

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of GPS Transportation Inc.	:	
t/a GPS Transportation God's People	:	
Serving for approval to transport,	:	A-2024-3051677
as a common carrier, by motor vehicle,	:	
persons in paratransit service,	:	
from points in the Counties of Bucks	:	
and Delaware, and the City and	:	
County of Philadelphia, to points in	:	
Pennsylvania, and return	:	

ORDER SETTING THE APPLICATION FOR A FURTHER HEARING

On October 17, 2024, GPS Transportation Inc. t/a GPS Transportation God's People Serving (Applicant) filed an Application with the Pennsylvania Public Utility Commission (Commission) for approval to transport, as a common carrier, by motor vehicle, persons in Paratransit Service, from points in the Counties of Bucks and Delaware, and the City and County of Philadelphia, to points in Pennsylvania, and return. The Commission caused notice of this Application to be published in the November 23, 2024 *Pennsylvania Bulletin* at 54 Pa.B. 7649, specifying a deadline of December 9, 2024, for filing protests.

On December 9, 2024, Bucks County Transport, Inc., an Bux-Mont Transportation, Inc. (Joint Protestants) filed a Joint Protest to the Application.

By Initial Call-In Telephonic Hearing Notice dated December 17, 2024, the Commission scheduled a telephonic hearing on this matter for February 13, 2025, at 10:00 a.m., and assigned the case to me.

A Prehearing Order was issued on January 27, 2025, advising the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to the proceeding, and directing the submission of documents prior to the hearing.

On February 12, 2025, Tanya C. Leshko, Esq., Counsel for Joint Protestants, filed a Restrictive Amendment on behalf of the Applicant and the Joint Protestants, in which the Joint Protestants agreed to withdraw their Protest to the Application based upon the Restrictive Amendment and its acceptance and approval by the Commission. The Application was amended as follows:

To transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the City and County of Philadelphia and the County of Delaware, to points in Pennsylvania and return, and to transport, as a common carrier, by motor vehicle, persons in paratransit service who require and receive door-to-door service, from points in Bucks County to points in Pennsylvania and return.

Restrictive Amendment ¶ 1. Based upon this Restrictive Amendment, and conditioned upon its acceptance by the Commission, the Joint Protestants agree to withdraw their Protest to the Application as amended, subject to the following two conditions and requirements: (i) in the event that any aspect of this Restrictive Amendment is rejected by the Commission for any reason, the Protest shall be deemed immediately reinstated, this proceeding shall be scheduled for hearing to permit Joint Protestants to present evidence in an on-the-record proceeding in opposition to approval of the Application, and neither the Restrictive Amendment, nor the fact that the parties to proceeding agreed to submit it to the Commission, shall be used against any party in any subsequent hearing or proceeding; and (ii) in the event that any aspect of this Restrictive Amendment is rejected by the Commission for any reason, the Joint Protestant shall have the right to request reconsideration before the Commission or to appeal before any and all appropriate courts, or both, and in any such proceedings Applicant shall not raise any as to party status or standing of the Protestants. In addition, the Applicant shall not raise any objections as to party status or standing of the Joint Protestants. See Restrictive Amendment ¶ 2. The Joint Protestants desire to remain parties of record so as to receive copies of any order issued by the Commission in this proceeding. *Id.* at ¶ 4.

By email dated February 12, 2025, I informed the parties that the hearing in this matter would be held as scheduled for the purpose of clarifying the terms of the Restrictive Amendment.

The initial hearing convened as scheduled on February 13, 2025. David Temple, Esq. represented the Applicant, and Tanya C. Leshko, Esq. appeared on behalf of the Joint Protestants.

At the hearing, the parties were asked to clarify the provisions of the Restrictive Amendment -- in particular, the inclusion of the term “door-to-door” in the description of the authority requested by the Applicant in Bucks County. Tr. 4-5. Counsel for the Applicant confirmed that the Restrictive Amendment does not change the authority requested in the original Application for service from points in the City and County of Philadelphia and the County of Delaware, to points in Pennsylvania and return. However, the Restrictive Amendment limits the authority requested by the Applicant in Bucks County to transporting as a common carrier, by motor vehicle, only persons in paratransit service who require and receive door-to-door service. See Tr. 4-5.

