

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held June 15, 2023

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
Stephen M. DeFrank, Vice Chairman  
Ralph V. Yanora  
Kathryn L. Zerfuss  
John F. Coleman, Jr

Application of Tribe Moving LLC  
For Household Goods in Use Authority

A-2023-3038475  
A-8925989

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration from Staff Action (Petition) filed on March 28, 2023, by Tribe Moving LLC (Tribe Moving or Applicant). By this Petition, Tribe Moving seeks reconsideration of the Commission Secretarial Letter dated March 20, 2023 (*March 2023 Secretarial Letter*). The *March 2023 Secretarial Letter* denied and dismissed Tribe Moving's Application for a Certificate of Public Convenience (Certificate) authorizing it to operate as a transporter of household goods in use. The denial was based on the Applicant's alleged failure to provide evidence of a minimum of two-years' experience with a licensed household goods

carrier, or equivalent, as required by Commission Regulations at 52 Pa. Code § 3.381(c)(1)(iii)(A)(II)(-1-).

On consideration of the Petition, it shall be granted. For the reasons explained in this Opinion and Order, we find that the Applicant has met the standards for reconsideration pursuant to *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553, 559 (1982) (*Duick*) by identifying considerations which appear to have been overlooked. On review of the evidence, we find that the Applicant has met its burden of showing compliance with the applicable Commission Regulation.

### **Background**

On February 24, 2023, Tribe Moving filed an Application with the Commission requesting a Certificate to transport household goods in use. From our review of the record, Tribe Moving is a Pennsylvania limited liability company whose principal owner is stated as Carrie Lee Mountz. Mark Mountz, husband of Carrie Lee Mountz, is listed as a shareholder/officer of Tribe Moving. The Applicant explains that its experience has been the operation of Mountz Disposal Service, Inc. (Mountz Disposal) for twenty-five (25) years, providing disposal/donation services to many residential and commercial customers in Berks County. *See*, Application.

The Applicant states that Mountz Disposal has over 5,000 residential customers, approximately 1,000 commercial accounts, and that it provides trash, recycling, bulk item disposal, and donation services. The Applicant explains that Mountz Disposal provides collection and transportation of household goods and other personal property that has been discarded by residential customers. As part of its business, Mountz Disposal is hired to clean out residential areas, whereby personnel are entrusted by residential customers to enter their homes or other properties to physically

carry unwanted personal property to its trucks for disposal or donation. *See, Petition, infra.*

By Secretarial Letter of February 27, 2023, the Commission's Bureau of Technical Utility Services (TUS) issued a Request for Information (*February 27 Data Request*). Pursuant to the *February 27 Data Request*, the Applicant was requested to provide information and/or evidence of two years' experience with a licensed household goods carrier or the equivalent.

Tribe Moving timely responded to the *February 27 Data Request* on March 2, 2023. In response, Tribe Moving provided the statements of three persons: (1) Carrie Mountz; (2) Justin Steckbeck; and (3) Kelly Keiser (also Kelly Grim).

In a statement provided by Kelly Keiser, she explains that, under her maiden name, Kelly Grim, she worked for a Fritz Moving Company, Inc., Reading, PA, for two (2) years and performed packing of personal items for residential and commercial moves. She further stated that she "packed, moved, and arranged items in the truck for all moves to take place" and "worked with a team of individuals on different size trucks daily." *See, Statement.*

By data request issued March 8, 2023 (*March 8 Data Request*), TUS requested further information concerning Tribe Moving's statements of Kelly Keiser and Justin Steckbeck. The data request specifically stated as follows:

- 1.) Who is Kelly Keiser, and what is their role in the company? Also please provide evidence of employment by Fritz Moving Company, such as W-2s that show two years of employment.

- 2.) Who is Justin Steckbeck, and what is their role in the company?

