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June 30, 2025

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Application of Blackhorse Empire, LLC
Docket No: A-2024-3050285


Dear Secretary Homsher:

Enclosed for electronic filing please find the Exceptions of Bucks County Transport, Inc., Bux-Mont Transportation, Easton Coach Company, Suburban Transit Network, Inc. and Tri County Transit Service, Inc. in the above-captioned proceeding.

Copies are being served in accordance with the attached Certificate of Service. Please contact me with any questions.

Sincerely,
BUCHANAN INGERSOLL & ROONEY PC

By: _____


John F. Povilaitis, Esquire

JFP/psm
Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

APPLICATION OF BLACKHORSE	:	DOCKET NO.	A-2024-3050285
EMPIRE LLC FOR THE RIGHT TO	:		
BEGIN TRANSPORT, AS A COMMON	:		
CARRIER, BY MOTOR VEHICLE,	:		
PERSONS IN PARATRANSIT SERVICE,	:		
BETWEEN POINTS IN THE COUNTIES	:		
OF BERKS, BUCKS, CHESTER	:		
DELAWARE, HUNTINGDON,	:		
MONTGOMERY, SUSQUEHANNA, AND	:		
THE CITY AND COUNTY OF	:		
PHILADELPHIA PENNSYLVANIA	:		

**EXCEPTIONS OF
BUCKS COUNTY TRANSPORTATION, INC., BUX-MONT TRANSPORTATION.,
EASTON COACH COMPANY, SUBURBAN TRANSIT NETWORK, INC. AND TRI
COUNTY TRANSIT SERVICE, INC.**

**To The Recommended Decision Of
Administrative Law Judge Eranda Vero**

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I. INTRODUCTION

In a Recommended Decision (“RD”) that failed to fully consider the evidence and legal arguments presented by the Parties following an evidentiary hearing on March 5, 2025, Administrative Law Judge Eranda Vero (the “ALJ”) erroneously granted the application for Blackhorse Empire LLC (“Blackhorse”) to operate as a common carrier, by motor vehicle, persons in paratransit service at Docket No. A-2024-3050285.

This proceeding concerns the Application of Blackhorse, filed on July 16, 2024, with the Pennsylvania Public Utility Commission (“Commission”), seeking the right to begin transport as a common carrier, by motor vehicle, persons in paratransit service. Despite having little to no infrastructure or technical capability, the Blackhorse application seeks to serve a vast geographic area between points in the eight (8) Pennsylvania Counties of Berks, Bucks, Chester, Delaware, Huntingdon, Montgomery, Susquehanna, and the City and County of Philadelphia.

Recognizing the apparent lack of financial and technical capabilities of Blackhorse to adequately support its proposed service area, Bucks County Transport, Inc., Bux-Mont Transportation., Easton Coach Company, Suburban Transit Network, Inc., and Tri County Transit Service, Inc. (“Joint Protestants”), filed a protest (“Joint Protest”) on October 7, 2024. The Joint Protest highlights the plethora of financial and technical inadequacies for Blackhorse to operate in the geographic locations that it purports to be capable of serving. Specifically, the protest highlights, and as was articulated further throughout the hearing, that Blackhorse’s technical capabilities are wholly inadequate with insufficient vehicles available to service a geographic area of eight (8) non-contiguous counties, one of which includes a tier one (1) City.

Following a full hearing on March 5, 2025, whereby Blackhorse clearly failed to carry its burden of proof in support of its application, the ALJ nonetheless concluded that Blackhorse has met its burden and granted the application.

Joint Protestors submit the following Exceptions to the Recommended Decision.

II. EXCEPTIONS

Section 1103(a) of the Public Utility Code sets forth the standard for approving a motor carrier application, stating that “[a] certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.” 66 Pa.C.S. 1103 (a). Substantial evidence must exist to support a decision to grant an application. *See Dutchland Tours, Inc. v. Com., Pub. Util. Comm’n*, 337 A.2d 922, 925 (Pa. Commw. Ct. 1975). Additionally, “[s]ubstantial evidence is such relevant and competent evidence having a rational probative force which a reasonable mind might accept as adequate to support a conclusion.” *Id.*

52 Pa. Code §41.14 of the Commission’s regulations sets forth the evidentiary criteria used to decide motor common carrier applications and states as follows:

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 requested.*
- (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 the 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 or crime of moral turpitude and remains subject to supervision by a court or correctional institution.

52 Pa. Code §41.14. (emphasis added).

The party seeking the approval of the application "must *prove by a preponderance of the evidence* that the requirements of Section 1103(a) and Section 41.14 are met." *Lehigh Valley Transp. Servs., Inc. v. Pennsylvania Pub. Util. Comm'n*, 56 A.3d 49, 56 (Pa. Commw. Ct. 2012)(emphasis added).

