

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

Public Meeting held April 24, 2025

Commissioners Present:

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

Application of SafeWayz Transportation, LLP

A-2024-3052726

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a Petition for Reconsideration from Staff Action (Petition), filed by SafeWayz Transportation, LLP (Applicant, Petitioner or SafeWayz) on January 22, 2025, concerning a Secretarial Letter issued on January 15, 2025 (*January 2025 Secretarial Letter*) relative to the above captioned proceeding.¹ No Answer has been filed to the Petition. For the reasons set forth herein, we will grant the Petition, rescind the *January Secretarial Letter*, and refer the matter to the Commission's Bureau of Technical Utility Services (TUS) for further action as may be warranted.

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

I. History of Proceeding

On December 10, 2024, SafeWayz filed an Application with the Commission seeking the right to transport, as a motor common carrier, persons for non-emergency purposes, by motor vehicle or wheelchair van, in paratransit service from points in the city and county of Philadelphia to points in Pennsylvania and return.

On December 10, 2024, the Commission issued a Secretarial Letter (*December 2024 Secretarial Letter*) informing the Applicant of the failure to remit the required \$350 application fee. The *December 2024 Secretarial Letter* instructed the Applicant to remit the fee by either e-filing a letter using confirmation number 27404769, or by mailing a Certified Check, Money Order, or Check from an Attorney Account, made payable to the Commonwealth of Pennsylvania. The Applicant was informed that a Personal Check/Company Check would not be accepted. The Applicant paid the \$350 application fee on December 10, 2024 at EFiled Document Number 2707496-235325.

On January 2, 2025, the Commission issued a Request For Information (*January 2025 Information Request*) identifying information needed to process the Application. In the *January 2025 Information Request*, the Commission asked the Applicant to clarify if the proposed transportation services would be offered to members of the general public or only to individuals who utilize the services of Personal Care Home C&G or Sial Medical. The Applicant was also instructed to review the Commission's Regulations at 52 Pa. Code §29.501-509 and to provide information regarding the following:

- (a) whether there are any age restrictions for hiring drivers;
- (b) a description of the Applicant's system for conducting criminal background checks,

- (c) a description of the Applicant's driving training program;
- (d) an explanation of the Applicant's system for conducting driver license/history checks; and
- (e) an explanation of the Applicant's policies regarding alcohol and drug use.

The Applicant was further instructed to include a Statement of Financial Position and to submit a revised statement that limited the information only to the assets and debts of the Applicant, and not individuals. The Applicant was instructed that any property and accounts must be registered or titled to SafeWayz, or such property and accounts would be excluded from consideration. Finally, the Applicant was instructed to demonstrate that its business was fully funded and equipped in a Statement of Financial Position (balance sheet). This was to include any and all claimed vehicles as well to establish financial fitness. *January 2025 Information Request, Attachment.*

On January 14, 2025, the Applicant submitted its response (*January 2025 Information Response*) to the *January 2025 Information Request*. As required, the Applicant, through Tracy Johnson, verified the answers under Section 52 Pa. Code § 1.36.

As requested, the Applicant clarified that it would offer services to the general public. The Applicant explained that those services would be within Philadelphia County and would include the transport of persons of elderly age, disabilities, and children who require assistance travelling, including the transport of persons in wheelchair vans. The Applicant explained that its base of operations will be in Philadelphia, PA and will extend as required to meet the needs of customers in the state of PA. The Applicant proposed to provide services to school districts, nursing homes, and insurance providers, as alternative transportation and explained that additional

vans/vehicles will be used to transport ambulatory non-emergency medical transport to and from scheduled appointments.

In response to the Section 29.501-509 inquiries (a) through (e), *supra*, the Applicant expanded its plan to include between 2 to 6 persons with experience in the transportation industry. The Applicant provided that all hires would be required to demonstrate knowledge of PA local and state laws. The Applicant also explained that Occuscreen would be the third-party entity tasked with conducting background/criminal checks, motor vehicle checks, and drug screening. All drivers would also be required to maintain a valid driver's license and acquire driver certification for Community Transportation Association of America (CTAA), First aid/CPR, and defensive driving. All staff would be required to provide verbal and written acknowledgement of the Applicant's drug and alcohol policies before driver training and would also be required to complete non-emergency medical transportation (NEMT) operations training.

