inc., t/d/b/a TransNet (TransNet) and Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Transportation Services Co. (Bux-Mont) (Protestant(s) or Joint Protestants) filed their protests to the Application.

On or about October 18, 2000, Walsh Cab Co., Inc. (Walsh or Protestant) filed a protest against the Application.

On or about November 30, 2000, the Office of Administrative Law Judge (OALJ) sent a letter to the parties inquiring about their consent to participate in the mediation process. Apparently, no reply was made to this letter.

By hearing notice dated December 15, 2000, the Commission scheduled the application for a hearing to be held on Thursday, February 1, 2001, at 10:00 a.m. in the Philadelphia State Office Building. The case has been assigned to Administrative Law Judge Allison K. Turner (ALJ) for hearing and decision.

On or about November 6, 2001, TransNet and Bux-Mont propounded their First Set of Interrogatories upon Liberty. Under the Commission's rules, Liberty's responses were due within 20 days of service, or on or about November 30, 2000, including an allowance for service by first class mail.

On December 20, 2000, not having been served with any responses, TransNet and Bux-Mont filed their Motion of Joint Protestants to Compel Answers to their Interrogatories (Motion), seeking that Liberty be directed to provide Answers. If Applicant fails to respond to interrogatories, it may be subject to sanctions as provided by the Commission's regulations, up to and including dismissal of its Application. 52 Pa. Code §§5.371-5.372.

Under the Commission's rules, Applicant has 20 days to Answer Protestant's Motion. 52 Pa. Code §5.61. Three days must be added since the Interrogatories were served by first class mail. 52 Pa. Code §1.56. This time period, including the allowance for service by first class mail, expired on or about January 4, 2001. As of the date of this Order, the ALJ has not received a copy of a response to the Motion, and the Commission's computerized records do not show that a response has been received.

The purpose of this Order is to rule on the Motion to Compel.

Discussion

I am reluctant to allow procedural maneuvers to prevent Applicants from presenting their case to the Commission about their proposed service. On the other hand, Applicants have a duty to participate in the preliminary stages of the proceedings on their Applications, and here, Liberty, the Applicant, has not done so. Applicant has not responded to discovery requests made on it as required by the Commission's regulations at 52 Pa. Code §§5.341 and 5.342, nor has it responded to the Motion to Compel. Therefore, the Joint Protestant's Motion to Compel is well founded, and will be granted.

ORDER

1. The Motion to Compel filed by Joint Protestants Suburban Transit Network, Inc. t/d/b/a TransNet and Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Transportation Services Co., is hereby granted, and Liberty Response Inc. should either formally or informally provide the answers to interrogatories and document requests propounded on it by Joint Protestants no later than 10 days after the date of this Order, or be subject to the sanctions provided in the Commission's regulations.



Allison K. Turner,
Administrative Law Judge

Dated: January 5, 2001

Application of Liberty Ambulance Response, Inc.
Docket No. A-00117214

SERVICE LIST

Liberty Ambulance Response, Inc.
51 Gibraltar Drive, Suite 1F
Morris Plains, N.J. 07950-1254

James W. Patterson, Esquire
Saul Ewing, LLP
3800 Centre Square West
Philadelphia, PA 19102

Barnett Satinsky, Esquire
Fox Rothschild O'Brien & Frankel LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103-3291

CERTIFICATE OF SERVICE

I hereby certify that I have this day served true copies of Protestant Suburban Transit Network, Inc. t/d/b/a TransNet and Willow Grove Yellow Cab Co., Inc. t/d/b/a Bux-Mont Transportation Services Co.'s Motion to Dismiss the Application of Liberty Ambulance Response, Inc., as indicated below upon the participants, in accordance with the requirements of 52 Pa. Code § 1.54.

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(Via Federal Express Mail)

Administrative Law Judge Allison K. Turner
Pennsylvania Public Utility Commission
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
(Via Federal Express Mail)

Liberty Ambulance Response, Inc.
51 Gibraltar Drive, Suite 1F
Morris Plains, NJ 07950-1254
(Via Federal Express Mail)

James W. Patterson, Esquire
Saul Ewing, LLP
3800 Centre Square West
Philadelphia, PA 19102
(Via Federal Express Mail)



Barnett Satinsky, Esquire
David T. Garnes, Esquire
Fox, Rothschild, O'Brien & Frankel, LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103-3291

Dated: January 17, 2001



COPY

JAMES W. PATTERSON

Phone: (215) 972-7824

Fax: (215) 972-1935

jpatterson@saul.com

www.saul.com

January 19, 2001

Honorable Allison K. Turner,
Administrative Law Judge
Pennsylvania Public Utility Commission
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130

DOCKETED

JAN 21 2001

**RE: Application of Liberty Ambulance Response, Inc.
Docket No. A-00117214**

**DOCUMENT
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Dear Judge Turner:

On behalf of Protestant, Walsh Cab Co., Inc., we join in the Motion of Protestants TransNet and Bux-Mont seeking dismissal of the Liberty Ambulance Response, Inc. application.

Very truly yours,

JWP

745613

JAMES W. PATTERSON

JWP/mm

cc: James J. McNulty, Secretary ✓
Liberty Ambulance Response, Inc.
Walsh Cab Co., Inc.
David T. Ganes, Esquire

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01 JAN 22 AM 9:22

RM



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

January 22, 2001

In Re: **A-00117214**

(See letter dated 12/15/2000)

Application of Liberty Ambulance Response, Inc.

For the right to begin to transport, as a common carrier, by motor vehicle, persons, in paratransit service, between points in the counties of Delaware, Montgomery and Philadelphia, limited to the transportation of persons who require assistance for personal mobility to or from the vehicle.

Hearing Cancellation Notice

This is to inform you that the Initial Hearing on the above-captioned case now scheduled to be held on Thursday, February 1, 2001 at 10:00 a.m. in Philadelphia, Pennsylvania has been canceled.

Presiding: **Administrative Law Judge Allison K. Turner**
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
Telephone: (215) 560-2105
Fax: (215) 560-3133

Please mark your records accordingly.
pc: Judge Turner
Steve Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

DOCKETED

JAN 23 2001

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FOLDER

OALJ Hearing Report

Please Check Those Blocks Which Apply

Docket No.:	A-00117214		YES	NO
		Prehearing Held:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Case Name:	Application of Liberty Ambulance Response, Inc.	Hearing Held:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Testimony Taken:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Transcript Due:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Hearing Concluded:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Location:	Philadelphia, PA	Further Hearing Needed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Estimated Add'l Days:		
Date:	February 1, 2001			
		RECORD CLOSED:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ALJ:	Allison K. Turner	DATE:		
		Briefs to be Filed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Reporting Firm:	Commonwealth Reporting	DATE:		
		Bench Decision:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		REMARKS:	<i>Hearing cancelled because Motion to Dismiss filed; Answers due Feb. 1</i>	

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FEB 14 2001

UTILITY COMMISSION

PHILADELPHIA BUREAU

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

Name and Telephone Number	Address	Who are you representing?
	DOCUMENT FOLDER	
Telephone:	E-mail Address:	Fax Number:
	City State Zip	
Telephone:	E-mail Address:	Fax Number:
	City State Zip	
Telephone:	E-mail Address:	Fax Number:
	City State Zip	

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.

RHC