To facilitate the door-to door aspect of the service, counsel for the Applicant explained that the Applicant intends to use “a mobile stair climber” which allows the Applicant to pick up or bring the customer beyond the curb point, at or to the door of his destination. Tr. 5. While the door-to-door service will be available as needed to customers in the City and County of Philadelphia and County of Delaware, pursuant to the terms of the Restrictive Amendment, it will be the only type of paratransit service offered by the Applicant to customers who request common carrier transportation from points in Bucks County, to points in Pennsylvania, and return. Tr. 5. Counsel for the Applicant supported the door-to-door provision of the Restrictive Amendment arguing that the proposed service responds to a public need which is currently not being addressed by the competition. Tr. 5. More specifically, counsel stated, “...in order to allay the concerns of the [Joint Protestants], we’ve agreed to provide only that service in Bucks County, and that’s what [the Applicant] is looking to provide anyway.” Tr. 5.

The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.235 provide that parties to an application for passenger authority may stipulate as to modifications to proposed motor carrier rights. The stipulation, in the form of a restrictive amendment, must be in writing, explain why the stipulation is in the public interest, be signed by each party to the stipulation and be submitted to the Commission's Secretary for insertion into the document folder. The restrictive amendment is binding on the parties that sign it. While the restrictive amendment is binding on the parties, it is not binding on the Commission if it determines that the restrictive amendment is contrary to the public interest.

In order to find that a restrictive amendment is in the public interest, the Commission must find that adopting the restrictive amendment would serve to protect a legitimate public purpose. Protection of private economic interests and competitive positions is not a relevant factor in determining the public interest. *Crown America Corp. v. Pa. Pub. Util. Comm'n*, 463 A.2d 1257 (Pa. Cmwlth. 1983); *Glenside Suburban Radio Cab, Inc. v. Pa. Pub. Util. Comm'n*, 411 A.2d 874 (Pa. Cmwlth. 1980); *Highway Express Lines, Inc. v. Pa. Pub. Util. Comm'n*, 169 A.2d 798 (Pa. Super. 1961).

The Commission has rejected restrictive amendments where the amendment proposed to limit the type, make or color of vehicle used to provide service as contrary to the public interest. *Application of Sean McDonough t/d/b/a Northstar Executive Transportation*, Docket No. A-00118757 (Order entered December 4, 2002); *Application of Yvonne Victoria Kulp t/d/b/a YV Kulp Transportation*, Docket No. A-00119913 (Order entered April 8, 2004); *Application of Gene Leman t/a Bangor Cab*, Docket Nos. A-6410442 and A-2008-2061044 (Order entered September 4, 2009). In these cases, the Commission rejected the restrictive amendments because they would limit the nature and quality of the equipment to be used by the applicant to provide the service, would unduly and unreasonably fragment the operating authority of the applicant and would create enforcement difficulties for the Commission by establishing operating rights that are unrelated to the Commission's statutory and regulatory responsibilities.

In *Application of Sean McDonough t/d/b/a Northstar Executive Transportation*, Docket No. A-00118757 (Order entered December 4, 2002), the protest was withdrawn predicated

upon the Commission's acceptance of a restrictive amendment that changed the initial request to read as follows:

To transport persons in limousine service, between points in the county of Chester, and from points in said county, to points in Pennsylvania, and return; subject to the following conditions:

- (A) That the service is limited to luxury sedans;
- (B) That no right, power or privilege is granted to provide transportation in vehicles manufactured in whole or part by Rolls-Royce Motor Cars, Inc.; its affiliated companies: Vickers, Volkswagen, Bentley, Mulliner-Park Ward, BMW and Pressed Steel; and
- (C) That no right, power or privilege is granted to provide service in vehicles which have white as a prominent exterior color.

In its Order entered December 4, 2002, the Commission rejected the restrictive amendment in part as contrary to the public interest. The Commission explained that

While we generally encourage the settlement of disputes, we believe that the portions of the instant restrictive amendment relating to equipment are so inimical to the public interest that they must be rejected. They potentially limit the nature and quality of equipment used by the Applicant in providing service to the public.

Footnotes omitted.