Exception No. 1 : Joint Protestors excepts to the RD's Finding of Fact ("FOF") No. 17, which states: "BHE's drivers' vehicles will be covered by BHE's insurance while operating for the Applicant but will be under the driver-owner's personal car insurance while off-the-clock with the Applicant."

The RD errs in FOF No. 17 which finds that BHE ("Blackhorse") "drivers' vehicles will be covered by BHE's insurance while operating for the Applicant but will be under the driver-owner's personal car insurance while off-the-clock with the Applicant."¹ A comprehensive review of the record shows that this finding is not supported by the evidence.

FOF No. 17 points to pages 100-101 and Applicant Exhibit 17 as support for this finding of fact.² Page 101 highlights the relevant portion of the cross-examination of Sylvester Thomas, the sole owner of Blackhorse³, and states as follows:

Q. And your insurance company is -- you have arranged with your insurance company and have presented to the Commission evidence that those particular vehicles will be insured?

A. Oh, yeah. I talked to my insurance company because they're the ones who -- actually, they're the ones who suggested that we do it

¹ RD at 5.

² *Id.*

³ *Id.* at 4, FOF No.4 ("The Applicant is owned entirely by Sylvester Thomas who is the sole member of the LLC. Tr. 45, 48; Applicant Exhibit 2.")

this way. And they showed us how the blanket will work on, like, cars when they go on -- when they start working, and then when they get off -- how they get blanket under our insurance, what the policy consist of, how much it gonna be, and so -- I don't know, my insurance company, they ready. This is what they been waiting for. They been waiting for this.⁴

Further, Applicant Exhibit 17 provides an insurance identification card for only one individual purported to have a vehicle that can be used for paratransit service.⁵

“I don't know, my insurance company, they ready,” is not sufficient to warrant the finding of fact that Blackhorse would be able to fully provide insurance to all vehicles – vehicles neither owned by or registered to the Applicant's business. Applicant submitted no further documentation, nor any quotes, draft policies or other statements from the insurance company that provide information as to quotes, rates, obligations, or criteria necessary to obtain insurance for all of the vehicles that will purportedly be used in, but not owned by, the Blackhorse corporate entity.

Additionally, throughout the hearing, Mr. Thomas was unable to identify how many vehicles he would have for the business. At the time of hearing, upon further examination, Mr. Thomas identified only one vehicle that was currently available - a 2019 Dodge minivan owned individually by one of Mr. Thomas' drivers.⁶ Subsequently, Mr. Thomas then states that he has a quote from the insurance company of approximately \$25,000, but that quote was for ten (10) vehicles.⁷ No documentary evidence demonstrating this coverage would be available was presented. At another point during the hearing, Mr. Thomas claimed that two of his employees, who are allegedly prepared to provide vehicles to the paratransit business, have vehicles equipped for paratransit, and others are just “basic vehicles.”⁸

⁴ Tr. 101.

⁵ See Applicant Ex. 17.

⁶ Tr. 134-137.

⁷ *Id.*

⁸ Tr. 100-101.

The reality is that neither Mr. Thomas nor the Commission can confirm that Blackhorse would be able to fully and sufficiently insure the vehicles that he purports he may one day own or use in the operation of the paratransit business. At a minimum, without further documentation submitted, it is questionable at best if the alleged conversations with the insurance took place. Nonetheless, an insurance company would need substantially more information to accurately prepare a quote. As Blackhorse does not currently own additional vehicles, and there is no documentation submitted as to the age, condition, make, model, or history of any potential vehicles submitted, the insurance company would have no way to provide an accurate insurance coverage quote.

As noted above, the Applicant bears the burden of proof in a proceeding. Here, Mr. Thomas submits nothing more than hearsay evidence of alleged and unverified conversations with an insurance company, demonstrating that Blackhorse would be able to sufficiently insure all future vehicles. The Applicant did not provide any individual testimony from an insurance carrier to support these bare assertions. Applicant did not even provide a written quote from the insurance carrier that he claims is “ready,” to demonstrate that vehicles which are not owned by the business can be insured under the operating authority granted by the Commission to Blackhorse.

Without more, Applicant did not carry his burden, and FOF No. 17 lacks evidentiary support and constitutes legal error.

Exception No. 2 : Joint Protestors excepts to Conclusion of Law No. 17 which states: “BHE has met its burden to demonstrate that its Application should be approved,”⁹ on the grounds that Blackhorse does not possess the requisite technical fitness to operate as a common carrier, by motor vehicle, persons in paratransit service.

