

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of East Coast Resources, LLC	:	
a limited liability company of the	:	
Commonwealth of Pennsylvania, for the right to	:	
begin to transport, by motor vehicle, persons	:	A-2014-2453533
in the experimental service of ride sharing	:	
network for passenger trips, from points in	:	
Cumberland, Dauphin, Lancaster, Lebanon and	:	
York Counties, to points in Pennsylvania,	:	
and return, excluding service under the	:	
jurisdiction of the Philadelphia Parking Authority	:	

**INITIAL DECISION GRANTING REQUEST FOR LEAVE TO WITHDRAW
APPLICATION**

Before
David A. Salapa
Administrative Law Judge

INTRODUCTION

A corporation filed an application to provide experimental ride sharing service. This decision grants the corporation's request to withdraw its application.

HISTORY OF THE PROCEEDING

On October 7, 2014, East Coast Resources, LLC (East Coast) filed an application with the Pennsylvania Public Utility Commission (Commission) requesting the right to begin to transport, persons in the experimental service of ride sharing network for passenger trips, from points in Cumberland, Dauphin, Lancaster, Lebanon and York Counties to points in Pennsylvania and return, excluding service under the jurisdiction of the Philadelphia Parking Authority. The Commission caused notice of East Coast's application to be published in the

Pennsylvania Bulletin dated March 21, 2015, at 45 Pa.B. 1474. The notice stated that the deadline for filing protests was April 6, 2015.

On April 6, 2015, Good Cab, LLC (Good), United Cab, LLC (United), Keystone Cab Service, Inc. (Keystone), EZ Taxi, LLC (EZ) and Capital City Cab Service (Capital City) all filed protests to East Coast's application. I will refer to Good, United, Keystone, EZ and Capital City collectively as the Protestants. The Protestants' protests alleged that they provided call and demand service in portions of the counties where East Coast sought authority to operate.

The protests alleged that East Coast's application would not serve a useful public purpose, responsive to a public demand or need, but would duplicate already existing service to the detriment of existing carriers. The protests also alleged that approval of East Coast's application would impair the Protestants' operations to such an extent that it would be contrary to the public interest. Finally, the protests alleged that East Coast was neither technically nor financially capable of providing the service its application proposed. The protests requested that the Commission deny East Coast's application.

On April 24, 2015, East Coast filed a motion to dismiss the Protestants' protests. East Coast's motion to dismiss stated that the Protestants' protests did not allege that they hold a certificate of public convenience to provide ride sharing network or transportation network company (TNC) service. East Coast argued that, since the Protestants' protests failed to allege that they hold a certificate of public convenience to provide TNC service, the Protestants lacked standing to protest East Coast's application. The motion to dismiss requested that the Commission dismiss the Protestants' protests because the Protestants lacked standing.

On May 4, 2015, Good, United, Keystone and EZ filed a joint response to East Coast's motion to dismiss. Good's, United's, Keystone's and EZ's joint response argued that they held authority similar to that sought by East Coast. Therefore, Good, United, Keystone and EZ argued that East Coast's application presented a potential conflict with their authority. Good's, United's, Keystone's and EZ's joint response requested that the Commission deny East Coast's motion to dismiss.

On May 4, 2015, Capital City filed an answer to East Coast's motion to dismiss. Capital City's answer argued that East Coast's application presented a potential conflict with its authority. Capital City also argued that the principal shareholder in East Coast was also the principal shareholder in a call and demand carrier. According to Capital City, East Coast was attempting to commence a gypsy cab operation free from any Commission regulation. Capital City requested that the Commission deny East Coast's motion to dismiss.

By notice dated June 2, 2015, the Commission notified the parties that it had assigned the case to me as motion judge. On June 19, 2015, I issued an initial decision sustaining East Coast's preliminary objections and dismissing the Protestants' protests.

On July 8, 2015, the Protestants filed exceptions to the initial decision. On July 20, 2015, East Coast filed replies to the exceptions of the Protestants.

By order entered on January 28, 2016, the Commission granted the exceptions of the Protestants, reversed the initial decision and remanded the case to the Office of Administrative Law Judge for further proceedings.

By notice dated February 1, 2016, the Commission scheduled a hearing for this matter on March 17, 2016 at 10:00 a.m. in Hearing Room 3 of the Commonwealth Keystone Building in Harrisburg and assigned the case to me. I issued a prehearing order dated February 1, 2016, addressing, *inter alia*, requests for continuance, subpoena procedures, attorney representation and the Commission's policy encouraging settlements.

On March 8, 2016, East Coast requested that I continue the hearing scheduled for March 17, 2016. The Protestants did not object to this request.

I granted East Coast's request and by notice dated March 9, 2016, the Commission scheduled a hearing for this matter on May 3, 2016 at 10:00 a.m. in Hearing Room 2 of the Commonwealth Keystone Building in Harrisburg.

