



THOMAS, NIESEN & THOMAS, LLC

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December 31, 2019

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Application of Senior Care Centers of Pennsylvania, Inc.
Docket No. A-2019-3014494

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Rover Community Transportation, Inc. is its Protest to the above-referenced Application. Copies of the Protest are being served in accordance with the attached Certificate of Service.

Should you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,

THOMAS, NIESEN & THOMAS, LLC

By 

Thomas T. Niesen

Enclosure

cc: Certificate of Service (w/encl.)
Dale N. Krapf (w/encl.)
Gary D. Krapf (w/encl.)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Senior Care : Docket No. A-2019-3014494
Centers of Pennsylvania, Inc. :

**PROTEST OF
ROVER COMMUNITY TRANSPORTATION, INC.**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes Rover Community Transportation, Inc. ("Protestant"), by its attorney, and files this Protest to the above-captioned application for transportation of persons in paratransit service as set forth therein ("Application"). In support, Protestant respectfully represents:

1. The name and address of Applicant and the docket number of the Application are:

Senior Care Centers of Pennsylvania, Inc. ("Applicant")
Physical Address: 590 Reed Road, Unit B2, Broomall, PA 19008
Mailing Address: 6 Neshaminy Interplex, Suite 401, Trevoze, PA 19053

Docket No. A-2019-3014494

2. The name, business address, and telephone number of Protestant are:

Rover Community Transportation, Inc.
1030 Andrew Drive
West Chester, PA 19380
Tel: 610.431.1500

3. The names, business address, and contact information of Protestant's attorneys for this matter are:

Thomas T. Niesen
Charles E. Thomas, III
THOMAS, NIESEN & THOMAS, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101
Tel: 717.255.7600
tniesen@tntlawfirm.com
cet3@tntlawfirm.com

4. Applicant has applied for approval for the right to transport, as a common carrier, persons in paratransit service, between points in the Counties of Bucks, Chester, Delaware and Montgomery, and the City and County of Philadelphia. Protestant holds authority of the Pennsylvania Public Utility Commission (“Commission”) in conflict with a portion of the authority Applicant seeks in this proceeding (*viz.* Chester County). The authority held by Protestant at A-6414067, upon which its protest is predicated, is attached hereto as **Attachment A** and made a part hereof.

5. Absent on the record presentations, Protestant does not believe that Applicant possesses the technical and financial ability to provide the proposed service in a safe, reliable, and legal manner. In particular, the Application lacks sufficient information about Applicant’s fitness and fails to demonstrate, *inter alia*, that: (1) Applicant has sufficient capital, equipment, facilities and other resources necessary to serve the territory requested; (2) Applicant and its employees have sufficient technical expertise and experience to serve the proposed territory; (3) Applicant has or is able to secure sufficient and continuous insurance coverage for all vehicles to be used or useful in the provision of service to the public; (4) Applicant has an appropriate plan to comply with the Commission’s driver and vehicle safety regulations and service standards; (5) Applicant is in compliance with the Pennsylvania Public Utility Code, 66 Pa.C.S. § 101 *et seq.*, the Commission’s Rules and Regulations at 52 Pa. Code, and Commission orders; and (6) Applicant and its drivers are free from convictions of a felony or crime of moral turpitude and are not subject to supervision by a court or correctional institution.¹ Accordingly, there is no evidence that

¹ Although Applicant attached to its Application a “Verified Statement of Applicant” relating to its proposed service, the verified statement is not record evidence, and, therefore, the information contained therein fails to prove that Applicant has the technical and financial ability to provide the proposed service in a safe, reliable, and legal manner. *See Application of First Student, Inc.*, Docket No. A-2017-2615624 (Prehearing Order #4 dated Nov. 21, 2017), slip op. at 8. The verified statement, moreover, does not conform to the requirements of 52 Pa. Code § 3.381(c)(1)(iii) (providing for the use of a verified statement only if an application is unprotested or if all relevant protests are withdrawn). *Id.*

Applicant can meet the criteria in 52 Pa. Code § 41.14.

6. In sum, approval of this Application, as currently constituted, is not necessary or proper for the service, accommodation, convenience or safety of the public and would be contrary to the public interest.

7. Pursuant to Section 333(c) of the Public Utility Code, 66 Pa.C.S. § 333(c), demand is made upon Applicant to furnish to Protestant's counsel a list of the names and addresses of the witnesses, names and addresses of the entities that they represent, if any, and the subject matter of their expected testimony. This is a continuing request and is applicable to all witnesses to be called.