The Applicant elaborated on its earlier vehicle maintenance plan and insurance responses. In this regard, SafeWayz provided that it will develop and publish a vehicle maintenance plan. This will include regular servicing and PENNDOT required inspections. The Applicant further explained that it has obtained an insurance quote from InsureNEMT, an insurance broker who specializes in PA NEMT.

As required, the Applicant also submitted a revised Statement of Financial Position (Balance Sheet). The Balance Sheet listed total assets in the amount of \$21,300, including \$13,300 in cash, \$5500 in motor vehicle equipment, and \$2500 in office equipment. The Balance Sheet also listed total liabilities of \$6480, consisting of \$5,000 in current liabilities and \$1,480 in long-term liabilities.

In addition, the Applicant provided: (1) a schedule of Long-Term Payments indicating monthly payments of \$1,480, including \$1,000 for rent, \$300 for

Phone, and \$180 for insurance, for an annual total of \$17,760; and (2) a schedule entitled “Other Liability Schedule- Professional Business Services (Marketing, Branding),” which outlined monthly payments for professional business services of \$417, or \$5,000 annually. Moreover, SafeWayz provided a Statement of Account in the Applicant’s name showing an ending balance of \$13,301.61 in the Applicant’s Checking Account and \$5.41 in the Applicant’s Savings Account, for a total of \$13,307.02, as of December 31, 2024. This statement was within the 6-month requirement specified in the Application. Finally, the Applicant attached a Motor Vehicle title. The title indicated that the 2005 blue Chrysler minivan used by SafeWayz was owned by SafeWayz.

On January 15, 2025, the Commission issued the *January 2025 Secretarial Letter* denying the Application. The *January 2025 Secretarial Letter* noted that under the Commission’s Regulations, 52 Pa. Code Section § 41.14(4), it requires the Applicant to demonstrate technical and financial fitness to operate. However, the Commission concluded that based upon the information the Applicant provided in its *January 2025 Information Response*, the Applicant failed to provide responses regarding its policies for the hiring/employment of its drivers, as required by the Commission’s Regulations. As such, the Commission denied and dismissed the Application. *January 2025 Secretarial Letter* at 1.

Additionally, the *January 2025 Secretarial Letter* informed SafeWayz 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.

As previously noted, on January 22, 2025, the Applicant filed the Petition seeking reconsideration of the denial of its Application. The Petition indicated that some of the information sought in the *January 2025 Information Request* was mistakenly omitted in the *January 2025 Information Response*. The Petition also contained revisions and additions to the information provided in the *January 2025 Information Response*.

II. Discussion

A. Legal Standards

Initially, we note that any issue that we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

Petitions for Reconsideration from Staff Action are governed by Section 5.44(a) of the Commission's Rules of Administrative Practice and Procedure, 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 (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).

B. The Petition

In its Petition, SafeWayz states that it inadvertently failed to include information required by the Commission in the *January 2025 Information Request*. As

such, the Applicant provides additional information in its Petition, particularly on the age of its drivers, not previously included in its *January 2025 Information Response*. The Applicant represents that no person less than 21 years of age would be hired as a driver, and then such hiring would occur only after an extensive background check through a third party, the Pennsylvania State Police, and any other relevant databases. The Applicant recognizes that, with respect to paratransit service, drivers aged 18 to 20 may be employed if they are certified as an Emergency Medical Services Vehicle Operator (EMSVO) by the Department of Health and meet all additional requirements outlined in the Commission's Regulations at 52 Pa Code §29.503(b). Petition at 1; Attachment to Petition at 23-24, 30-31.

As to the prohibition on alcohol use by drivers, as outlined in Section 29.506 of our Regulations, 52 Pa. Code § 29.506, the Applicant explains that it strictly prohibits the consumption of alcohol while driving or operating a passenger vehicle, including the presence of any measurable alcohol concentration. The Applicant states that it will enforce this policy with a pre-trip verification and random testing, post-incident testing, education and training, and an immediate suspension, pending investigation and subject to termination. Petition Attachment at 16.