On April 5, 2016, East Coast requested that I continue the hearing scheduled for May 3, 2016. The Protestants did not object to this request.

I granted East Coast's request and by notice dated April 7, 2016, the Commission scheduled a hearing for this matter on September 29, 2016 at 10:00 a.m. in Hearing Room 2 of the Commonwealth Keystone Building in Harrisburg.

On September 1, 2016, East Coast filed a letter withdrawing its application. The letter states that East Coast no longer wishes to incur further expenditure of resources on this matter. The letter indicates that copies of the letter have been served on the Protestants.

As of the date of this decision, the Protestants have not filed an answer to East Coast's letter. East Coast's request for leave to withdraw is ready for decision. For the reasons set forth below, I will grant the request.

FINDINGS OF FACT

1. The applicant in this case is East Coast Resources, LLC
2. On October 7, 2014, East Coast Resources, LLC filed an application with the Pennsylvania Public Utility Commission.
3. The Pennsylvania Public Utility Commission caused notice of the application to be published in the Pennsylvania Bulletin dated March 21, 2015, at 45 Pa.B. 1474.
4. On April 6, 2015, Good Cab, LLC, United Cab, LLC, Keystone Cab Service, Inc., EZ Taxi, LLC and Capital City Cab Service all filed protests to East Coast Resources, LLC's application.
5. On April 24, 2015, East Coast Resources, LLC filed a motion to dismiss protests.

6. On May 4, 2015, Good Cab, LLC, United Cab, LLC, Keystone Cab Service, Inc., EZ Taxi, LLC and Capital City Cab Service all filed answers to East Coast Resources, LLC's motion to dismiss.

7. On June 19, 2015, an initial decision was issued sustaining East Coast Resources, LLC's preliminary objections and dismissing the Protestants' protests.

8. By order entered on January 28, 2016, the Commission reversed the initial decision and remanded the case to the Office of Administrative Law Judge for further proceedings.

9. On September 1, 2016, East Coast filed a letter withdrawing its application.

10. The Protestants did not file a response to East Coast's letter.

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa.Code § 5.94(a) allows withdrawal of pleadings by a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto and the public interest in determining whether to permit withdrawal of the pleading.

East Coast's September 1, 2016 letter does not comply with 52 Pa.Code § 5.94 in that it does not fulfill the general requirements for a petition set forth in 52 Pa.Code § 5.41. However, the regulation at 52 Pa.Code § 1.2(a) provides that the presiding officer or the Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties. Since East Coast's September 1, 2016 letter requested permission to withdraw its application and a copy of the document was served on the Protestants, the Protestants had notice of the request and an opportunity to file a response to the letter.

I will ignore the procedural defects of East Coast's request and treat the September 1, 2016 letter as a petition for leave to withdraw, filed pursuant to 52 Pa.Code § 5.94, in order to secure a just, speedy and inexpensive determination of this proceeding pursuant to 52 Pa.Code § 1.2(a). This will not adversely affect the Protestants' substantive rights, pursuant to 52 Pa.Code § 1.2(c), since they had notice of the issue and an opportunity to respond.

Turning first to East Coast's request to withdraw its application, East Coast asserts that it no longer wishes to incur further expenditure of resources on this matter. The Commission has no interest in mandating that an applicant pursue litigation.

Turning next to any objections to the withdrawal of East Coast's application, by failing to file an answer to East Coast's petition, the Protestants have indicated that they do not object to the withdrawal. There are no other parties in this proceeding. Therefore, there are no objections to East Coast's withdrawal.

Turning finally to the public interest, the application does not allege facts that would impact the public interest. There appear to be other carriers that can provide service to the public if the Commission grants East Coast's petition to withdraw. Since there are other carriers that can provide service to the public, the public interest will not be adversely affected by granting East Coast's withdrawal.

Having reviewed the request to withdraw, any objections to the request and the public interest, I conclude that the request to withdraw should be granted. Granting the request to withdraw will terminate the litigation, saving the parties the costs in time and money they would otherwise incur litigating the case. Granting the request to withdraw will not impact the public interest and will conserve administrative hearing resources. I will grant East Coast's petition to withdraw its application.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of, and the parties to, this proceeding. 66 Pa.C.S. § 1102.

2. The Commission's Rules of Practice and Procedure permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission. 52 Pa.Code § 5.94.

3. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa.Code § 5.94.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the petition for leave to withdraw the October 7, 2014 application of East Coast Resources, LLC, filed at Docket No. A-2014-2453533 on September 1, 2016, is granted.

2. That the application of East Coast Resources, LLC, filed October 7, 2014 at Docket No. A-2014-2453533, is withdrawn.

3. That the docket at Docket No. A-2014-2453533 is marked closed.

Date: September 15, 2016

/s/
David A. Salapa
Administrative Law Judge