WHEREFORE, Rover Community Transportation, Inc. respectfully requests that the Pennsylvania Public Utility Commission deny and dismiss the Application of Senior Care Centers of Pennsylvania, Inc. at Docket No. A-2019-3014494.

Respectfully submitted,

DATED: December 31, 2019



Thomas T. Niesen, Esq. (PA ID # 31379)
Charles E. Thomas, III, Esq. (PA ID # 201014)
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*Attorneys for Protestant
Rover Community Transportation, Inc.*

ATTACHMENT A

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held March 15, 2012

Commissioners Present:

Robert F. Powelson, Chairman
John F. Coleman, Jr., Vice Chairman
Wayne E. Gardner
James H. Cawley
Pamela A. Witmer

Application of Rover Community Transportation, Inc., for the right to begin to transport, as a common carrier, by motor vehicle, persons, in paratransit service, from points in the county of Chester, to points in Pennsylvania, which is to be a transfer of all the right authorized under the certificate issued at A-00104504, F.2, Am-A to Krapf's Coaches, Inc., subject to the same limitations and conditions.

A-6414067
A-2011-2273451

ORDER

BY THE COMMISSION:

This matter comes before the Commission on an application filed November 11, 2011. Public notice of the application was given in the *Pennsylvania Bulletin* of January 21, 2012 with protests due by February 6, 2012. No protests were filed. The unopposed application is certified to the Commission for its decision without oral hearing. The record consists of verified information submitted with the application.

DISCUSSION AND FINDINGS

Rover Community Transportation, Inc. (Rover or applicant) seeks to begin providing paratransit service by acquiring through transfer the paratransit right held by Krapf's Coaches, Inc. Applicant has no prior history of non-compliance with Commission regulations and transferor has no outstanding fines.

Corporate officers of Rover are Gary Krapf, President and Dale Krapf, Secretary/Treasurer. Gary Krapf was authorized to complete the verified statement of applicant. Rover is a sister company of Krapf's Coaches, Inc., which currently has active authority for paratransit, broker of passengers, scheduled route, limousine, airport transfer and group and

party service. Applicant is also a sister company of George Krapf Jr. & Sons, which holds active group and party authority. Due to an internal corporate restructuring of Krapf's Coaches, Inc., it was determined that the paratransit portion of the corporation would be operated more efficiently as a separate corporate entity. Therefore, Rover will continue to be operated in the same manner as it has been as a division of Krapf's. Krapf's itself has nearly 30 years of experience as a Commission-certificated motor common carrier. Rover will retain most of the same employees, drivers and vehicles presently being used.

Applicant's facility is located at 1002 South Chestnut Street, Downingtown, Chester County and includes administrative, dispatch, storage and maintenance functions. Records will be retained for three years at the Downingtown facility and then transferred to another location to be retained for an additional four years. Rover is currently using reservation software named The "Q". It is capable of receiving and scheduling reservations. The "Q" also provides live dispatching and recognition of ADA service areas. Business hours are 5:30 a.m. to 8:00 p.m., Monday through Friday. Applicant employs two dispatchers during normal business hours. After hours calls will be handled by an on-call dispatcher equipped with a two-way radio and cell phone. For all after-hours emergencies, one of Rover's management staff will be available.

Rover will employ an office staff of 20 people, including 4 maintenance people and approximately 100 full and part-time drivers. New hires are subject to background screening, which includes checking criminal history and driver's license, child abuse clearance, verification of previous employment and drug testing. Rover is a third party test facility for commercial driver licensing. Potential drivers will receive CDL training in preparation for taking the test. All new employees are required to undergo a minimum of 20 hours of classroom instruction on safety and operations. An additional minimum of ten hours of behind-the-wheel instruction and 30 or more hours of training on passenger assistance, wheelchair securement, sensitivity, first aid, CPR and ADA regulations is required. A final three to four days of on-the-job training with a veteran driver is provided.

Applicant has submitted a list of vehicles to be used with its verified statement. Two full-time mechanics will be utilized for the proposed service, with nine mechanics working at another Krapf's Coaches, Inc. facility in Glenmoore, Chester County who can provide backup, if needed. This provides maintenance coverage for all but a few hours on Sundays when a mechanic will be on-call. Maintenance records will be kept by the fleet manager using specialized maintenance software and retained for at least five years. Drivers will be required to perform pre-trip and post-trip vehicle inspections and maintenance personnel will conduct weekly inspections, which include cleaning the interior and exterior of the vehicle. Vehicles will be detailed every 15 days or 3,000 miles, whichever comes first, and serviced every 3,000 miles. A major vehicle inspection is conducted every 12,000 miles.

