

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

Public Meeting held May 8, 2025

Commissioners Present:

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

Application of PA Transit Services LLC

A-2024-3051390
A-6427454

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 February 28, 2025, by PA Transit Services LLC (Applicant or PA Transit), relative to the above-captioned proceeding.

In its Petition, PA Transit requests reconsideration of the Commission's Secretarial Letter dated January 31, 2025 (*January 2025 Secretarial Letter*) denying and dismissing the Application for PA Transit's failure to: (1) have its insurance company file evidence of bodily injury and property damage liability insurance (Form E) with the Commission; and, (2) file a tariff establishing just and reasonable rates.

No Answer to the Petition has been filed.

For the reasons set forth herein, we shall grant the Petition, conditionally rescind the *January 2025 Secretarial Letter*, and refer this matter to the Commission's 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 September 26, 2024, PA Transit filed the instant Application at Docket No. A-2024-3051390 seeking certification to transport, as a common carrier, by motor vehicle, persons in paratransit service from points in the City and County of Philadelphia, to points in Pennsylvania, and return. Application at 1-12.

On October 12, 2024, the Commission published notice of the Application in the *Pennsylvania Bulletin*,¹ establishing October 28, 2024 as the deadline for protests. No protests were filed.

On November 19, 2024, the Commission issued a Secretarial Letter (*November 2024 Secretarial Letter*) advising the Applicant that the Commission had reviewed and approved the Application, conditioned upon the Applicant satisfying certain requirements within 60 days, including: (1) providing an acceptable Form E, that was, *inter alia*, filed by an insurance company; (2) providing a draft tariff, as directed; and (3) receiving a Certificate of Public Convenience issued by the Commission. *November 2024 Secretarial Letter* at 1-2.

¹ See 54 Pa.B. 6548.

On January 31, 2025, the Commission issued the *January 2025 Secretarial Letter* dismissing the Application for the Applicant's failure, within the prescribed 60-day period, to do the following: (1) have its insurance company file evidence of bodily injury and property damage liability insurance (Form E) with the Commission; and, (2) file a tariff establishing just and reasonable rates. *January 2025 Secretarial Letter* at 1.

Additionally, the *January 2025 Secretarial Letter* informed PA Transit that, if it disagreed with the Commission's determination, it could submit a Petition for Reconsideration from Staff Action with the Commission's Secretary within twenty (20) days of the date of the *January 2025 Secretarial Letter*. The *January 2025 Secretarial Letter* also provided instructions regarding the form and content of such a Petition, including references to the inclusion of relevant documentation and the requirement of a verification with an original signature, as set forth in 52 Pa. Code §§ 1.31 and 5.44. *January 2025 Secretarial Letter* at 1-2.

On February 28, 2025, PA Transit filed the instant Petition.² No response to the Petition has been filed.

² As noted above, the *January 2025 Secretarial Letter* established a 20-day deadline for PA Transit to file a Petition for Reconsideration. *See January 2025 Secretarial Letter* at 2. Because the prescribed 20-day deadline ended on February 20, 2025, PA Transit's Petition, filed on February 28, 2025, was untimely by eight days. Nevertheless, we will exercise our discretion to consider the Petition, pursuant to our Regulation at 52 Pa. Code § 1.2(a), which permit us to disregard an error or defect of procedure which does not affect the substantive rights of the parties. 52 Pa. Code § 1.2(a). Our determination to consider PA Transit's untimely Petition is made in recognition of the facts that PA Transit is an Applicant filing the instant Application and the associated Petition for the first time, and that no objections to the Petition have been raised. We caution PA Transit that any further untimely submissions may not warrant the same consideration and could form the basis for the delay in processing, or in the outright dismissal of the Application.

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).

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 (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, PA Transit is the party seeking affirmative relief from the Commission. Therefore, PA Transit 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.

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. Petition³

PA Transit's Petition is comprised of a two-page typewritten document, wherein it asserts that it has acted to cure the defects identified in the *January 2025 Secretarial Letter*.⁴ Specifically, PA Transit avers that it has “ensured that our insurance

³ At this time, we note that the Commission's Regulations require a corporation, *inter alia*, to be represented by an attorney in an adversarial proceeding before the Commission. 52 Pa. Code § 1.21(b). The term “adversarial proceeding” is defined as “[a] proceeding initiated by a person to seek authority, approvals, tariff changes, enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons and which will be decided on the basis of a formal record.” 52 Pa. Code § 1.8. We do not, at this time, make a determination to classify this proceeding as an “adversarial” proceeding, as no protests have been filed.