*March 8 Data Request.*

On March 13, 2023, Tribe Moving responded to the *March 8 Data Request*. On consideration of the March 13, 2023, response of Tribe Moving, the *March 2023 Secretarial Letter* was issued. The letter recommended the denial of the Application and reasoned, in pertinent part as follows:

. . . However, the evidence provided showed that the only experience the applicant has is in the waste disposal industry. They submitted two additional names to meet Commission requirements. Neither individual could provide any evidence that they worked for a licensed household goods carrier, nor would the evidence provided raise to the level of the equivalent. As such, you failed to provide adequate evidence that shows you have the required two years of experience working with a licensed household goods carrier, or the equivalent.

*See, March 2023 Secretarial Letter.*

On March 28, 2023, Tribe Moving filed the instant Petition, as noted.

## Discussion

### Legal Standards

Petitions for Reconsideration from Staff Action are governed by the Commission's Rules of Administrative Practice and Procedure at 52 Pa. Code § 5.44(a), which provides the following:

- (a) Actions taken by staff, other than a 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, unless a different time period is specified in this chapter or in the act.

Under the standards of *Duick*, a petition for reconsideration may properly raise any matter designed to convince this Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Such petitions are likely to succeed only when they raise “new and novel arguments” not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. *Duick*, 56 Pa. P.U.C. at 559.

Also, in considering the Application and the instant Petition, Section 332(a) of the Public Utility Code (Code), 66 Pa. C.S. § 332(a), provides that the party seeking affirmative relief from the Commission has the burden of proof. In this proceeding, Tribe Moving is the Applicant and Petitioner. Tribe Moving, therefore, is the party seeking affirmative relief from the Commission and, as such, is the party with the burden of

proof. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950) (*Se-Ling Hosiery*).<sup>1</sup>

Additionally, the Commission must ensure that its decisions are supported by substantial evidence in the record. The Pennsylvania appellate courts have defined “substantial evidence” to mean such relevant evidence that a reasonable mind may accept as adequate to support a conclusion; more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Railway Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980); *Murphy v. Pa. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

Finally, pursuant to Section 1103(a) of the Code, 66 Pa. C.S. § 1103(a), an application for a Certificate should be granted only if the Commission finds that “the granting of such certificate is necessary or proper for the service, accommodation, convenience or safety of the public.”

### **Authority to Transport Household Goods in Use**

An applicant seeking authority from the Commission to transport household goods in use has the burden of establishing, among other things, that it possesses the technical fitness to provide the proposed service. 52 Pa. Code § 41.14(b). In determining whether an applicant is technically fit to provide the requested service, the Commission will examine a number of factors, including whether the applicant and its

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<sup>1</sup> In *Se-Ling Hosiery* the Pennsylvania Supreme Court held that the term “burden of proof” means a duty to establish a fact by a “preponderance of the evidence.” The term “preponderance of the evidence” means that one party has presented evidence that is more convincing, by even the slightest degree, than the evidence presented by the opposing party.

employees have sufficient technical expertise and experience to provide the service.  
52 Pa. Code § 41.14(b)(2).

To prove its technical fitness regarding an application to transport household goods in use, an applicant must submit a verified statement to the Commission—whether its application is protested or not—indicating that it has at least two years of experience with a licensed household goods carrier or the equivalent.  
52 Pa. Code § 3.381(c)(1)(iii)(A)(II)(-1-). Through the instant Petition, Tribe Moving is seeking a determination that the experience of its principals and/or employees, satisfy the requirements of this provision.

## **Petition**

In its Petition requesting reconsideration of the *March 2023 Secretarial Letter*, the Applicant reiterates that it is wholly-owned by Mark and Carrie Mountz, husband and wife. According to the Applicant, Mark Mountz has co-owned/operated Mountz Disposal for twenty-five (25) years. This enterprise has over 5,000 residential customers, approximately 1,000 commercial accounts, and provides trash, recycling, bulk item disposal and donation services. *See* Petition at ¶ 4.