Citing to 66 Pa. C.S. § 1103(a)(relating to the procedures to obtain certificates of public convenience) and 52 Pa. Code §§ 41.14(a)-(c)(relating to evidentiary criteria used for applicants for motor common carrier authority), the Commission held that "such frivolous conditions create enforcement difficulties for the Commission by establishing operating rights that are wholly unrelated to the Commission's statutory and regulatory responsibilities." December 4, 2002 Order, p. 2. The Commission explained that in reviewing applications for authority to operate as common carrier by motor vehicle, it examines the applicant technical and financial fitness, propensity to operate safely and legally. See December 4, 2002 Order, footnote

3. “The portions of the restrictive amendment relating to equipment do not appear reasonably related to any of these matters. For instance, they do not relate to vehicle safety or reliability of equipment. Likewise, the use of the color white in limousine service would not endanger existing operations to the extent that the public interest is jeopardized.” December 4, 2002 Order, footnote 3.

In *Application of Gene Leman t/a Bangor Cab*, Docket Nos. A-6410442 and A-2008-2061044 (Order entered September 4, 2009), the Commission rejected the proffered restrictive amendment in its entirety and removed it from the grant of authority in use. The Commission held that,

In reviewing the restrictive amendment, we find that it unnecessarily limits the nature and quality of the service that the applicant may provide to the public. The restrictive amendment clearly would only serve to protect the private economic advantage of the protestants. Specifically, the restriction in the instant application restricts Gene Leman’s paratransit service to vehicles, other than vehicles having emergency vehicle registration plates or in vehicles equipped with wheelchair lifts or which can otherwise accommodate wheelchairs and/or stretchers. Such a restrictive amendment creates enforcement difficulties for the Commission by establishing operating rights that are wholly unrelated to the Commission’s statutory and regulatory responsibilities.

September 4, 2009 Order, p. 3.

Upon careful consideration of the Commission statutes, regulations and orders, I find that the Restrictive Amendment submitted by the Applicant and the Joint Protestants unduly and unreasonably limits the operating authority of the Applicant in Bucks County and establishes operating rights that are unrelated to the Commission’s statutory and regulatory responsibilities. As such, this matter shall not be referred to the Commission’s Bureau of Technical Utility Services for further review under the procedure set forth at 52 Pa. Code § 3.381(c)(1)(iii). Instead, the Application shall be set for a further hearing.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Application of GPS Transportation Inc. t/a GPS Transportation God's People Serving, Docket No. A-2024-3051677, is set for a further hearing.

Date: May 20, 2025

_____/s/_____
Eranda Vero
Administrative Law Judge

A-2024-3051677 - APPLICATION OF GPS TRANSPORTATION, INC T/A GPS TRANSPORTATION GOD'S PEOPLE SERVING TO TRANSPORT, AS A COMMON CARRIER, BY MOTOR VEHICLE, PERSONS IN PARATRANSIT SERVICE, FROM POINTS IN THE COUNTIES OF BUCKS AND DELAWARE, AND THE CITY AND COUNTY OF PHILADELPHIA, TO POINTS IN PENNSYLVANIA, AND RETURN

DWAINE R LEWIS CEO
GPS TRANSPORTATION INC
9253 KEYSTONE STREET
PHILADELPHIA PA 19111
215.774.9913
215.500.5220
admin@gpstransportation.net
Served via eService May 20, 2025

TANSENEK LEWIS
GPS TRANSPORTATION INC T/A GPS TRANSPORTATION GOD'S PEOPLE SERVING
9237 ROOSEVELT BOULEVARD SUITE 203
PHILADELPHIA PA 19114
215.774.9913
admin@gpstransportation.net
Served via email and First-Class mail May 20, 2025

TANYA C LESHKO ESQUIRE
JOHN F POVILAITIS ESQUIRE
ALAN MICHAEL SELTZER ESQUIRE
BUCHANAN INGERSOLL AND ROONEY PC
409 N SECOND ST
SUITE 500
HARRISBURG PA 17101
717.237.4800
717.237.4825
610.372.4761
tanya.leshko@bipc.com
John.Povilaitis@BIPC.com
Alan.Seltzer@BIPC.com
Served via email and First-Class mail May 20, 2025
(Counsel for Protestants)

DAVID P TEMPLE ESQUIRE
GALLAGHER AND TURCHI PC
1600 MARKET STREET
SUITE 1320
PHILADELPHIA PA 19103
215.963.1555
dave@templelaw.org
Served via eService May 20, 2025
(Counsel for Applicant)