

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

Public Meeting held March 27, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Application of Husky Brothers Moving LLC

A-2025-3053178

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Letter Petition (Petition) filed by Messrs. Quentin Richard King and Jacob Wade King on behalf of Husky Brothers Moving LLC (Applicant or Husky Brothers), on February 14, 2025, relative to the above-captioned proceeding. The Secretarial Letter to which the Petition refers was issued on February 7, 2025 (*February 2025 Secretarial Letter*).¹ No Answer to the Petition has been filed. For the reasons set forth herein, we will grant the Petition, conditionally rescind the *February 2025 Secretarial Letter*, and refer this matter to the Commission's

¹ Because the instant Petition challenges the action taken in the *February 2025 Secretarial Letter* and was filed within twenty days of the issuance of the Secretarial Letter, we shall regard the Petition as a Petition for Reconsideration from Staff Action pursuant to 52 Pa. Code § 5.44(a).

Bureau of Technical Utility Services (TUS) for such further action as may be deemed necessary, consistent with this Opinion and Order.

I. History of the Proceeding

On January 30, 2025, Husky Brothers filed an Application with the Commission seeking approval for the right to operate as a Motor Carrier or Motor Contract Carrier of Property to Transport Household Goods between points in the Commonwealth of Pennsylvania.

On January 31, 2025, the Applicant filed a corrected first page of its Application.

On February 7, 2025, the Commission issued the *February 2025 Secretarial Letter* dismissing the Application for the Applicant's failure to demonstrate the required fitness. In pertinent part, the *February 2025 Secretarial Letter* stated, as follows:

The purpose of this Letter is to advise you that your application for Household Goods authority at **Docket No. A-2025-3053178** has been **DENIED** by the Pennsylvania Public Utility Commission (Commission). The Commission has determined that a Certificate of Public Convenience shall not be granted for the following reason(s):

- **Failure to Demonstrate the Required Fitness**

Failure to provide evidence of a minimum of two-years' experience with a licensed household goods carrier as required by 52 Pa. Code §3.381(c)(1)(iii)(A)(II)(-I-), or equivalent. This requirement is not optional.

For this reason(s), your application is **DENIED** and **DISMISSED**.

February 2025 Secretarial Letter at 1.

Additionally, the *February 2025 Secretarial Letter* informed Husky Brothers that, if it disagreed with the Commission's determination, it could submit a Petition for Reconsideration with the Commission's Secretary within twenty (20) days of the date of the *February 2025 Secretarial Letter*. TUS outlined instructions regarding the form and content of such a Petition, including references to the inclusion of relevant documentation and verification with an original signature, as set forth in 52 Pa. Code §§ 1.31 and 5.44. Further, TUS provided the Applicant with a sample verification statement. *February 2025 Secretarial Letter* at 1.

On February 14, 2025, Husky Brothers timely filed the instant Petition in response to the *February 2025 Secretarial Letter*.

I. Discussion

A. Legal Standards

Before us is a Petition for Reconsideration from Staff Action, pursuant to 52 Pa. Code § 5.44(a). 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:

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.

52 Pa. Code § 5.44(a).

In considering the appeal from Staff Action, the Application and compliance with Commission Regulations, 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, the Applicant is the party seeking affirmative relief from the Commission. Therefore, the Applicant is the party with the burden of proof. *See, Application of 610 Hauling, LLC, t/a College Hunks Hauling Junk, for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, from points in the counties of Chester, Delaware, Montgomery, Philadelphia, and Bucks, to points in Pennsylvania*, Docket Nos. A-2012-2334103 and A-8915269 (Opinion and Order entered November 5, 2015) (citing *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950)).

In *Se-Ling Hosiery v. Margulies, supra*, 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. Additionally, the Commission must ensure that the decision is 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. *Application of 610 Hauling, LLC, t/a College Hunks Hauling Junk, supra*, citing *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).

Additionally, pursuant to Section 1103(a) of the Code, 66 Pa.C.S. § 1103(a), an application for a certificate of public convenience 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.” In order to make these determinations, the Commission’s Regulations, at 52 Pa. Code §§ 3.381-85, and the Commission’s Policy Statement, at 52 Pa. Code § 41.14, establish the evidentiary guidelines and criteria to be examined by the Commission when considering whether to grant or deny an application for authority.

