

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

Public Meeting held April 24, 2025

Commissioners Present:

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

Application of Euphrates Trans LLC

A-2024-3051783

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a Letter Petition (Petition) filed by Alain Denis on behalf of Euphrates Trans LLC (Applicant or Euphrates), on January 23, 2025, relative to the above-captioned proceeding.<sup>1</sup> The Secretarial Letter to which the Petition refers was issued on January 7, 2025 (*January 2025 Secretarial Letter*). No Answer to the Petition has been filed. For the reasons that follow, we will grant the Petition, conditionally rescind the *January 2025 Secretarial Letter*, and refer this matter to the Commission's

---

<sup>1</sup> Because the instant Petition challenges the action taken in the *January 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 the discussion in this Opinion and Order.

## I. History of the Proceeding

On October 24, 2024, Euphrates filed an Application with the Commission seeking approval for the right to operate as a Motor Common Carrier of Persons in Paratransit Service from points in the counties of Lehigh and Allegheny and return. The Applicant made the following request for authority:

Transport of clients through out [sic] Lehigh County in wheelchair and stretcher vans from points in the city of Pittsburgh to points in Allegheny County and return.

Application at 3, ¶ 10.

On December 3, 2024, TUS issued a Data Request (*December 2024 Data Request*),<sup>2</sup> wherein it requested, *inter alia*, clarification regarding: (1) the Applicant’s plan to provide safe, efficient, and reasonable service to areas that are as far apart as Lehigh and Allegheny Counties with only three vehicles and drivers and a facility located in Allentown; (2) the Applicant’s plan to uphold the Commission’s

---

<sup>2</sup> On October 29, 2024, the Commission issued a data request (*October 2024 Data Request*) seeking an explanation regarding conflicting information as to the Applicant’s authority as an active Contract Carrier (Docket No. A-2021-3023989). The Commission informed the Applicant, *inter alia*, that, because it had authority as an active Contract Carrier, it was not permitted to simultaneously operate as a Common Carrier, “excepting under very limited circumstances.” *October 2024 Data Request* at 2. No response to the *October 2024 Data Request* was received, and on December 2, 2024, the Commission issued a Secretarial Letter denying and dismissing the Current Application at Docket No. A-2024-3051783. However, on December 3, 2024, the Commission issued an additional Secretarial Letter rescinding the Secretarial Letter issued on December 2, 2024. The Commission explained that it had dismissed the instant Application due to an administrative error. As such, the Commission reinstated the Application.

policies set forth in 52 Pa. Code §§ 29.503-505 regarding driver age, driver history, and criminal history, including schedule and record retention; (3) valid vehicle identification information, including the vehicle's identification number (VIN); (4) the Applicant's annual cost for commercial paratransit insurance coverage; and (5) a revised Statement of Financial Position, which contains accurate, exact, and relevant information pertaining to assets, debts, and any property that is registered to Euphrates. *December 2024 Data Request* at 1-2.

To further assist the Commission in determining the Applicant's financial fitness and in verifying the accuracy of the Applicant's presented balance sheet, TUS instructed the Applicant to provide a copy of a bank statement and notarized/official statements of account balances/ownership provided by bank officers. TUS also informed the Applicant that all claimed vehicles or land/buildings must also include proof of ownership/registration. *December 2024 Data Request* at 2.

No response to TUS's *December 2024 Data Request* was received.

On January 7, 2025, the Commission issued the *January 2025 Secretarial Letter* dismissing the Application for the Applicant's failure to provide satisfactory evidence of fitness to operate. In pertinent part, the *January 2025 Secretarial Letter* stated, as follows:

The purpose of this Letter is to advise you that your Application, Docket No. A-2024-3051783, has been **DENIED** by the Pennsylvania Public Utility Commission (Commission). The Commission has determined that a Certificate of Public Convenience **WILL NOT BE GRANTED** for the following reason(s):

- **Failure to provide satisfactory evidence of fitness to operate:**

On December 3, 2024, the Commission issued a detailed 10-day data request seeking clarification on several issues related to the applicant's proposed operations. This information was deemed essential to determine the applicant's ability to provide the proposed services: of special concern was the applicant's vehicle/facility resources, its hiring/retention policies, and its overall financial fitness.

During the case review at the expiration of the applicant's response period, it was noted that no apparent response had been filed. On January 7, 2025, in the course of the Commission's due diligence, it was verified with the Commission's Secretary Bureau that no response had been received. Therefore, the Commission is unable to determine the applicant's fitness to provide the requested services.

**For these reasons the application is DISMISSED and DENIED.**

*January 2025 Secretarial Letter* at 1 (emphasis in original).

Additionally, the *January 2025 Secretarial Letter* informed Euphrates 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 *January 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. *January 2025 Secretarial Letter* at 2.

On January 23, 2025, Euphrates timely filed the instant Petition<sup>3</sup> in response to the *January 2025 Secretarial Letter*. No response to the Petition has been filed.

## II. Discussion

### A. 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:

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).