As to the prohibition on the controlled substance use by drivers, as specified in Section 29.507 of our Regulations, 52 Pa. Code § 29.507, the Applicant explains that its Policy Statement prohibits the use of any controlled substances while operating a passenger vehicle or providing passenger service. This includes the presence of any measurable concentration or detected presence in a driver's system. According to SafeWayz, this policy would be implemented and monitored by pre-employment testing, random testing, reasonable suspicion testing, and post-incident testing. The Applicant represents that this policy applies to all controlled substances under state and federal law including but not limited to narcotics, hallucinogens, amphetamines, and cannabis. Any

violation will result in immediate suspension, up to and including termination, and records will be kept for 5 years. Attachment to Petition at 17.

The Applicant also appended a Compliance Plan addressing Hiring Standards, Driver History, a Driver Training Program, and a Vehicle Safety and Maintenance Plan. The Applicant further addresses the retention of records for each of these components in its Compliance Plan. More specifically, the Applicant states as follows:

Hiring Standards. The Petitioner addresses its compliance with Sections 29.501 through 509 of the Commission's Regulations, 52 Pa. Code § 29.501-509. The Petitioner explains that under Section 29.502, no person will be permitted to operate a vehicle without a valid driver's license. Every operator must provide a copy of their current driver's license, undergo a verification process to confirm the validity of the license, and must have a clean driving record for the previous 3 years. Under Section 29.503, the Applicant will ensure that the age requirements are met by requiring that any SafeWayz driver be at least 21 years of age to operate their vehicles. Any paratransit services drivers aged 18 to 20 could be employed but only if they were certified as an EMSVO. Any EMSVO driver must carry that certification with them, SafeWayz will verify the validity of that certification, and any accident by an EMSVO driver will be reported to the Commission. Records will be kept for 4 years and provided to the Commission upon request. Attachment to Petition at 30.

SafeWayz reiterates that its compliance with Section 29.504 of the Commission's Regulations concerning driver license and history would occur by a review of the past 3 years' driving history report for any driver wherever the driver has held a license. The Applicant acknowledges that a minimum of 2 years driving experience is required and a practical driving test must be successfully completed. A driver must also show that they meet the physical and mental requirements by providing a

medical examiner's certificate. This will be reviewed annually. Records will be retained for at least 2 years. Attachment to Petition at 32.

In addition, SafeWayz explains that a driver will be permitted to drive a maximum of 10 hours per day with a 14-hour workday limit, including breaks. A driver is also required to report any incident, near misses, or violations promptly. A driver may face termination for repeated safety violations, failure to comply with testing requirements, and involvement in a major accident resulting from negligence. Attachment to Petition at 33.

Next, SafeWayz explains that it will comply with Section 29.505 of the Commission's Regulations governing criminal background checks by conducting a review of criminal history records from the Pennsylvania State Police and any other state where a driver has resided in the previous 12 months. No driver would be permitted to drive until this requirement is fulfilled. This includes a multi-state check on the criminal database maintained by the Department of Justice on its National Sex Offender Public Website. Attachment to Petition at 23.

SafeWayz further asserts that in accordance with the Commission's Regulations at 52 Pa Code § 29.505, a review will occur every 2 years for common and contract carriers, while this review will be conducted annually and biannually for call and demand or limousine drivers. Records will be kept for 3 years. No driver will be qualified if they had a felony or misdemeanor conviction relating to suitability for safe and legal service or if they had been convicted of any of the specific crimes set out in Section 29.505(b) within the past 7 years, specific convictions within the last 10 years under the Regulations, or for crimes subject to a lifetime disqualification under Pennsylvania law. Drivers are also required to complete a comprehensive training program, including vehicle safety and maintenance protocols. Attachment to Petition at 26.

The Petitioner also reiterates its policies for alcohol and controlled substances to ensure compliance with Sections 29.506 and 29.507, as summarized below.

Driver History Checks. The Applicant intends to secure a comprehensive driver history report from the appropriate state agencies for drivers allowed to operate vehicles during the previous 3 years. This will occur annually, thereafter. For Call or Demand and Limousine Drivers, the Applicant will check with PENNDOT and any other relevant sources. A driver with more than 3 moving violations or one major violation in the preceding 3 years will be deemed ineligible. Checks will be conducted within one year of engaging a driver and every 2 years thereafter. Records will be retained for 2 years. Attachment to Petition at 19.

