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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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JAN 18 2001

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.

44-055

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.

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On or about October 18, 2000, Walsh Cab Co., Inc. (Walsh of 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