**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17120**

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|  | Public Meeting held June 17, 2021 |
| Commissioners Present:  Gladys Brown Dutrieuille, Chairman  David W. Sweet, Vice Chairman  John F. Coleman, Jr.  Ralph V. Yanora |  |
| Application of Packhorse Moving LLC | A-2020-3023024  A-8923623 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration of Staff Action (Petition) filed by Packhorse Moving LLC (Applicant or Packhorse) on January 21, 2021. The Petition was filed in response to the Secretarial Letter issued on January 11, 2021 (*January 2021 Secretarial Letter*), in the above-captioned docket number, which dismissed the Applicant’s Application for a Certificate of Public Convenience as a motor common carrier or motor contract carrier of household goods in use authority. For the reasons set forth herein, we will grant the Petition, rescind the *January 2021 Secretarial Letter*, and refer this matter to the Bureau of Technical Utility Services (TUS) for such further action as may be deemed warranted, consistent with this Opinion and Order.

**History of the Proceeding**

On November 25, 2020, Packhorse filed an Application with the Commission seeking approval to obtain motor common carrier or motor contract carrier of household goods in use authority to transport household goods in use between points in Pennsylvania. *See* 52 Pa. Code § 31.1.

On December 1, 2020, TUS issued a Secretarial Letter (*December 2020 Secretarial Letter*) stating that the Application was accepted for filing but directed the Applicant to forward requested information to the Commission within ten days of receipt of this letter. Specifically, the *December 2020 Secretarial Letter* directed Packhorse to: (1) verify its answers per 52 Pa. Code § 1.36 by filling in the blank provided in the Letter with the name of the appropriate company representative and the signature of that representative, and (2) expand on its answer to Question No. 3 of the Verified Statement relating to the Packhorse’s hiring a professional mover with more than two-years’ experience with a licensed household goods carrier. *December 2020 Secretarial Letter* at 2-3. The *December 2020 Secretarial Letter* further provided that the Applicant must “forward the [requested] information to the Secretary of the Commission at the address [provided]” and that “[t]he response must be e-filed.” *Id.* at 1.

On January 11, 2021, the Commission issued another Secretarial Letter (*January 2021 Secretarial Letter*) dismissing Packhorse’s Application for failure to adequately comply with the requests for required information contained in the *December 2020 Secretarial Letter*. The *January 2021 Secretarial Letter* also advised that the Applicant can file a new application with the appropriate filing fee, and that it can “contact the Compliance Office of the Motor Carrier Services Division in the Bureau of Technical Utility Services . . . within thirty (30) days of the date of this letter” if the Applicant believes it has “received this letter in error.” *January 2021 Secretarial Letter* at 1.

On January 22, 2021, Packhorse filed the instant Petition in response to the *January 2021 Secretarial Letter*.  In its Petition, Packhorse stated that on December 3, 2020, the company had e-mailed the requested information to staff in the Secretary’s Bureau and TUS and submitted proof of its e‑mail as an attachment to the Petition.  No response to the Petition has been filed.

# Discussion

**Legal Standards**

Initially, we note that we are not required to consider expressly or at length each contention or argument raised in the Petition. Consolidated Rail Corp. v. Pa. PUC, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also* University of Pennsylvania v. Pa. PUC, 485 A.2d 1217 (Pa. Cmwlth. 1984). Therefore, any issue that we do not specifically address or delineate in this decision shall be deemed to have been duly considered and denied without further discussion.

Section 5.44 of the Commission’s Regulations, 52 Pa. Code § 5.44, permits a party to seek the Commission’s reconsideration of actions taken by the Commission’s staff pursuant to the staff’s delegated authority from the Commission.[[1]](#footnote-1)

In pertinent part, Section 5.44 of the Commission’s Regulations, 52 Pa. Code § 5.44, provides as follows:

(a) Actions taken by staff, other than the presiding officer, under authority delegated by the Commission, will be deemed to be the final action of the Commission unless reconsideration is sought from the Commission within 20 days after service of notice of the action . . . .

(b) An action taken by staff under delegated authority will note the parties’ right to seek reconsideration of the action under this section.

(c) Petitions for reconsideration from the action of the staff will be addressed by the Commission at public meeting.

A party seeking reconsideration of a staff action is required to file a petition, the requirements of which are governed under Section 5.41 of our Regulations, 52 Pa. Code § 5.41 (relating to petitions generally). *See* 52 Pa. Code § 5.44(c). The Commission will address a petition for reconsideration of the delegated staff action at public meeting. *Id*.

**Disposition**

Upon review, we will grant the Applicant’s Petition. In the Petition, the Applicant, acting in his *pro se* capacity, states that the information requested in the *December 2020 Secretarial Letter* was sent via e-mail by the company’s owner two days after receiving this letter from the Commission to his contacts at the Secretary’s Bureau and TUS, and he provided proof of that service as well. Based on the Applicant’s averments and information provided in the Petition, the Applicant has made a good faith effort to answer the requests contained in the *December 2020 Secretarial Letter*. The fact that the information was sent by e-mail to Packhorse’s contacts at the Secretary’s Bureau and TUS rather than to the e-filing address provided in the *December 2020 Secretarial Letter* is of little significance. The requested information was promptly provided by the Applicant, and the information could have easily been forwarded to the Secretary’s Bureau or the Applicant could have been immediately advised to re-send it to the correct e-filing address. Therefore, we conclude that, under the circumstances, it is reasonable to refer this matter to TUS rather than to deny the Application. *See Application of Paragon Transportation, LLC*, Docket No. A-2020-3022989 (Opinion and Order entered May 6, 2021); *Application of Right Now Home Care, LLC*, Docket No. A-2019-3013661 (Opinion and Order entered July 16, 2020); *Application of Sky Line Car Service, LLC*, Docket No. A-2014-2401261 (Opinion and Order entered May 19, 2015). Moreover, given the procedural posture of this Application filing, accepting the information that was sent to Packhorse’s contacts at the Commission in response to the *December 2020 Secretarial Letter* is a more efficient use of the Commission’s and the Applicant’s resources at this stage of the proceedings.

**Conclusion**

For the reasons discussed herein, we will grant the Petition, rescind the *January 2021 Secretarial Letter*, and refer this matter to TUS for such further action as may be warranted, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition for Reconsideration of Staff Action, filed by Packhorse Moving LLC on November 25, 2020, at Docket No. A-2020-3023024, is granted, consistent with this Opinion and Order.
2. That the Secretarial Letter issued on January 11, 2021, is rescinded.
3. That this matter be referred to the Bureau of Technical Utility Services for such further action as may be deemed warranted, consistent with this Opinion and Order.

** BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: June 17, 2021

ORDER ENTERED: June 17, 2021

1. To deal efficiently with various routine and non-controversial matters that require the Commission’s approval, the Commission has expressly delegated its approval authority to staff regarding certain matters that are deemed to be routine, ministerial and non-policy making in nature. Thus, for specific delegated matters, in lieu of action at public meeting, individual bureaus may exercise the Commission’s authority by Secretarial Letter. [↑](#footnote-ref-1)