The record in this case is insufficient to support Conclusion of Law No. 17, which finds that the applicant had met the necessary burden of proof to have its application for operation as a

⁹ RD at 24.

common carrier, by motor vehicle, persons in paratransit service. The Applicant has not presented a preponderance of evidence supporting the grant of its Application.

Blackhorse simply does not meet the technical criteria to service the geographic location it claims to be capable of serving. In its application, Blackhorse seeks to service eight (8) non-contiguous counties, one of which includes a tier one city. Specifically, this includes Counties of Berks, Bucks, Chester, Delaware, Huntingdon, Montgomery, Susquehanna, and the City and County of Philadelphia. Applicants are required to demonstrate they have “*sufficient capital, equipment, facilities and other resources necessary to serve the territory requested.*” 52 Pa. Code § 41.14(1)(emphasis added). To provide service throughout this very large service territory, the Applicant does not have control over even one single vehicle.

The inadequacy of Applicant’s equipment becomes clear from the ALJ’s own examination of Mr. Thomas, which provides:

Q. Okay. Okay. Let’s see. You have no cars purchased yet. You meaning your company, the Blackhorse Empire, LLC has no cars purchased yet to dedicate to the paratransit service. I understand. You’re saying, “If I don’t get it, why should I have a car, right?”
So -- but

I need to make clear. You don’t have cars yet. You stated that you have -- you can have access to a 2019 Dodge minivan with a wheelchair lift, but your company doesn’t own that car. It’s one of your drivers that owns the car.

A. Yes.¹⁰

The Commission has previously denied applications for paratransit service where an application has indicated neither vehicle assets nor insurance coverage. *See, Application of R&H Transport Inc.*, Docket No. A-2023-3044692, 2024 WL 2182966 (Pa.P.U.C) (“*R&H Transport*”). The Commission granted reconsideration (though not authority) based upon Applicant’s

¹⁰ Tr. 134-135.

submission of additional evidence demonstrating that it possessed additional funds sufficient to obtain a vehicle for initial operation and commercial insurance coverage. However, Blackhorse is not similarly situated to R&H Transport for two reasons. First, the service territory requested in *R&H Transport* was far smaller than the territory requested by Blackhorse (two contiguous counties consisting of the City and County of Philadelphia and Montgomery County, rather than eight non-continuous counties). Secondly, the Applicant in *R&H Transport* made clear that it intended to acquire its own vehicle; its contention that it could acquire commercial insurance was, therefore, realistic and not speculative, depending as it did upon financial ability rather than the unsupported assertion that private vehicles could be insured for the use of a commercial business that is purportedly intended to be registered and regulated as a paratransit provider, as opposed to a rideshare company that by law may utilize its driver's vehicles. See Public Utility Code, Chapter 26.

Likewise, in *Application of Libby's Helping Hands Healthcare Agency, Inc.*, Docket Nos. A-2024-3045276, A-6426780 (2024 WL 1195581 (Pa.P.U.C.)) ("*Libby's*") the Commission denied the Application where Applicant "failed to provide evidence that [it has] the necessary motor vehicle equipment to operate . . .". *Id.* at *2. Again, the applicant was granted reconsideration upon asserting that it owned a vehicle and had additional resources that had not been identified in the original application. *Id.* at *6, and the application was referred back to the Commission's Bureau of Technical Utility Services ("TUS") for further action.

Two things should especially be noted with respect to *Libby's*. First, the service territory, which had initially been identified as including the entire Commonwealth of Pennsylvania, was narrowed to the City and County of Philadelphia. See, *Replies to Data Request – Libby's Helping Hands*, dated May 15, 2024, in Docket No. A-2024-3045276. This is clearly a service territory far

more appropriate to an Applicant with one vehicle and plans to purchase another, than the entirety of Pennsylvania. Secondly, a Data Request from TUS to Libby's specifically noted that the vehicle claimed to be owned by Libby's was a personal vehicle and not owned by Libby's. Therefore, per instructions from TUS, "[Libby's] ***must transfer the title and registration to Libby's Helping Hands Healthcare Agency Inc.*** Please include in your response to this data request a copy of the title and registration showing that it has been transferred to Libby's Helping Hands Healthcare Agency Inc." (emphasis added). *Libby's Helping Hands Healthcare Agency Inc. II – Request for Information.Docx*, dated April 17, 2024, in Docket No. A-2024-3045276. TUS, quite properly, was not prepared to approve Libby's business plan based on the use of a private vehicle not even owned by the business, and the ALJ should not have done so here.