Driver Training Program. The Petitioner asserts that its Driver Training Program contains six components. The components aim to ensure that vehicles are operated safely and comply with legal and operational guidelines. Vehicle Safety and Maintenance will require a driver to conduct pre-trip and post-trip inspections and report any needed maintenance. Drivers will also be instructed on how to handle emergency breakdowns. Defensive Driving training will emphasize hazard awareness, compliance with local and federal traffic laws, and maintaining a safe driving distance. Passenger Assistance training will emphasize professional and courteous interaction with passengers. Drivers will also be instructed on how to accommodate special needs passengers, including the operation of a wheelchair lift. A driver must ensure the safety and comfort of elderly and child passengers. Licensing and Certification will be required of every driver. This will include obtaining valid and appropriate licenses, including a Commercial Driver License (CDL). Drivers will be required to comply with the Drug and Controlled Substances policies. There will be Specialized Training Modules focused on Crisis Management, Cultural Sensitivity, and Route Optimization and Navigation using a GPS system. Performance Evaluation and Certification will rely on an initial assessment using written tests, on-road evaluations, and refresher training courses. A

Certificate of Compliance will be issued to the driver upon successful completion of the training program. Attachment to Petition at 21-22.

Vehicle Safety and Maintenance Program. As to its Vehicle Safety and Maintenance program, SafeWayz asserts that it will comply with Pennsylvania vehicle equipment standards set forth in 67 Pa. Code Chapter 175 through the use of a robust maintenance plan. According to SafeWayz, this will ensure that all vehicles meet or exceed state requirements. There will be a checklist-based inspection at the beginning and end of each shift addressing brakes, tires, lights, fluid levels, and other critical safety components. There will also be a preventive maintenance program performed at mileage-based intervals. This includes oil and filter changes, brake system checks, tire rotation and replacement, steering and suspension inspections, fluid checks, and a comprehensive safety inspection. Records will be kept electronically. Any vehicle not in compliance will be removed immediately from service. Attachment to Petition at 28.

SafeWayz further asserts that it will comply with the vehicle inspection requirements specified under Pennsylvania law by undergoing inspection on an annual or semiannual basis, which will not exceed 15 months or 9 months, respectively. The Applicant explains that a certified team will monitor compliance with the inspection requirements and that only certified inspectors will be used to ensure compliance. The Applicant will rely on automated alerts, driver training stressing the recognition and reporting of potential issues, and a series of regular internal audits to ensure ongoing compliance. Attachment to Petition at 29.

C. Disposition

In the Petition, SafeWayz concedes that it inadvertently omitted information in its earlier *January 2025 Information Response*, particularly the failure to address the age requirements for any driver under the Commission's Regulations at

52 Pa. Code 41.14. SafeWayz claims that its Petition corrects that omission with the requested information. The Applicant insists that this new information supports reconsideration. Petition at 1-2.

Upon review and consideration, we conclude that the Applicant's prior filings, as well as the additional information, demonstrate a sufficient basis to support reconsideration. Based upon the Applicant's attempt to correct its earlier omission by providing additional information, we shall grant reconsideration. Importantly, SafeWayz' effort to cure the omission was accompanied by information on their prior driver experience, additional financial information, and a detailed and extensive presentation of their commitments under the Commission's Regulations at 52 Pa. Code §§ 29.501-09 to ensure the safe and reasonable delivery of paratransit service.

Under these circumstances, we find the Petitioner's request to grant reconsideration based on that explanation to be reasonable. Although we take no position on the merits of SafeWayz' Application at this time, we nonetheless find that the Petitioner has taken a considerable amount of time to provide documentation in its Petition to explain the prior omission.

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. Based upon the Petition and supporting information, we conclude that in this case, it is more expedient to grant reconsideration and remand this matter back to TUS for such further action as may be appropriate.

III. Conclusion

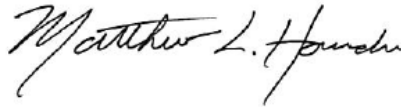
For the reasons discussed herein, we will grant the Petition, rescind the *January 2025 Secretarial Letter*, and refer this matter to TUS for such further action as may be warranted, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Reconsideration from Staff Action, filed by SafeWayz Transportation, LLP on January 15, 2025 at Docket No. A-2024-3052726, is granted, consistent with this Opinion and Order.

2. That this matter be referred to the Commission's Bureau of Technical Utility Services for such further action as may be deemed warranted.

BY THE COMMISSION,

A handwritten signature in black ink, reading "Matthew L. Homsher". The signature is written in a cursive, flowing style.

Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: April 24, 2025

ORDER ENTERED: April 24, 2025