The Commission’s Policy Statement at 52 Pa. Code § 41.14 provides as follows:

§ 41.14. Evidentiary criteria used to decide motor common carrier applications – statement of policy.

An applicant seeking motor common carrier authority has the burden of demonstrating that it possesses the technical and financial ability to provide the proposed service. In addition, authority may be withheld if the record demonstrates that the applicant lacks a propensity to operate safely and legally. In evaluating whether a motor carrier applicant can satisfy these fitness standards, the Commission will ordinarily examine the following factors, when applicable.

- (1) Whether an applicant has sufficient capital, equipment, facilities and other resources necessary to serve the territory request.
- (2) Whether an applicant and its employees have sufficient technical expertise and experience to serve the territory requested.
- (3) Whether an 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) Whether an applicant has an appropriate plan to comply with the Commission's driver and vehicle safety regulations and service standards in Chapter 29 (relating to motor carriers of passengers).

(5) An applicant's record, if any, of compliance with 66 Pa. C.S. (relating to Public Utility Code), this title and the Commission's orders.

(6) Whether an applicant or its drivers have been convicted of a felony crime of moral turpitude and remains subject to supervision by a court or correctional institution.

52 Pa. Code § 41.14.

Finally, pursuant to Section 1103(a) of the Code, an application for a certificate of public convenience 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."

B. Petition

The Petition consists of a one (1) page handwritten document with four (4) paragraphs in which Husky Brothers states that it is appealing the Commission's determination in the *February 2025 Secretarial Letter*. Husky Brothers, *inter alia*, submits that in consideration of the Commission's determination of Husky Brothers' failure to prove a minimum of two years' experience, it has now added another business partner (Kelly Marice King), thereby giving Husky Brothers the combination of having over three years of licensed household goods carrier experience, as required by 52 Pa Code § 3.381(c)(1)(iii)(A)(II)(l). Petition at 1.

C. Disposition

In considering this Petition, we are not required to consider, expressly or at length, each and every contention raised by a party to our proceedings. *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984). Any argument that is not specifically addressed herein shall be deemed to have been duly considered and denied without further discussion.

Based on our review of the Applicant's Petition and the associated case documents, we will grant the Petition. Pursuant to Section 1.2 of the Regulations, 52 Pa. Code §§1.2 (a)-(b), the Commission may exercise its discretion to overlook an error of procedure where necessary to secure the efficient resolution of a matter, so long as the substantive rights of other parties are not adversely affected. Husky Brothers, by adding another business partner with experience in moving household goods, gives the Applicant a combined experience of over three years with a licensed household goods carrier. Therefore, the Applicant argues that it now meets the minimum experience, as required by 52 Pa Code § 3.381(c)(1)(iii)(A)(II)(I).

We conclude that, under the circumstances in this case, it is appropriate and reasonable to rescind the *February 2025 Secretarial Letter* and refer this matter to TUS for consideration and such further action as may be warranted, given TUS' expertise in reviewing applications for Commission authority. Such a referral will provide TUS with the opportunity to review the information provided with the Petition and to request any additional information or evidence from Husky Brothers, if necessary. Moreover, given the procedural posture of this case, acknowledging the new considerations provided in the Petition and referring this matter to TUS for further consideration is a more efficient use of the Commission's and Husky Brothers' resources at this stage of the proceeding.

The Commission takes no position on the merits of Husky Brothers' Application at this time, but solely notes that it is appropriate to refer this matter to TUS. We encourage that this matter, and any impediments or deficiencies with the Application, be resolved in a cooperative and expeditious manner to ensure that the Applicant and its Application are compliant with applicable law as well as Commission Regulations and Orders.

II. Conclusion

For the reasons discussed herein, we will grant the Petition, conditionally rescind the *February 2025 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 from Staff Action, filed by Husky Brothers Moving LLC on February 14, 2025, at Docket No. A-2025-3053178, is granted, consistent with this Opinion and Order.

2. That the Secretarial Letter issued on February 7, 2025, at Docket No. A-2025-3053178, is conditionally rescinded, consistent with this Opinion and Order.

3. That the Application of Husky Brothers Moving LLC is referred to the Commission's Bureau of Technical Utility Services for such further action as may be deemed necessary, consistent with this Opinion and Order.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: March 27, 2025

ORDER ENTERED: March 27, 2025