Although the Commission does not dictate the resources needed to satisfy the requirement of Section 41.14(1), it is clear that "no vehicles" is not sufficient. Furthermore, to the extent that Blackhorse has demonstrated some financial resources, they are not sufficient to procure the necessary vehicles to serve eight non-contiguous counties to any reasonable level of service. There is clearly no rational match of resources to the size (much less the nature and relative environments) of the service area, and no consideration of what may be needed to reasonably ensure broad coverage and efficient response times, including ability to respond at peak times and ensure availability for variable demand, average trip lengths, and the unique service requirements inherent to paratransit.

In this case, the Applicant is clearly attempting to "store" service territory for possible future use, if it ever becomes capable of acquiring adequate technical resources. The Commission should not countenance this use of its process in order to permit Applicants to avoid filing applications to expand their service only when they are realistically able to do so and subject those

applications to the concurrent scrutiny of the Commission. At a minimum, the Commission should require an Applicant to have at least two capable vehicles per county served to provide service, and when the requested service territory is three or more counties the vehicles should be geographically based so as to ensure that it is practical from a business standpoint to service the territory requested. Ideally, the Commission should require Applicants to demonstrate consideration of the factors noted above, which are crucial to providing services that are useful to the public as opposed to being a convenience for the provider.

Additionally, individuals in need of paratransit service can be some of the most vulnerable members of society. Predominately, paratransit provides services to individuals who require healthcare services, and who may be elderly or in medically fragile states. For example, potential Blackhorse individuals in need of services could include persons who are quadriplegic, without use of limbs, or Multiple Sclerosis (MS) patients.¹¹ This clientele requires, out of necessity, that a provider of paratransit services have the technical capacity and trained staff to service this population. The conclusion of law that the applicant in this case has met its burden of proof necessary to show it has technical ability to do so is erroneous and should therefore be reversed.

This point is further accentuated by the clear lack of structure, organization, vehicle maintenance or safety mechanisms associated with additional cars that the applicant anticipates using. During the hearing, Mr. Thomas suggested that Blackhorse would simply just use employees' personal cars for the service, stating "Every person who works for me or does driving for me, they all have their vehicles that they're willing to use for the medical transportation

¹¹ See Tr. 30-34.

business.”¹² When asked whether these employee vehicles were equipped for paratransit, Mr. Thomas stated that only two of them were, and that the remainder were just “basic vehicles.”¹³

Blackhorse is essentially attempting to operate a paratransit service for the most vulnerable populations like an Uber or Lyft, where everyone can use their own personal car, with complete disregard as to whether drivers are trained and the vehicles are equipped to service the population adequately. Further, there is no evidence provided in addition to Mr. Thomas’s own unsupported assertions that employees are prepared to use their own vehicles, that those vehicles would be appropriately equipped for paratransit service, or that an insurer would be willing to insure the vehicles to allow them to operate as part of the Blackhorse corporate entity, under the paratransit authority granted to Blackhorse by the Commission.

Blackhorse and Mr. Thomas have taken an unstructured and passenger-risky approach to its application, testimony, and technical capabilities to provide paratransit services to an ill, aging, and vulnerable population. As a result, Blackhorse has inadequate facilities and other resources to service such a large geographic area with so few resources. For this reason, Blackhorse does not meet the technical requirements necessary to obtain certification, and Conclusion of Law No. 17 should be reversed.

¹² Tr. 100, lines 14-16.


¹³ Tr. 100-101.

III. CONCLUSION

For the reasons set forth above, the Recommended Decision should be reversed. The Application of Blackhorse Empire LLC for the Right to Begin Transport, as a Common Carrier, by Motor Vehicle, Persons in Paratransit Service, Between Points in the Counties of Berks, Bucks, Chester, Delaware, Huntingdon, Montgomery, Susquehanna, and the City and County of Philadelphia, Pennsylvania, should be DENIED.

Respectfully submitted,

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By: 

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Dated: June 30, 2025

Counsel to Bucks County Transport, Inc., Bux-Mont Transportation., Easton Coach Company, Suburban Transit Network, Inc., and Tri County Transit Service, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Blackhorse Empire, LLC to :
transport, as a common carrier, by motor :
vehicle, persons in paratransit service, : Docket No. A-2024-3050285
between points in the Counties of Berks, :
Bucks, Chester, Delaware, Huntingdon, :
Montgomery and Susquehanna, and the City :
and County of Philadelphia. :

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing document upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

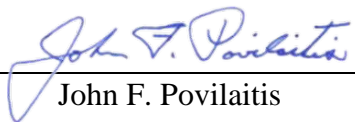
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