⁴ Although PA Transit has not verified in the Petition whether the Applicant filed a tariff establishing just and reasonable rates, as indicated, *infra*, the Petition includes an attached document that appears to be a draft Tariff for PA Transit.

company has filed or will imminently file the required Form E with the Commission.” Petition at 1. In a subsequent portion of the Petition, PA Transit clarifies that the required Form E “is ready” but that it has not yet been submitted. According to the Applicant, “the insurance company has been directed to file the official version with the Commission when this petition is accepted.” Petition at 2. Additionally, PA Transit argues that while its owner, Anatoly Rosenthal, is new to the certification process, the owner has now developed a clearer understanding of the Commission’s requirements. Finally, PA Transit claims that it is “committed to maintaining regulatory standards moving forward.” Petition at 1.

PA Transit also attached two documents to its Petition, including: (1) a one-page document titled “Commercial Auto Insurance Binder” issued to PA Transit by New England Excess Exchange, Ltd.; and, (2) a four-page document that appears to be a draft Tariff, titled “Tariff Naming Rates, and Rules and Regulations Governing the Transportation of Persons in Paratransit Service Between Points in Pennsylvania.” Petition at 3-7.

C. Disposition

In considering the Petition, we note that any issue not specifically addressed shall be deemed duly considered and 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 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).

On consideration of the arguments raised by PA Transit, 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 verified that it fully cured the deficiencies identified in the *January 2025 Secretarial Letter*, the Applicant has included sufficient information to demonstrate that its failure to timely submit the requisite materials resulted from the confusion surrounding the certification process that has since been rectified. *See* Petition at 1. We also acknowledge PA Transit's statement that it has acted in good faith to rectify the issues that led to the Application's dismissal, and we find that its good faith efforts are demonstrated in that the Petition includes attachments that appear to include commercial auto insurance information and PA Transit's proposed draft Tariff. *See* Petition at 1, 3-7. While we neither make a determination as to whether the documents attached to the Petition cure the defects identified in the *January 2025 Secretarial Letter*, nor whether those documents have been submitted to the Commission in the manner prescribed by TUS, we find that it is appropriate to grant the Petition in order to afford TUS an opportunity to consider the matters.

For purposes of the Petition, we find that the Applicant has provided information with its Petition in an apparent attempt to correct deficiencies identified in the *January 2025 Secretarial Letter*. Pursuant to Section 1.2 of the Commission's 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 PA Transit's attempt to provide additional documentation, as well as its representations that it has now cured its prior confusion surrounding the Commission's certification process, we conclude that, under the circumstances in this case, it is appropriate and reasonable to conditionally rescind the *January 2025 Secretarial Letter*. Accordingly, given TUS' expertise in reviewing motor carrier applications for authority, we will refer this matter to TUS for consideration and for such further action as may be warranted. We caution PA Transit that timely and complete submission of all additional document requests and filings is expected, particularly given the Applicant's

representations in its Petition that PA Transit now has a better understanding of the Commission's certification process and that it is committed to maintaining regulatory standards.

Accordingly, we shall refer this matter to TUS to continue processing the Application and shall allow PA Transit an additional thirty (30) days in which to provide all 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 both the Commission's and PA Transit's resources at this stage of the proceeding.

Finally, it is important to clarify that we take no position on the merits of PA Transit's Application at this time. Nonetheless, we wish to emphasize to PA Transit that it must fully and timely comply with all information requests and requirements identified by TUS to facilitate any further evaluation 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 warranted, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:


1. That the Petition for Reconsideration from Staff Action, filed by PA Transit Services LLC on February 28, 2025, at Docket No. A-2024-3051390, is granted, consistent with this Opinion and Order.

2. That the Secretarial Letter issued on January 31, 2025, at Docket No. A-2024-3051390, is conditionally rescinded, contingent upon PA Transit Services LLC responding with the required information within thirty (30) days of the entry of this Opinion and Order.

3. That the Application of PA Transit Services 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.

4. That in the event that PA Transit Services LLC fails to respond within thirty (30) days of the entry date of this Opinion and Order, the Commission's Secretarial Letter issued on January 31, 2025 will be deemed the final action in this matter, and the case shall be marked closed.

BY THE COMMISSION,



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: May 8, 2025

ORDER ENTERED: May 8, 2025