The balance sheet of the applicant shows total assets of \$3,398,085, including \$69,401 in cash, and total liabilities of \$3,311,606, for total owner's equity of \$86,479. Projected revenue of \$8,663,700 will return a net loss of \$356,774, after projected expenses of \$9,020,474. Applicant will be sharing resources with its sister company and has retained earnings of \$76,479, which will offset the projected first year loss.

We advise the applicant to become familiar with the requirements of 52 Pa. Code as applicable to the operation of a common carrier as authorized by this grant of authority. Failure to comply with all applicable requirements may subject the carrier to penalties, including fines, suspension of operating rights or cancellation of authority. Title 52 of the Pennsylvania Code may be accessed at www.pacode.com.

After complete review of the record, we find:

1. Applicant is fit, willing and able to provide the service proposed.
2. Transfer of the authority is in the public interest and is necessary for the continued accommodation and convenience of the public; **THEREFORE,**

IT IS ORDERED: That the application is hereby approved and that a certificate be issued granting the following right:

To transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the county of Chester, to points in Pennsylvania.

subject to the following general conditions:

That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or right(s) to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefore, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon.

IT IS FURTHER ORDERED: That the applicant shall not engage in any transportation authorized by this order until the applicant has received a certificate of public convenience from the Commission.

IT IS FURTHER ORDERED: That a certificate of public convenience shall not be issued until the following are submitted to the Commission and approved by the Commission:

1. An acceptable Form E, as evidence of bodily injury and property damage liability insurance.
2. An acceptable tariff establishing just and reasonable rates.

IT IS FURTHER ORDERED: That upon compliance with the requirements above set forth, a certificate shall issue evidencing the Commission's approval of the right to operate as above-determined.

IT IS FURTHER ORDERED: That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the applicant, shall not be construed as conferring more than one operating right.

IT IS FURTHER ORDERED: That in the event said applicant has not, on or before sixty (60) days from the date of entry of this order, complied with the requirements hereinbefore set forth, the application shall be dismissed without further proceedings.

IT IS FURTHER ORDERED: That upon compliance with this order, the right granted the transferor, Krapf's Coaches, Inc., at A-00104504, F.2, Am-A, be canceled and the record marked closed.

BY THE COMMISSION,

A handwritten signature in cursive script, appearing to read "Rosemary Chiavetta".

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: March 15, 2012

ORDER ENTERED: March 15, 2012

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

IN THE MATTER OF: A-6414067

Rover Community Transportation, Inc., for the right to begin To transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the county of Chester, to points in Pennsylvania. subject to the following general conditions: That the approval hereby given is not to be understood as committing the Commission, in any proceedings that may be brought before it for any purpose, to fix a valuation on the property and/or right(s) to be acquired by applicant from the present certificate holder equal to the consideration to be paid therefore, or equal to any value that may be placed thereon by applicant, or to approve or prescribe rates sufficient to yield a return thereon. A-2011-2273451

EFFECTIVE DATE: May 16, 2012

The Pennsylvania Public Utility Commission hereby certifies that after an investigation and/or hearing, it has, by its report and order made and entered, found and determined that the granting of the application is necessary or proper for the service, accommodation, convenience and safety of the public and hereby issues to the applicant this **CERTIFICATE OF PUBLIC CONVENIENCE** evidencing the Commission's approval to operate.


In Witness Whereof, The PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 16th day of May, 2012.


Secretary

VERIFICATION

I, Gary D. Krapf, President of Rover Community Transportation, Inc., 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 Rover Community Transportation, Inc. 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. § 4904 (relating to unsworn falsification to authorities).

Dated: December 31, 2019



Gary D. Krapf

CERTIFICATE OF SERVICE

I hereby certify that I have this 31st day of December, 2019, served a true and correct copy of the foregoing Protest of Rover Community Transportation, Inc., upon the upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

Via First Class Mail, Postage Prepaid

Attn: Robert Creamer, CEO/Board President
Senior Care Centers of Pennsylvania, Inc.
6 Neshaminy Interplex, Suite 401
Trevose, PA 19053

Attn: Joseph Caliva, Transportation Manager
Senior Care Centers of Pennsylvania, Inc.
590 Reed Road, Unit B2
Broomall, PA 19008



Thomas T. Niesen (PA ID # 31379)