---

<sup>3</sup> Euphrates filed certain documents with its Petition that it marked as "Confidential." We note that pursuant to our Regulations at 52 Pa. Code § 5.365, a party seeking to protect a trade secret or other confidential information from disclosure on the public record must seek a Petition for Protective Order. A Petition for Protective Order will be granted only when a party demonstrates that the potential harm to the party of providing the information would be substantial and that the harm to the party if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process. In this case, we note the uncontested nature of Euphrates' Application. We further note that the information that Euphrates has marked as "Confidential" is the type of information that Commission staff generally seeks in its review of motor carrier applications, and which is filed by applicants seeking a certificate of public convenience to operate as a motor carrier within the Commonwealth of Pennsylvania. Such information is not afforded confidential treatment in the ordinary course of business and will not be afforded such treatment in this proceeding.

Courts have held that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”

*Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

Additionally, Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.

In this proceeding, Euphrates is the party seeking affirmative relief from the Commission. Therefore, Euphrates 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*, 70 A.2d 854 (Pa. 1950).

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 passenger carrier 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.<sup>4</sup>

---

<sup>4</sup> By Final Policy Statement, entered December 7, 2017, at Docket No. M-2017-2629722, the Commission modified the Policy Statement at 52 Pa. Code § 41.14 by eliminating prior subsections (a) and (c) to be consistent with the amended Regulations in the Final Rulemaking Order. The Final Policy Statement maintained the language of prior subsection (b), which delineates the factors to be considered and examined in determining an applicant's technical and financial fitness. The Final Policy Statement became effective upon publication in the *Pennsylvania Bulletin* on February 10, 2018, at 48 *Pa.B.* 882.

Finally, 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.”

## **B. Petition**

Euphrates’ Petition consists of a two-page type written document with three (3) paragraphs. Therein, Euphrates provides that: (1) the geographical location that it had first stated in its Application was listed in error. Euphrates explains that it actually intends to provide transportation service solely within Lehigh County; (2) it has purchased two additional vehicles, and has included “2023 taxes,” copies of Economic Injury Disaster Loans (EIDL) and Paycheck Protection Program (PPP) loans that it received from the U.S. Small Business Administration in an amount totaling \$235,000. The Applicant represents that these loans were paid, in full, within 2.5 years; and (3) Alain Denis, the owner of Euphrates, has over twenty (20) years of experience in transporting patients in various capacities and that the Applicant has the financial stability to compensate all of its employees. Petition at 1-2.

Euphrates also provided several documents with its Petition, including: (1) a copy of the 2023 taxes filed by its owner, Alain Denis; (2) an account verification letter regarding Euphrates’ checking account; (3) copies of letters from the U.S. Small Business Administration confirming that the Applicant’s EIDL and PPP loans were paid, in full; (4) information regarding the additional vehicles it has purchased; and (5) copies

of a balance sheet as of December 31, 2023 and a profit and loss statement for the period between January and December of 2023.<sup>5</sup>

### 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.

On consideration of the arguments raised by Euphrates, we shall grant the Petition, consistent with the following discussion.

On review of the Applicant's Petition, we note that although the Applicant has not provided any information in its Petition regarding its hiring/retention policies, as requested by TUS in the *December 2024 Data Request*, the Applicant has provided information with its Petition attempting to correct certain other deficiencies identified by TUS in both the *December 2024 Data Request* and the *January 2025 Secretarial Letter*. 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. In light of Euphrates' attempt to provide additional documentation, as well as its willingness to cooperate, we conclude that, under the circumstances in this case, it is appropriate and reasonable to conditionally rescind the *January 2025*

---

<sup>5</sup> As previously noted, Euphrates marked each of these documents as "Confidential." However, as the Applicant did not seek the requisite protective order, and these are the type of documents sought by the Commission Staff in the review of applications to operate as a motor carrier in the Commonwealth of Pennsylvania, we shall not afford these documents confidential treatment.

*Secretarial Letter* and refer this matter to TUS for consideration and for such further action as may be warranted, given TUS' expertise in reviewing motor carrier applications for authority. Accordingly, we shall refer this matter to TUS to continue processing the Application and shall allow Euphrates an additional thirty (30) days in which to provide the required information. In our view, 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 Euphrates' resources at this stage of the proceeding.

Finally, we note that we take no position on the merits of Euphrates' Application at this time. Nonetheless, we wish to emphasize to Euphrates that it should endeavor to provide all information sought by TUS regarding the Applicant's ability to provide the proposed services, in order to facilitate the ability of TUS to perform an exhaustive review of the Application.

### **III. Conclusion**

For the reasons discussed herein, we will: (1) grant the Petition; (2) conditionally rescind the *January 2025 Secretarial Letter*; and (3) refer this matter to TUS for such further action as may be deemed necessary, consistent with this Opinion and Order; **THEREFORE,**

#### **IT IS ORDERED:**


1. That the Petition for Reconsideration from Staff Action filed by Euphrates Trans LLC on January 23, 2025, at Docket No. A-2024-3051783 is granted, consistent with this Opinion and Order.

2. That the Secretarial Letter issued on January 7, 2025, at Docket No. A-2024-3051783, is conditionally rescinded, contingent upon Euphrates Trans LLC responding with the required information within thirty (30) days of the entry of this Opinion and Order.

3. The Application of Euphrates Trans LLC, at Docket No. A-2024-3051783, 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.

4. That should Euphrates Trans LLC not respond within thirty (30) days of the entry date of this Opinion and Order, the Commission's Secretarial Letter issued on January 7, 2025 will be deemed the final action in this matter, and the case will be closed.

**BY THE COMMISSION,**



Matthew L. Homsher  
Secretary

(SEAL)

ORDER ADOPTED: April 24, 2025

ORDER ENTERED: April 24, 2025