The service that is explained by the Applicant and provided by Mountz Disposal involves the collection and transportation of household goods and other personal property that has been discarded by residential customers. As part of its business, Mountz Disposal is hired to clean out certain residential areas, whereby its personnel is entrusted by residential customers to enter their homes or other properties to physically carry unwanted personal property to its trucks for subsequent disposal or donation. Petition at ¶ 4. In performing these services, the Applicant states that Mountz Disposal has complied with all Department of Transportation and Department of Environmental Protection regulations. Also, when transporting, Mountz Disposal

exercises great care in keeping trash off Pennsylvania roadways and ensuring that sensitive information of its customers is not jeopardized. *Id.*

The request to obtain certification as a “moving company,” *i.e.*, transportation of household goods in use, stems from the Applicant’s owners lending Mountz Disposal personnel to provide the “manpower” needed to physically move/carry personal property from one room within a retirement community to another. Petition at ¶ 4. In short, the Applicant states that, through the ownership and operation of Mountz Disposal the Applicant has served Pennsylvania households by responsibly transporting their discarded personal property and providing other related residential services since 1998. *Id.*

In its concluding position, the Applicant advises that it intends to hire additional employees with experience in the moving industry but has not yet done so because of the challenging labor market and the fact that the Applicant’s business is only in its infancy. As customer demands grow, the Applicant explains that it will continue its focus on expanding its existing roster of experienced movers as a top priority. Petition at ¶ 4. The Applicant has obtained a US Department of Transportation number and insurance. *Id.*

## **Disposition**

In the Petition for Reconsideration of Staff action, Tribe Moving asserts in further detail that the experience of its two owners and their employees is equivalent to the required two years of work experience with a licensed household goods in use carrier and therefore its Application should be granted.

As a threshold determination, we note that any issue not specifically addressed herein has been duly considered and will be denied without further discussion.

It is well settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

Regarding the instant Petition, we find that the statements of the Applicant concerning the work experience of its principals with Mountz Disposal meets the standards for reconsideration established under *Duick*. Based on the averments in the Petition, Tribe Moving has met the standards for reconsideration by identifying considerations which appear to have been overlooked.

In three recent decisions, including the *Application of Moving by Cury, LLC*, Docket Nos. A-2022-3036613 and A-8925710 (Order entered January 19, 2023), *Application of Exceptional Movers LLC*, Docket Nos. A-2021-3029208 and A-8919919 (Order entered June 16, 2022), and *Application of Reliable Movers LLC t/a Reliable Movers*, Docket No. A-2019-3013695 (Order entered July 16, 2020), the Commission granted household goods authority to applicants who demonstrated the requisite fitness by providing evidence of performing labor-only service with respect to household goods. In those cases, the Commission found that applicants with experience in “labor only moving operations” sufficiently demonstrate the equivalent standard required by Section 3.381(c)(1)(iii)(A)(II)(-1-). *See, Application of Moving by Cury, LLC* at 10.

Given this recent Commission precedent, we agree with Tribe Moving that it has met the fitness requirement given that its co-owners have twenty-five (25) years of load and unload experience, albeit that the destination of the household goods being loaded and unloaded was disposal and/or donation centers. Because Tribe Moving has demonstrated that it has twenty-five (25) years of experience providing the labor for a household goods operation, the equivalent experience requirement has been met to satisfy the Commission’s fitness standards, consistent with prior Commission precedent.

## Conclusion

On consideration of the Petition for Reconsideration from Staff Action filed by Tribe Moving LLC, the said Petition is granted, consistent with the discussion in this Opinion and Order. The Application of Tribe Moving LLC is, hereby, remanded and referred to the Commission's Bureau of Technical Utility Services for such further action as may be necessary; **THEREFORE,**

### IT IS ORDERED:

1. That the Petition of Tribe Moving LLC for Reconsideration of Staff Action, filed on March 28, 2023, pertaining to the March 20, 2023, Secretarial Letter issued is granted, consistent with this Opinion and Order.
2. That the March 20, 2023, Secretarial Letter is, hereby, rescinded as the action of the Commission, consistent with this Opinion and Order.
3. That the Application of Tribe Moving LLC is referred to the Bureau of Technical Utility Services for such further action as may be necessary or warranted.

**BY THE COMMISSION**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: June 15, 2023

ORDER ENTERED: July 5, 2023